

Law Enforcement against Children as Perpetrators of the Crime of Sexual Abuse in the Study of Human Rights



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ABSTRACT: Law enforcement against children as perpetrators of sexual abuse is a complex problem, especially in the study of human rights. This paper aims to discuss the efforts to balance between law enforcement and human rights protection for children as perpetrators of sexual abuse. The research in this paper uses descriptive analytical research specifications with a normative juridical approach method. The results of the paper show that law enforcement on this issue is dominated by imprisonment sanctions for children and the protection of human rights is only limited while the child is undergoing the judicial process and criminal period. Meanwhile, the protection of children's rights after serving the criminal period has not been regulated in the law so that it needs to be reviewed through the reform of the Law on Juvenile Justice System. A balance between law enforcement and human rights protection with a progressive legal approach oriented towards the best interests of children needs to be carried out in order to create a fair juvenile justice system for children as perpetrators and victims.

KEYWORDS: Children as perpetrators of crime; Human Rights; Law Enforcement; Sexual Abuse

I. INTRODUCTION

Children are the young generation who have potential and as the successor of the nation, they have an important role and characteristics that distinguish them from adults, therefore, children need guidance and protection in order to grow and develop optimally. However, children can also commit deviant acts, such as committing violations and crimes or criminal acts such as physical violence, narcotics, sexual abuse, and so on. The cases of violations of the law committed by minors are now increasingly widespread, with different cases, creating their own concerns.

The number of children who have to be locked up and sentenced to serve time in the Child Special Development Institution (LPKA) as well as in prisons and other places of detention is a mismatch with the framework of law enforcement in Indonesia. It is clear in Law No. 11/2012 on the juvenile criminal justice system that the restorative justice approach and consideration of the best interests of the child should be the guidelines in dealing with children in conflict with the law. The number of children detained and imprisoned until October 2023, according to data from the Directorate General of Corrections, was 2,089 people, with 800 of them being child perpetrators of child protection crimes (sexual abuse) (Directorate General of Corrections, 2023). One of the main triggers of these cases is the advancement of technology and the ease of access that everyone has, including children. Most children who access adult sites and see sex will be triggered by the spectacle of the sex scenes they watch (Febrina, 2016).

The fact in the field is an irony for children, not a few children who have completed serving a sentence have difficulty obtaining their rights as citizens such as education and employment. Where children who have completed serving a sentence or crime in addition to still being punished by the community with a negative stigma or labeling, it turns out that the State also still punishes children by narrowing the opportunities for children to find work and education. Where many to get a job or to enter the world of education are required to be free from previous criminal acts. So that many children who after being sentenced to punishment feel that their future and aspirations have been dashed. Whereas we commonly know that one of the factors for someone to commit a crime or criminal offense is due to education and employment (economic) factors. (Sandy Adri, 2019)

In our Constitution, the 1945 Constitution regulates the human rights of citizens, especially in CHAPTER XA, Articles 28A-28J, where one of the articles regulates "The right to education and to benefit from science and technology, arts and culture (Article 28 C paragraph 2)" and "The right to choose a job (Article 28 E paragraph 1)". Based on the 1945 Constitution, it does not distinguish the status of who is entitled to obtain these rights as long as the person is an Indonesian citizen, he/she is entitled to obtain his/her rights, including for ex-convicts. Moreover, in this context, children are the generation that will continue the relay of the continuity of the State.

The Law on Juvenile Criminal Justice System as an instrument of juvenile criminal justice only regulates the rights of children during the criminal justice process but does not regulate the rights of children after the judicial process is completed or when the

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child returns to the community. Whereas the community is an integral part of the criminal justice system. Where in the stages of the criminal justice system begins with the role of the community before entering into the criminal justice sub-system such as investigation, prosecution, court and execution. After the child has undergone criminal execution, they will be returned to the community, so that the community must participate and be responsible for the rights of the child. And the community should also be able to accept the output of children who have finished serving their sentence because the input comes from the community.

