

Essay

Not peer-reviewed version

Evaluation of the Child Criminal Justice System in the Perspective of Children with the Law

[Tito Suryawijaya](#) *

Posted Date: 28 February 2023

doi: 10.20944/preprints202302.0515.v1

Keywords: diversion; restorative justice; child crime



Preprints.org is a free multidiscipline platform providing preprint service that is dedicated to making early versions of research outputs permanently available and citable. Preprints posted at Preprints.org appear in Web of Science, Crossref, Google Scholar, Scilit, Europe PMC.

Copyright: This is an open access article distributed under the Creative Commons Attribution License which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Disclaimer/Publisher's Note: The statements, opinions, and data contained in all publications are solely those of the individual author(s) and contributor(s) and not of MDPI and/or the editor(s). MDPI and/or the editor(s) disclaim responsibility for any injury to people or property resulting from any ideas, methods, instructions, or products referred to in the content.

Essay

Evaluation of the Child Criminal Justice System in the Perspective of Children with the Law

Tito Wira Eka Suryawijaya

Dian Nuswantoro University, Indonesia; 211202080011@mhs.dinus.ac.id

Abstract: The juvenile criminal justice system is an important part of maintaining justice and protecting children's rights in criminal cases. Through literature study techniques, this paper aims to evaluate the juvenile justice system in Indonesia from the perspective of children in conflict with the law. The results of the study show that there are still some deficiencies in the juvenile justice system, such as the low quality of legal services and the minimal participation of children in the judicial process. Some efforts that can be made to improve the juvenile justice system include improving the quality of legal services, providing greater opportunities for children to be involved in the judicial process, and increasing alternative dispute resolution outside of juvenile justice. It is hoped that the results of this research can make a positive contribution to improving the juvenile justice system in the future.

Keywords: diversion; restorative justice; child crime

1. Introduction

The juvenile justice system is a legal mechanism specifically regulated to deal with criminal cases involving minors. The main purpose of this system is to provide protection for children and develop the potential of children involved in these criminal cases, so that it is expected to guide children towards a better direction. However, in reality, there are still various problems and challenges in the juvenile justice system, especially in fulfilling children's rights as parties involved in the legal process. An evaluation of the juvenile justice system needs to be carried out to evaluate whether this system is running well and in accordance with the needs of children. From the perspective of children in conflict with the law, this evaluation is very important, because children are the most affected party in the juvenile justice process. Therefore, this study aims to explore children's views and experiences of the juvenile justice system, and evaluate the extent to which this system meets the rights and needs of children involved in criminal cases. Through this paper, it is hoped that solutions can be found that can increase the effectiveness of the juvenile justice system and meet the needs of children involved in these criminal cases. Thus, this research is expected to make a positive contribution to the development of the juvenile justice system in Indonesia.

2. Analysis Discussion

Protection of children's rights in the juvenile justice system

Children are the most vulnerable party in the criminal justice system, therefore, protection of their rights must be a top priority in evaluating the juvenile justice system. These rights include the right to access to a lawyer, the right to protection from violence, and the right to a fair and non-discriminatory process. In addition, children also have the right to protection from cruel, inhuman and degrading treatment of children. Evaluation of the juvenile justice system must ensure that these rights have been fulfilled effectively and consistently in practice. In practice, success in protecting children's rights in the juvenile justice system depends on the extent to which the parties involved in the judicial process pay attention to the rights of these children. Courts, prosecutors and lawyers must have a

solid understanding of children's rights and how to ensure those rights are respected in practice. Evaluation of the juvenile criminal justice system must pay attention to the understanding and awareness of relevant parties regarding children's rights in practice. In addition, the protection of children's rights in the juvenile justice system also involves policy aspects. Implemented policies must pay attention to children's rights and support the protection of these rights in practice. An evaluation of the juvenile justice system must examine whether the implemented policies pay attention to children's rights and support the protection of these rights in practice. Furthermore, it is important to remember that children involved in criminal cases are complex and different human beings. Therefore, the protection of their rights must be adapted to individual needs and conditions. Evaluation of the juvenile justice system must pay attention to how individual children's rights have been fulfilled in practice, and whether the system has provided appropriate protection to the needs of individual children. Finally, it is important to ensure that an ongoing evaluation of the juvenile justice system is carried out. The evaluation should cover all relevant aspects to ensure that the protection of children's rights continues to be improved in practice. Continuous and thorough evaluation is the key to creating a juvenile criminal justice system that takes into account the interests and rights of children optimally.

Involvement of children in the juvenile justice process

The involvement of children in the juvenile justice process is an important matter to consider in evaluating the juvenile justice system. This refers to the child's right to be actively involved in the juvenile justice process. The involvement of children in the juvenile justice process includes various things such as providing information, submitting witnesses, and providing responses to the charges against them. Therefore, evaluation of the juvenile justice system must consider the extent to which children have been involved in the judicial process.

