



Educational Criminal Systems for Children as a Criminal Actor

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Abstract

Children are part of the community, they have the same rights as other communities to be protected and respected. Any State anywhere in the world is obliged to give adequate attention and protection to the rights of the child, which include civil, economic, social and cultural rights. However, it seems that the status and rights of the children when viewed from a juridical perspective have not received serious attention either by the government, law enforcers or the public in general and are still far from what should be given to them. This condition is compounded by the weak implementation of the law on the rights of the child committed by law enforcement officers themselves. The rights of the child shall be respected by everyone. One of them is in the punishment system which until now sometimes still treats the children involved as perpetrators of such crimes as perpetrators of criminal acts committed by adults. The child is placed in a position as a criminal offender who deserves the same punishment as an adult and applies in Indonesia. Whereas punishment itself is more oriented to individual perpetrators or commonly referred to as individual responsibility (personal Individual Responsibility) where perpetrators are viewed as individuals who are able to take full responsibility for the deeds it undertakes. While the child is an individual who has not been able to fully realize the actions / actions that he did, this is because the child is an immature individual in thinking. Without realizing it, of course, can cause a great psychological impact on the child that ultimately affects the mental and mental development of the child.

Keyword: Educational Criminal Systems, Children

INTRODUCTION

Children as one of the human resources and is the next generation of the nation, should be getting special attention from the government, in order to foster children to realize the human resources are strong and quality. In relation to child coaching, legal facilities and infrastructures are required to anticipate any problems that arise. The

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facilities and infrastructures are concerned with the interests of the child or those concerning the deviations of attitudes and behaviors that make the child forced to face the court.

Mental children who are still in the search phase of identity, sometimes easily affected by the circumstances surrounding environmental conditions. So if the environment where the child is located is bad, it can be affected by actions that may be illegal. It certainly can hurt itself and society. Not a few of these actions eventually dragged them into dealing with law enforcement officers. Children are part of the community, they have the same rights as other communities to be protected and respected. Any State anywhere in the world is obliged to give adequate attention and protection to the rights of the child, which include civil, economic, social and cultural rights. However, it seems that the status and rights of the children when viewed from a juridical perspective have not received serious attention either by the government, law enforcers or the public in general and are still far from what should be given to them. This condition is compounded by the weak implementation of the law on the rights of the child committed by law enforcement officers themselves.

Child rights are part of human rights that are guaranteed and protected by international law as well as national law, universally protected under Universal Declaration of Human Rights (UDHR) and International on Civil and Political Rights (ICPR).

In Indonesia, rules have been made which basically uphold and pay attention to the rights of the children, namely the ratification of the Convention on the Rights of the Child (CRC) by Presidential Decree No. 36 of 1990. Other legislation that has been made by the Indonesian government, among others, [Act No. 39 Year 1999 on Human Rights](#), [Act No. 3 Year 1997 on Juvenile Court](#), [Act No. 23 Year 2002 on Child Protection](#). Substantially, the Law regulates the rights of children in the form of the right to life, the right to name, the right to education, the right to basic health, the right to worship according to their religion, the right to expression, to think, to play, to be creative, to rest, to socialize and to secure social security.

The making of these rules is very clear that the State is very concerned and protect the rights of children. The rights of the child shall be respected by everyone. But unfortunately in the application of law enforcement problems (law enforcement) often experience obstacles or constraints both caused by internal factors and external factors.

One of them is in the punishment system which until now sometimes still treats the children involved as perpetrators of such crimes as perpetrators of criminal acts committed by adults. The child is placed in a position as a criminal offender who deserves the same punishment as an adult and applies in Indonesia. Whereas the punishment itself is more oriented to individual perpetrators or commonly referred to as individual individual responsibility (Individual responsibility) in which the offender is viewed as an individual capable of taking full responsibility for the actions he / she performs. While the child is an individual who has not been able to fully realize the actions of his actions, this is because the child is an immature individual in thinking. Without realizing it, of course, can cause a great psychological impact on the child that ultimately affects the mental and mental development of the child. Therefore, by treating the child as an adult it is feared the child will quickly imitate the treatment of those who are nearby. Child misbehavior or in foreign terms is called Juvenile Delinquency, discussed in the United States Judicial Council in an attempt to establish a Child Juvenile Justice Act. There are two things that become the main topic of discussion is the aspect of violation of the law and the nature of the child's actions

whether it has deviated from the norms that apply and violate the law or not. Juvenile Delinquency is an act or a violation of the norm, both legal norms and social norms performed by young children.

The provision of child crime or child delinquency is defined as a form of crime committed by a child in special titles from the section of the Criminal Act and or the rule of law.