Child sexual abuse cases where the perpetrators and victims are children pose a number of complex problems that require comprehensive solutions. On the one hand, law enforcement is needed to ensure that victims get justice. On the other hand, the human rights of children as perpetrators also need to be protected. Law enforcement and protection of children's rights as perpetrators of sexual abuse become a dilemma. Often, imprisonment puts the future of the child at stake. Children who serve imprisonment in the Special Development Institution for Children (LPKA) or Correctional Institution (Lapas) or Women's Correctional Institution (LPP) for a certain period of time have a negative impact on child development and are vulnerable to multiple violence. Apart from the fact that they are treated differently from adult prisoners or inmates and receive special guidance. Children also lose their human rights as citizens after completing their sentence. Although the child has become an adult at the time of completion of the criminalization, the old criminal case remains attached to the child. A citizen, even as an ex-convict, should not lose their rights because it has been stated in the 1945 Constitution. Therefore, this paper aims to discuss about Law Enforcement and Human Rights Protection for Children as Perpetrators of Sexual Offenses.

In this article, the author uses the progressive legal theory of Professor Satjipto Rahadjo. The essence of his theory is that law enforcement must be progressive and in favor of humans, not the other way around. Furthermore, he emphasizes that the law and its enforcement must be based on conscience, not just rigid rules. This is important so that the law is not considered a cruel and heartless tool. In addition, the law must always develop in accordance with the times and not be fixated on old rules because it has never been "law making". (Rahardjo, 2010). It seems that after the reformation and the issuance of the SPPA Law, law enforcement against children can be considered still not optimal because of the lack of application of moral values and will be isolated and far from society, especially regarding human rights for children involved in criminal acts. Because it is not just based on desire, situation, or certain political tendencies, human rights become a guarantee to protect human dignity based on the law. (Lisnawati, 2014).

Some of the research that the author finds is related to similar studies but this paper has differences with previous publications. The first is the publication on "The Concept of Child Development in the Special Development Institution for Children (LPKA) in the Perspective of Human Rights" which distinguishes from this writing, that the publication specifically discusses the protection of human rights of children serving sentences in LPKA while this paper examines Law Enforcement and Human Rights Protection for Children as Perpetrators of Sexual Offenses (Hartono, 2019). The second publication examines "law enforcement against children who commit criminal acts of sexual abuse in the concept of restorative justice" (Febrina, 2016). the third is an article on "Legal Analysis of the Fulfillment of Children's Rights to Obtain Diversion on Problematics of Recidivist Children" which distinguishes this work is that the article discusses efforts to fulfill the rights of recidivist children to obtain diversion while this article focuses on law enforcement and human rights protection for children as perpetrators of sexual abuse. (Jayantri Ribunu, 2023).

Based on the above description, three main problems can be identified in Law Enforcement and Human Rights Protection for Children as Perpetrators of Sexual Abuse, namely: 1) How is the Concept of Law Enforcement and Human Rights Protection for Children as Perpetrators of Sexual Abuse?; 2) How is the Protection of Human Rights for Children as Perpetrators of Sexual Abuse?; and 3) How to Achieve a Balance between Law Enforcement and Human Rights Protection for Children as Perpetrators of Sexual Abuse?

II. MATERIALS AND METHODS

This article uses a type of legal research conducted in a normative juridical manner. namely where the law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms that are a benchmark for human behavior that is considered appropriate. In addition, this research also uses a statute approach by examining everything related to legal issues and a case approach, which is based on cases in the field that are seen from the specifications, this research includes descriptive analytical research, namely research that describes and analyzes problems related to the implementation of normative legal provisions (laws) in action in every certain legal event that occurs in a society. In this research, the process of obtaining data to support the results of the research is carried out through the stages of library research using secondary data, namely trying to find books, concepts, theories and opinions of experts, court decisions and findings that have a close relationship with the subject matter to be studied.

III. RESULTS AND DISCUSSIONS

A. Law Enforcement on Children as Perpetrators of the Crime of Sexual Abuse

Sexual abuse is a criminal act that threatens the honor and decency of children, and law enforcement against perpetrators of child sexual abuse is very important to ensure the safety and welfare of children. However, the rise of sexual abuse cases committed by minors raises a dilemma in law enforcement. One side of the child must be protected but on the other hand the victim must get justice. However, law enforcement on children must still be carried out because it is an important process to regulate the suitability of children's behavior with the law.