In the context of juvenile justice, the involvement of children in the judicial process is very important to ensure that children's rights are fulfilled and children are treated fairly. In many cases, children may not fully understand what is happening in the juvenile justice process, so they need support and assistance in order to be actively involved in the process. Therefore, evaluation of the juvenile justice system needs to pay attention to the extent to which the system provides the support and assistance needed by children to be involved in the judicial process.

Not only that, the involvement of children in the juvenile justice process is also important to ensure that children feel heard and valued in the process. When children feel heard and valued, this can help them to understand and accept decisions taken in the juvenile justice process. Therefore, evaluation of the juvenile justice system needs to pay attention to the extent to which the system provides space for children to express their views and opinions in the judicial process. In addition, the involvement of children in juvenile criminal justice processes can also help children to overcome the trauma they may experience as a result of being involved in criminal cases. In the juvenile justice process, children may be asked to provide information about events that occurred, which can be a very traumatic experience for children. Therefore, evaluation of the juvenile justice system needs to consider the extent to which the system provides the necessary support and assistance to help children overcome the trauma they may experience.

Finally, the involvement of children in the juvenile justice process can also help children to understand the consequences of their actions and encourage them to take responsibility for these actions. In the juvenile justice process, children must be held accountable for their actions and face the consequences of those actions. When children are actively involved in the juvenile justice process, this can help them to understand the consequences of their actions and feel responsible for those actions. Therefore, evaluation of the juvenile justice system needs to pay attention to the extent to which the system helps children to understand the consequences of their actions and feel responsible for these actions. Evaluation of the juvenile justice system must pay attention to the extent to which the

system provides opportunities for children to understand and accept the consequences of their actions in a clear and fair manner. In this case, a restorative approach in the juvenile justice system can be an effective alternative. The restorative approach aims to restore the lost balance between perpetrators and victims of criminal acts, so as to help children understand the consequences of their actions and feel responsible for these actions. Therefore, evaluation of the juvenile justice system must pay attention to the extent to which the system applies a restorative approach to the juvenile justice process.

In conclusion, the involvement of children in the juvenile justice process is an important matter to consider in evaluating the juvenile justice system. Evaluation of the juvenile criminal justice system must pay attention to the extent to which children have been involved in the judicial process, provide the support and assistance needed by children, provide space for children to express their views and opinions, help children overcome trauma they may experience, and help children to understand and accept the consequences of their actions. A restorative approach can also be an effective alternative in restoring the lost balance between perpetrators and victims of criminal acts. Therefore, evaluation of the juvenile justice system must always be carried out continuously to ensure that children's rights are fulfilled and children are treated fairly and humanely.

The quality of coaching and recovery of children after undergoing the juvenile criminal justice process

The quality of coaching and recovery of children after undergoing the juvenile criminal justice process is very important to help children return to a normal and productive life. Guidance and recovery can be carried out through various programs, such as counselling, education, skills training, and social support. Evaluation of the quality of coaching and recovery of children after undergoing the juvenile justice process must pay attention to several things, including:

1. The quality of the construction and rehabilitation program

The coaching and recovery program must be adapted to the needs of the child concerned, both in terms of age, type of criminal case, and other factors that affect the child. Evaluation of the quality of coaching and recovery programs must pay attention to whether the program is effective in helping children return to a normal and productive life.

2. The quality of teaching staff or facilitators

Teaching staff or facilitators in coaching and recovery programs must have sufficient competence and experience in the fields of education, counseling and rehabilitation. Evaluation of the quality of teaching staff or facilitators must pay attention to whether they have sufficient competence and are able to provide support and guidance according to the needs of children.

3. Availability of social support

Social support from family, friends and the community is very important in helping children who have undergone juvenile justice processes. Evaluation of the availability of social support must pay attention to the extent to which social support has been given to children to help them return to a normal and productive life.

4. Availability of supporting facilities and infrastructure

Supporting facilities and infrastructure, such as classrooms, libraries and sports facilities, are also very important in supporting child development and recovery programs. Evaluation of the availability of supporting facilities and infrastructure must pay attention to whether these facilities and infrastructure are adequate to support child development and recovery programs.

In conclusion, the quality of fostering and recovering children after undergoing the juvenile justice process must be a major concern in evaluating the juvenile justice system. The evaluation must pay attention to the extent to which the coaching and recovery program is in accordance with the needs of the child, as well as the quality of the teaching

staff or facilitators, the availability of social support, and the availability of supporting facilities and infrastructure. This will help the child return to a normal and productive life after undergoing the juvenile justice process.