Juvenile justice is formed because of the background of concerns that plagued European and American countries for criminal acts committed by children and youth whose numbers are increasing year by year. But the treatment of adult criminals, so special protection measures are required for child criminals.

Juvenile justice is intended to cope with disadvantages for children, and in the implementation of the criminal justice process children should not be treated the same as adults. In Indonesia itself, in order to realize a court that really concerns the interests of children, it is necessary to realize a limited court for children to guarantee the interests of the child through Act No. 3 Year 1997, passed by the Government on January 3rd, 1997. Judicial especially for children to be held to overcome the problem of criminal acts committed by those who still belong to the class of children, all must be tried in court for children who are in court in the general judicial environment. The Law on Juvenile Justice will provide a national legal basis for the protection of the law for children through the juvenile justice system. In addition Act No. 3 Year 1997, which is intended as a legal device that is more stable and adequate in carrying out guidance and provide legal protection for children with legal problems and enforcement of children and child law to realize the principle of best interests for (the best interest of the child). The provisions contained in Act No. 3 Year 1997 have partially referred to such signs.

Deprivation of liberty, for example, should be done only as a measure of the last resort, regardless of the right of the child to be separated from his parents. Children as immature individuals need to obtain legal juridical protection (legal protection) to ensure their interests as members of the community. The issue of enforcing child rights and child law is essentially the same as the overall law enforcement issue. Therefore, the problem of implementing child law is influenced by several factors, namely:

1. The legal regulations, namely the laws and regulations that regulate certain legal issues. In this case, the issue of the rule of law on the rights of the child with respect to:
 - a. The manner of formation and the juridical requirements of its formation.
 - b. The legal material is whether it has been in accordance with the spirit, values, principles, or rules of law and legal sanctions.
 - c. The required implementation rules need to be prepared to prevent legal vacuum. Law enforcement officers, ie legal officers or institutions relating to legal proceedings in the community. In the case of law enforcement in Indonesia, officers charged with enforcing the law are known by
2. The chess of the dynasty, which includes the police (investigating institutions), prosecutors (prosecutors), judges (judges), and lawyers or advocates. To uphold the rights of children and uphold the law of children, facing the general problems that struck Indonesia, namely the limited ability of law enforcement officers who understand child law and children's rights, the quality, education and expertise of each law enforcement apparatus, and the organization's ability to enforce the law children and children's rights.
3. Cultural law of society, namely social structure and cultural views that go on and

believed the public in upholding the law as a guideline of everyday behavior. The legal culture issue is an important issue in enforcing the law in Indonesia which concerns the public's belief in law and law enforcement.

4. The legal community, the place where law moves in everyday life that includes the extent to which the public complies with the law, the community's concern to enforce the law to bring order and peace. In terms of enforcing the rights of children in the practice of daily life.

Child regulation is only a guideline that can be used as a guide to guide how society acts if a child's problem is found.

Delinquent children can only be imposed punishments or treatment. The punishment who can be imposed on the delinquent Child are:

1. Basic punishments and additional punishments.
2. The basic punishments that can be imposed on a delinquent Child are:
 - a. Prison
 - b. Confinement
 - c. fine
 - d. oversight
3. In addition to the basic punishments as referred to in paragraph (2) against the naughty child may also be imposed additional criminal in the form of certain goods and / or compensation payments.
4. The provisions concerning the forms and procedures for the payment of compensation shall be further regulated under a Government Regulation (Law No 3 of 1997 Article 22).

There is a distinction of a punishments for a child as determined by the Criminal Act, in which the penalty shall be prescribed within a maximum is half of the maximum threat to the adult, while the imposition of capital punishment and life imprisonment shall not apply to children. Sanctions imposed on the child in the Act are also determined by age, ie for children aged 8 to 12 years old are only subject to action, whereas children aged 12 to 18 years old can be punished. To create a balance in the community held sanctions. Sanctions are formed from a system or institution authorized to handle it.

All societies have institutional systems in dealing with crime and delinquency, which are reactions to crime and delinquency The institutional system in question is Police, Court, Custodial Institutions, and various methods of supervising and guiding criminal offenses in the community (eg, probation and parole). The purpose of the reaction to crime and delinquency is for the prevention of crime and delinquency, as well as the resocialization of criminal offenses.