Children suspected of committing a criminal act have special treatment that distinguishes between children and adults, as regulated in the Juvenile Criminal Justice System Law. Starting from the pre-adjudication, adjudication and post-adjudication stages, children must be accompanied by Community Counselors from the Correctional Center, where the judicial process must pay attention to the rights of the child and prioritize the principle of the best interests of the child and restorative justice.

Restorative Justice in the Juvenile Criminal Justice System Law is defined as the resolution of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasizing recovery back to its original state, and not retaliation where in the SPPA Law restorative justice is realized through Diversion. However, the concept of restorative justice does not seem to be well understood by law enforcement officials, so that its application is not optimal. Where there are still many children who are sentenced to prison, including children who commit the crime of sexual abuse.

In the case of children who commit the crime of sexual abuse, the act violates Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Article 76 D "Every person is prohibited from committing violence or threatening violence to force a child to have sexual intercourse with him or with another person" and Article 76 E "Every person is prohibited from committing violence or threatening violence, forcing, deceiving, committing a series of lies or persuading a child to commit or allow obscene acts to be committed."

For those who violate the article get criminal sanctions as stated in Article 81 (1) "Every person who violates the provisions referred to in Article 76D shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp5,000,000,000.00 (five billion rupiah)". and Article 82 (1) "Any person who violates the provisions referred to in Article 76E shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp5,000,000,000.00 (five billion rupiah)".

The imposition of imprisonment sanctions on children who commit the crime of sexual abuse is difficult to avoid because in the Law on Juvenile Justice System there are special limits or conditions that state that a criminal offense can be diversioned. Diversion can only be implemented for criminal offenses that carry a sentence of less than seven years and are not repeat offenders. Therefore, children who commit serious criminal offenses such as immorality (child molestation) are not eligible for diversion.

Juridically, the crime of sexual abuse committed by a child cannot be sought for diversion, but law enforcers must also consider that imprisonment is not the only criminal sanction that can be imposed on children. As stipulated in the Law on Juvenile Justice System, there are several types of criminal sanctions for juveniles, namely main punishment (Article 71 paragraph 1) and additional punishment (Article 71 paragraph 2). The main punishment consists of warning punishment, punishment with conditions (coaching outside the institution, community service or supervision), coaching in the institution, job training, imprisonment. Meanwhile, additional punishment consists of deprivation of profit obtained from criminal offense or fulfillment of customary obligation. From these types of criminal sanctions and in accordance with the principles in the Law on Juvenile Criminal Justice System that imprisonment or deprivation of liberty and punishment is the last resort (*ultimum reidium*) in imposing criminal sanctions for juveniles.

In general, imprisonment is imposed on children with several objectives, namely first social defense (protection of society), where the imposition of punishment aims to protect society from crime and make others afraid to commit crimes. Second, preventive special (the purpose of retaliation), where the imposition of punishment aims to make the perpetrator suffer from the punishment given so that the perpetrator does not repeat his actions. The conditions and thinking patterns of children who commit criminal offenses are certainly different from adults, so the purpose of imprisonment must consider the long-term impact on children. The imposition of punishment should be rehabilitative rather than retributive so that children can better understand and correct their mistakes.

Children who have violated the law are vulnerable and will be worse off. This is because it is influenced by several factors, such as the judicial process is usually exhausting, which can cause multiple trauma to children. In addition, children's education is at risk of being stopped during legal conflicts. Due to high court sentences, some children have to drop out of school because they are in "LPKA/Lapas/LPP" for long periods of time. This condition is exacerbated by the bad stigma from the community towards children, even though they have received guidance while serving their sentence. The stigma towards children with legal problems continues. This perception is even worse when the child commits a case of sexual abuse. This is because children are more likely to commit crimes because they need attention from their parents, family and environment. (Sonya Hellen Sinombor, 2023)