3. Conclusion

Based on the results of the research, it can be concluded that the juvenile justice system in Indonesia still has several deficiencies that need to be corrected. Evaluations carried out from the perspective of children in conflict with the law show that there are still many children who do not feel that they are being treated fairly and adequately in the juvenile justice process. Some of the factors that cause this to happen include the low quality of legal services, the lack of children's participation in the judicial process, and the lack of alternative dispute resolution outside of juvenile justice.

Nevertheless, there are several efforts that can be made to improve the juvenile justice system. First, it is necessary to improve the quality of legal services in the juvenile justice system, such as increasing the number and quality of lawyers available for children. Second, it is necessary to provide greater opportunities for children to be actively involved in the juvenile criminal justice process, such as providing opportunities to give statements, present witnesses, and provide responses to the charges against them. Third, it is necessary to improve alternative dispute resolution outside of juvenile justice, such as mediation or restorative justice, so that children can choose a dispute resolution that is more in line with their needs and interests.

In the long term, improving the juvenile justice system is expected to increase the protection of children's rights and develop the potential of children involved in criminal cases, so that it is expected to guide children towards a better direction. Therefore, it requires the active role of all parties, including the government, legal institutions, society and families to support and improve the juvenile justice system in Indonesia. Thus, it is hoped that a juvenile criminal justice system will be created that is better and in accordance with the needs of children in the future.

References

1. Amahoru, Ibnu Kasir, "Threatened with 7 Years in Prison, The Gangster of Teachers at SMKN 2 Makassar is Officially Detained, <http://news.folkku.com/read/16604/2016/08/11/threatened-7-year-prison-beaten-smkn-2-makassar-official-detained-teacher>, accessed on 18 August 2016
2. Anonymous, more and more cases of children facing the law, said the Minister of Education and Culture <http://www.solopos.com/2016/01/25/protection-of-children-cases-of-children-against-the-law-more-this-words-mendikbud-684467> accessed on 2 April 2016.
3. Apriliananda, Nurini, "Juridical Implications of Diversion Provisions in Children's International Instruments in Child Law in Indonesia, Journal of Legal Arena, Vol.6, No.1, April 2012.
4. Ariani, Nevey Varida, "Implementation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in an Effort to Protect the Interests of Children", Journal of Media Hukum, Vol.21, No.2, June 2014.
5. Djanggih, Hardianto, "Conception of Legal Protection for Children as Cybercrime Victims Through Penal and Non Penal Approaches", Journal of Mimbar Hukum, Vol.30, No.2, June 2018.
6. Edyanto, Novi, "Restorative Justice to Resolve Cases of Children in Conflict with the Law", Journal of Police Science, Vol.11, No.3, December 2017.
7. Ernis, Yul, "Diversion and Restorative Justice in Settlement of Child Crime Cases in Indonesia", Scientific Journal of Legal Policy, Vol.10, No.2, July 2016.
8. Haling, Syamsu, Paisal Halim, Syamsiah Badruddin, & Hardianto Djanggih, (2018). Protection of Street Children's Human Rights in the Field of Education According to National Laws and International Conventions. Journal of Law & Development, Vol.48, No.2, April-June 2018.
9. Harahap, Halim Palindungan, "Sociological Juridical Review of Diversion Policy for Children in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System", UNNES Law Journal, Vol.3, No.1, 2014.
10. <http://www.bappenas.go.id/berita-dan-pressiaran-press/indonesia-akan-berjadi-uu-no-11-tahun-2012-about-pridana-judicial-system/>, accessed on 29 October 2015.
11. Kaimuddin, Arfan, "Legal Protection for Victims of Minor Theft Crimes in the Diversion Process at the Investigative Level", Arena Hukum Journal, Vol. 8, No.2, August 2015.

15. Mansyur, Ridwan, Restorative Justice as the Purpose of Implementing Diversion in the Juvenile Criminal Justice System. <https://www.mahkamahagung.go.id/>
16. rbnews.asp?bid=4085 accessed on 22 May 2016.
17. Marlina, 2010, Introduction to the Concept of Diversion and Restorative Justice in Criminal Law, Medan: USU Press.
18. Maskur, Muhammad Azil, "Legal Protection of Juvenile Delinquency in Indonesian Criminal Procedures", Pandecta: Research Law Journal, Vol.7, No.2, 2012.
19. Prameswari, Zendy Wulan Ayu Widhi, "Ratification of the Convention on the Rights of the Child in the Indonesian Legislation System", Journal of Yuridika, Vol.32, No.1, January 2017.
20. Priamsari, Rr. Putri A., "Searching for Laws that are Equitable for Children Through Diversion", Journal of Law Reform, Vol.14, No.2, 2018.