The current criminal punishment system in Indonesia is based only on the nature of its punishment alone regardless of how it can change the child for the better. The provision of an educative system of punishment, which is a punishment system that not only emphasizes in terms of punishment alone but rather to how a child can be changed behavior to be better and will not repeat the action without the sanction of the body or prison. Every child deprived of his / her rights is entitled to:

1. Getting appropriate treatment and placement separated from adults.
2. Obtain legal or other assistance effectively at every stage of applicable legal measures, such as social counseling from social work, consultations from psychologists and psychiatrists or assistance from linguists.
3. Defend yourself and obtain justice before an objective and impartial child's court in a closed field for the public (Law No. 23 of 2002 Article 17 paragraph (1))

A perpetrator of crimes committed by children will be easier to control and

repair than an adult perpetrator committed. This is because the child's developmental level is different from his characteristics and characteristics, at the age of infants, adolescents and the elderly will be different psychological and physical. The criminal punishment system which is educative in nature is rarely done by law enforcement officers in Indonesia especially by judges.

One example of educational criminal sanctions is the provision of criminal sanctions that are not only returned to the parent guardian or the environment alone but the criminal sanctions are also educational for example put into a boarding school for perpetrators of Islamic crimes, or given to the church for the religious Christians, and other religious institutions in accordance with the religion embraced or embraced.

The individual responsibility system used so far is a fragmentary crime prevention effort that only sees the prevention effort in terms of its individual individual. Yet in dealing with the problem of children is not only seen from the individual handling of the child only but viewed from many factors, one of which is to make how the child no longer repeat his actions but also provide good example and education to the child.

This is so that the child's spiritual mentality is more educated so that deviant behavior of the child even this becomes better. With the inclusion of the child as a criminal to a Penitentiary rather than not ensuring that the child is subject to change, but within the Penitentiary there is no more input to the mental improvement of the child because they are alienated with other offenders resulting in a process of restoring the child's behavior to be better often inhibited by the environment from within the LP itself, which is less conducive.

Obviously this would be different if placing the child in an environment where he does not feel treated as a criminal offender, but rather treating the child as an immature human who still does not know anything so that still need to be given guidance, direction and teaching which are called good actions and which are called bad actions. Of course, the treatment given to those involved in criminal offenses, during their legal process and punishment, places them as young criminals who have different characteristics with adult criminals. Actually this educational punishment system is not something new. In Act No. 3 of 1997 on Juvenile Justice the educational punishment system has been clearly implied, but on its application it is rarely done, not infrequently children are handled by law enforcers who are not so professional to handle cases in the field of children and sometimes also the placement of children of convicts mixed with adults.

According to Act No. 3 Year 1997 there are two alternative actions that can be taken if a child under 8 years of a particular crime, ie first handed over to parents, guardians or foster parents, if the child can still be fostered. Second, it is left to the Ministry of Social Affairs if the child can not be nurtured by a parent, guardian or foster parent. However, in regard to the interests of the child, the judge may wish to be submitted to social organizations such as religious education, social institutions and other social institutions with regard to the child's religion concerned.

Based on the above description can be formulated the problems of how is the Educative Educational System against children as perpetrators of criminal acts in Indonesia in the present time?.

RESEARCH METHOD

By doing this research, it is expected to obtain complete data and can be accounted for its truth so it must be based on certain thoughts and methods as a requirement of scientific writing. Thus the writing does not deviate from what is the

goal. Based on the description above, the approach method used in this research is the method of legal juridical normative approach. Normative legal research or doctrinal law research, is a legal research that uses secondary data sources. The specification of this study uses a descriptive type of analysis that describes the applicable legislation is associated with legal theory and practice of the implementation of positive law concerning the above issues. The type of data used in this study is secondary data. The data needed for the writing of this law will be obtained by doing library research (literature study) that is the data obtained from literature study by studying the relevant legislation, books, journals, newspapers and magazines related. This collection method is done by searching and selecting the materials needed in this research. As a way to draw conclusions from the results of research that has been collected will be used method of normative-qualitative analysis. Normative, because this research starts from the existing rules as the norm of positive law. Medium, qualitative is intended as an analysis of data that starts on the efforts of discovery of principles and information that is monographic expression. Based on the method of analysis, data from the research are collected and selected systematically, juridically and logically so that the results are expected to accurately describe the data obtained and answer the subject matter of this research

FINDING AND DISCUSSION

The definition of the child itself if we look further in terms of chronological age according to law may vary depending on place, time and for what purposes, it will also affect the limits used to determine the age of the child. Differences in understanding the child can be seen in every existing legislation rules. For example, the definition of children according to Act No. 4 Year 1979 on Child Welfare is someone who has not reached the age of 21 years and has never married. According to Article 1 point 2 of Act No. 3 Year 1997 on Juvenile Court, the meaning of delinquent boy is: "Child who commits a crime, or Children who commit acts declared prohibited to children, either by law or by other laws of law that live and apply in the community concerned".