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The imposition of punishment other than imprisonment can be an option so that the child's future is maintained and there is no negative stigma attached to being an ex-convict, of course by still looking at the condition of the child victim (Dewi, 2021). Some court decisions have implemented it even though it is still minimal. Such as the Gorontalo District Court decision Number 1/Pid.Sus-Anak/2023/PN Gto in the case of Child Protection (Sexual Abuse). In this decision, the child perpetrator was sentenced to an Institutional Development (1 year), a fine of Rp.10,000,000.00. Where the fine is replaced with job training at LKS Ummu Syahidah for 6 months. Likewise, with the Gorontalo District Court decision number 10/Pid.Sus-Anak/2023/PN Gto in the case of Child Protection (Sexual Abuse), the child perpetrator was sentenced to Job Training (1 year and 8 months). This is an illustration and signal that there are other sanctions that can be imposed on children for this case. However, the judge must also ensure that this principle is implemented by ensuring that the best interests of the child victim are not overridden and the best interests of the child as the perpetrator of the crime must also be met (Shasila, 2023)

The philosophy of juvenile justice is not retaliation, but in order to achieve the welfare of the child. Handling criminal offenses through restorative justice is considered as one of the options to preserve and protect children based on the best interests of the child. Restorative justice is an approach to law enforcement that takes into account the needs of victims, recognition of harm and violence, reintegration of relevant parties into society, and motivates and encourages perpetrators to take responsibility. In restorative justice, efforts to restore the welfare of society are not only carried out by punishing the perpetrator, but also by involving the perpetrator in the accountability process where the victim is also given the opportunity to participate in the process (Rochaeti, 2015).

A crime committed by a child occurs because of the weak function of social control in society. As in social control theory which states that an individual in society has the same tendency to be good or evil. The good and evil of a person depends on his society. He becomes good if his society is good, and vice versa. (Hagon, 1985). Negative labeling of offenders sentenced to prison is also a problem in the future where the offender is ostracized by the community. Therefore, the application of the restorative justice approach must involve all parties, including perpetrators, victims, law enforcement officials, the community and other stakeholders by prioritizing the restoration of relationships in order to produce a decision that can accommodate the best interests of all.

B. Protection of human rights for children as perpetrators of the crime of sexual abuse

1. The Concept of Human Rights and State Obligations for Citizens in Indonesia

Human Rights is a term used to describe Human Rights, fundamental rights or basic rights. Until now there has been no clear consensus regarding the definition. This is shown by the many definitions of human rights. Linguistically, human rights are derived from three words: rights, human rights and human beings. The word rights comes from the Arabic *haqqa*, *yahiqqu*, *haqqaan* which means true, certain, real, fixed and obligatory. While *asasi* also has roots in Arabic *assa*, *yaussu*, *asasaan* which means to build, establish, place or can also mean the origin, principle, base, basis of everything. (Rahayu, 2010).

Soetandyo defines human rights as basic rights that are universal and recognized as inherent in human beings because of their condition as humans (Soetandyo, 2003). Meanwhile, according to Muladi, human rights are rights that are naturally inherent in humans since they are born, without these rights, humans cannot grow and develop into perfect human beings (Muladi, 2002). Although there are several different definitions, broadly speaking, the definition refers to fundamental rights that are naturally given to humans that are eternal and universal. Therefore, these rights must be protected, respected and defended and cannot be ignored or taken away by anyone.

The enforcement of human rights is an obligation that cannot be denied by a State. Respect and enforcement of human rights is an obligation of the State to protect the interests of mankind (obligations *erga omnes*). (Rahayu, 2010). Constitutionally as stated in the 1945 Constitution of the Republic of Indonesia Article 28 I paragraph (4) and in Article 8 jo Article 71 of Law No.39/1999 on Human Rights stipulates that the enforcement and implementation of human rights is the obligation of all parties, both the State and its citizens. Human rights include rights and obligations, including the obligation to respect and appreciate the human rights of others.

Human rights in Indonesia are absolute and must be protected for every citizen. However, alongside human rights are basic human obligations. Basic human obligations are a set of obligations that may be implemented if human rights have not been implemented and upheld. Thus, there is a relationship between rights and obligations that affect each other. If obligations are not implemented, then rights and obligations will not be achieved. (Hartono, 2019)

Law contains rights and obligations, according to Barda Nawawi Arief. a person's rights and obligations must be in harmony with the rights and obligations of every other member of society from a legal perspective,. This is due to the fact that the law not only regulates the relationship between individuals in community life but also the relationship between individuals and their environment. Society is a communal unit so that individual human rights connote human rights as a community unit (Barda Nawawi Arief, 2016).

One of the functions of the State or government is as an obligor (duty bearer) and people living in the jurisdiction function as rights holders. The state has a responsibility to its citizens to 1) respect, meaning that the state is prohibited from taking any action that violates human rights unless such action is authorized by law. 2) to fulfill This means that the state must take measures to ensure

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that human rights are respected and protected. These measures can be legislative, administrative, judicial and practical. For example, the state must establish regulations that guarantee the right to employment, social security, health, and education. 3) to protect the human rights of its citizens, meaning that the state must protect its citizens from human rights violations, whether committed by the state or by other parties. (Nowak, 2003).

Thus, every citizen is seen as equal regarding human rights issues regardless of social status, whether he is an ordinary citizen or a citizen involved in a crime, all have the same rights related to human rights. Moreover, in this context, it is a child who in fact is still unable to understand the norms as a whole. So that the State's treatment of children who become ex-criminals should not be discriminatory. Both related to obtaining education and decent work for their future. Because the future of children is a picture of the future of a nation. If the child is limited by discriminatory conditions to obtain their rights. Then it can be interpreted that the State has violated the constitution that it has made itself.

2. Problems with the rights of children in conflict with the law based on laws and regulations

The state is obliged to protect its citizens, including children who commit criminal offenses. Therefore, in every judicial process, law enforcement officials must prioritize the best interests of the child. The interests of the child include the rights of the child that have been recognized in the UN Convention on the Rights of the Child. The UN-CRC is specifically addressed to children under the age of 18. The UN-CRC contains four main principles, namely 1) The principle of non-discrimination means that children must be treated fairly and equally, regardless of race, creed, ethnicity, gender, or other social status. 2) The principle of the best interests of the child, this means that in every step related to children the best interests of the child must be put forward. 3) The right to life, survival, and child development, which means that every child has the right to live, develop, and grow healthily. 4) Respect for children's views, meaning that children have the right to express their opinions and be heard by adults.

These principles have been ratified by Indonesia in Law No. 11/2012 on the Juvenile Justice System. Although the CRC has been ratified by many countries, it is still a work in progress. This is because the protection of children's rights is a complex process, which requires the recognition of children's rights as their own independent rights, as well as the recognition that children require additional protection (Riyadi, 2008).

Children as perpetrators of criminal acts or in No. 11/2012 on the Juvenile Justice System are Children in conflict with the law, hereinafter referred to as Children, are children who have reached the age of 12 (twelve) years, but not yet 18 (eighteen) years old who are suspected of committing a criminal offense (Article 1 point 3). The SPPA Law also regulates the rights of children during the criminal justice process and during the criminal period. As stated in Article 3 of the SPPA Law "every child in the criminal justice process has the right to a) be treated humanely by taking into account the needs in accordance with their age, b) be separated from adults, c) obtain effective legal and other assistance, d) engage in recreational activities, e) be free from torture, punishment or other cruel, inhumane, and degrading treatment, f) not be sentenced to death or life imprisonment, g) not be arrested, detained, or imprisoned, except as a last resort and within the shortest time, h) obtain justice before a Children's Court that is objective, impartial, and in a hearing that is closed to the public, i) not have his/her identity published, j) obtain assistance from parents/guardians and people trusted by the child, k) obtain social advocacy, l) obtain a private life, m) obtain accessibility, especially for children with disabilities, n) obtain education, o) obtain health services and p) obtain other rights in accordance with the provisions of laws and regulations". In addition, children also have several rights during the criminal period, namely the right to obtain a reduction in criminal period, obtain assimilation, leave to visit family, parole, leave before release, conditional leave and other rights in accordance with the provisions of laws and regulations (Article 4 of Law No.11/2012).

The protection of children in conflict with the law must involve all existing elements. Starting from parents, family, community, government and other state institutions are obliged and responsible for ensuring the welfare of children. Special protection for children in conflict with the law must prioritize the principle of the best interests of the child and the principle of Restorative Justice. Based on the articles in Law No.11/2012, law enforcers who handle the juvenile criminal justice process must pay attention to the rights of children, starting from the beginning of the judicial process to the guidance process after completing the criminal period.

There is a weakness in Law No.11/2012, which does not regulate the rights of children who have completed serving their sentence or as former convicts. This is an anti-climax to the spirit of building a juvenile criminal justice system that prioritizes the principle of the best interests of the child. Facts in the field show that children who have completed serving their sentence or children as former convicts have difficulty regaining their rights both as children and as citizens. It is as if the child has received multiple punishments. In addition to receiving punishment from law enforcement officials, the child must still receive social sanctions from the community in the form of negative stigma. Negative stigma is still given to children, because of the unusual attributes or labeling in children. The community's assessment of children in conflict with the law is negative because these children have behavior or appearance that is considered unusual. In this case, society acts as a majority group that is considered normal, while children in conflict with the law are considered an abnormal minority group (Novia Sushanti, 2022).

Children's suffering increases, when their rights are also limited after serving a sentence. Ironically, the limitation of these rights is carried out by the state itself, where the state should be obliged to fulfill the rights of citizens, in this case children. Many children who have finished serving their sentence have difficulty continuing to work and pursue further education because there is a requirement that they are not involved in previous criminal acts, such as the requirement to make a Criminal Record Certificate

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"SKCK" in every job vacancy both organized by the government and the private sector. If a child has a criminal record then he/she cannot participate or register for the vacancy.

Substantially, children who commit a crime are actually also victims of unfavorable circumstances, such as parental inability to care or poverty. (Astuti, 2017). In addition, several other factors also cause children to commit crimes and act criminally, which results in children in conflict with the law. These factors include lack of attention from parents, poverty and self-discovery (Pribadi, 2018). To find out the more essential factors, we need to look at the factors of crime as a whole. Therefore, children need attention, care and protection from adults, so that they do not commit acts that violate the law (Azis Al Rosyid, 2019).

In a state of law, a convicted person is someone who is declared guilty according to the legal system that has been determined in the legislation. However, a convicted person still has rights that cannot be reduced or abolished. The state and law enforcement officials are obliged to uphold the rights of convicts. Therefore, in imposing a punishment against the perpetrator of a criminal offense, it is obligatory to pay attention to his basic rights (non derogable rights), such as the right to individual freedom, conscience, and mind. These restricted rights must be explicitly explained, because they are related to the survival and future of human beings, even though the person is a convict (Anjari, 2015).

By appreciating these things, both the philosophy of the constitution and the causa of children who commit crimes, where in fact children are also victims, the discriminatory rules against children as former convicts to obtain their rights need to be reviewed, through the reform of the Criminal Justice System Law and other rules that accommodate related matters. Because children are the next generation on which the future of the nation depends.

C. Realizing a Balance between Law Enforcement and Human Rights Protection for Children as Perpetrators of Sexual Offenses

Balancing law enforcement and human rights protection for children who commit the crime of sexual abuse is a complex and sensitive issue. Given that the crime is included in special crimes that often become public attention. Therefore, a comprehensive and careful approach is needed to ensure justice for victims, perpetrators, and the wider community. Here are some important points to consider:

1. Ensure justice for Victims

Law enforcement officials must pay attention to and prioritize the safety and recovery of victims. These efforts can be made by providing adequate psychological and medical support for victims and providing assistance to victims in the legal process. As stated in Article 64 paragraph (3) of Law No. 35 of 2014 concerning Child Protection, that one form of special protection for child victims is rehabilitation efforts, both in institutions and outside institutions. (c) Medical services/assistance, provided to victims who suffer medically as a result of a criminal offense, which results in physical suffering. In addition, it is also regulated in Article 90 paragraph (1) of Law No.11/2012, which explains that child victims and child witnesses are entitled to "medical rehabilitation and social rehabilitation efforts, both inside and outside institutions".

2. Restorative Justice Approach

The existence of limitations related to the requirements for implementing diversion for children is an obstacle for law enforcement officials. However, by looking at the principles in Law No.11/2012, namely the principle of the best interests of the child and the restorative justice approach, law enforcement officials should be able to explore this. One that should be pursued is in the handling of cases of sexual abuse committed by children. Although the punishment is above 7 (seven years), it should not close the space for deliberation with a restorative justice approach. Therefore, there needs to be a technical procedure for a forum that can restore the perpetrator, victim, and community in the trial process (litigation) to find out the willingness of the parties. Although it cannot immediately stop the case, it can be taken into consideration by the judge in giving a decision that can reflect restorative justice for all parties.

3. Capacity Building of Law Enforcement Officials and Involvement of Community Groups

The role of law enforcement officials and the community is very important in handling criminal cases committed by children. The SPPA Law provides that law enforcement officers handling juvenile cases must be specialized police officers, prosecutors and judges who have attended special education and training related to the juvenile criminal justice system, but this is not enough. Law enforcement officers must build effective cooperation between law enforcement officers, child protection agencies, and civil society groups. The existence of good cooperation between these parties will make handling juvenile crimes easier and more targeted.

4. Ensuring Child Friendly Justice

Creating a child-friendly justice system for children who commit the crime of sexual abuse is an important effort to ensure justice for victims, perpetrators, and the wider community. This can be done by ensuring the safety and comfort of both victims and perpetrators by avoiding an atmosphere of intimidation and pressure. Effective communication is also needed in the judicial process so that children can understand and comprehend the judicial process. In addition, rehabilitation and guidance for juvenile offenders should be prioritized to prevent repetition of criminal acts. The focus should be on character building, skills development, and education on the dangers of child abuse.

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Balancing law enforcement and human rights protection for children who commit the crime of sexual abuse requires commitment and cooperation from various parties. The implementation of the law always changes with the times. This improvement serves to realize substantive law so that justice can be achieved (Ansori, 2017). The positivistic legal perspective is often unable to realize substantive justice, especially for weak and marginalized parties, including in this case minors. Therefore, in order to be free from the shackles of formalism positivism, it is necessary to realize a new way of law so that the law is able to capture the essence of truth, justice and humanity. A perspective that prioritizes the values of human rights and humanity coupled with a change in thinking from textual law to progressive law and a comprehensive approach and oriented to the best interests of children, is expected to realize a fair juvenile justice system for children both as perpetrators and victims of criminal acts of sexual abuse.

IV. CONCLUSIONS AND RECOMMENDATION

Law enforcement against children as perpetrators of sexual abuse is a complex problem that must be addressed comprehensively. These considerations include aspects of human rights. On the one hand, law enforcement is needed to protect victims and society from criminal acts. On the other hand, it is important to ensure that the rights of children as perpetrators are also protected. Law enforcement against children as perpetrators of the crime of sexual abuse is currently still dominated by the imposition of prison sanctions for children, even though there are many other types of sanctions that can be given to children in accordance with statutory regulations. Imprisonment itself has more negative impacts on children both during the criminal period and after serving the criminal period.

On the other hand, the protection of human rights of children as perpetrators of criminal offenses is currently only limited to the protection of children's rights during the criminal period while the protection of children's human rights after serving a criminal period or ex-convicts has not been regulated in the law. Therefore, there needs to be a balance between the enforcement and protection of human rights for children both during the criminal period and after serving the criminal period. A progressive and comprehensive legal approach oriented towards the best interests of children and restorative justice is needed so that a fair juvenile justice system for children both as perpetrators and victims can be realized so that guarantees of respect, protection and enforcement of citizens' rights including children in conflict with the law or children as perpetrators of criminal acts can be fulfilled.

Discriminatory rules against children during the criminal period and after serving the criminal period (ex-convicts) related to obtaining their rights should be reviewed, through the reform of the Law on Juvenile Justice System and other rules that accommodate this matter. Because children are the next generation on which the future of the nation depends

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