In the Indonesian Criminal Act, it clearly means that a criminal act (crime) must contain elements:

1. the existence of human actions
2. the act must be in accordance with the provisions of the law
3. wrong doing
4. responsibility of the actor

There are 2 (two) categories of children's behavior that make him have to deal with the law, namely:

1. Offence Status is the behavior of child delinquency which, when committed by an adult, is not considered a crime, such as disobeying, ditching school or running away from home;
2. Juvenile Delinquency is the behavior of child delinquency which if done by an adult is considered a crime or a violation of law.

But too extreme if the crime committed by children is called a crime,

because basically children have unstable psychological conditions, psychological stability process produces a critical attitude, aggressive and show behavior that tends to act disturbing public order. This can not be regarded as a crime, but the delinquency caused by the unbalanced psychological condition and the perpetrator has not yet realized and understood the actions he has done.

There are several factors that most influence the incidence of child crime, namely:

1. Environmental factors
2. Social economic factors
3. Psychological factors

While in the Indonesian Criminal Code affirmed that a person can be accounted for his actions because of self-awareness of the concerned and he also has understood that the act is prohibited according to applicable law. The delinquency actions perpetrated by children are a manifestation of adolescent juvenile without any intention of harming others as implied in an act of crime contained in the Criminal Act (Criminal Act) where the offender must be aware of the consequences of his actions and the perpetrator is capable answer to his actions. Child mischief is also called Juvenile Delinquency. Juvenile or (in English) in Indonesian means children; youth, while Delinquency means neglected neglect which later expanded into evil, criminal, offenders and others. Whereas in the Big Indonesian Dictionary, deliberation is defined as a behavior that violates lightly the norms and laws prevailing in a society.

An act is said delinquent if the acts are contrary to the norms that exist in the community where he lived or an anti-social action in which contained anti-normative elements.

Understanding Juvenile Delinquency

According to Kartini Kartono is Juvenile Delinquency that is evil behavior dursila, or crime of juvenile delinquency, is a symptom of social pain (pathology) in children and adolescent caused by a form of social neglect so that they develop form of ignorant behavior deviant behavior.

While Juvenile Delinquency according Romli Atmasasmita is any act or behavior of a child under the age of 18 years and has not married which is a violation of applicable legal norms and may endanger the personal development of the child in question.

In the United States acts committed by children with deeds committed by adults differentiated his understanding. An act of anti-social action that violates criminal law, morality and public order if done by a person aged over 21 years is called a crime (crime), but if the act is a person aged under 21 years is called the delinquency (Delinquency) . This led to a theory by Sutherland (1966) called the Differential Association theory which states that the child becomes Delinquent is caused by his participation in the midst of a social environment where certain delinquent ideas and techniques serve as an efficient means to overcome the hardships of his life. Therefore, the wider the child, the more intensive his relationship with the d, will be the longer the process of deferential association takes place and the greater the likelihood that the child actually becomes delinquent and do some crime.

Educational Criminal System

According to Barda Nawawi Arief

1. In a broad sense, the punishment system is viewed from a functional angle, ie from the working point of the process. In this broader sense, the punishment system can be interpreted as:
 - a. Overall system (rule of legislation) for functionalization of criminal concretization operations.
 - b. The entire system (legislation) that governs how the criminal law is enforced or operated concretely so that a person is punished by criminal law.
2. In a narrow sense, the punishment system is viewed from a normative substantive point, ie only seen from the norms of substantive criminal law. In this narrow

sense, the punishment system can be interpreted as:

- a. Overall system (rule of legislation) for prosecution.
- b. Overall system (legislation) for granting and applying criminal offenses (Nawawi Arief, 2005).

Meanwhile, to protect children and their rights in Act No. 3 Year 1997 there is action (treatment), which is also listed in the Indonesian Criminal Code. Educative punishment system itself is a system where children as perpetrators of criminal acts are not only given a sanction in the form of punishment only, but given an action (treatment) that positions the child not as an adult like an adult but an immature individual, requiring moral guidance, mentally and spiritually to become a better candidate for adult. States are charged with the obligation to treat differently between adults and children committing an offense.

Definition of "punishment" is defined as a "granting or imposition of criminal", then the definition of "punishment system" can be seen from 2 (two) angles:

At the minimum Rules of the United Nations Standards on the Administration of Juvenile Justice United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) Adopted by General Assembly Resolution at 29 November 1985:

Part one: General Principles

Article 5. Objectives of Juvenile Justice

- 5.1. The judicial system for children will prioritize the welfare of children and will ensure that any reaction to offenders violating the law of the aged child will always be commensurate with the circumstances of both its offenders and its lawlessness.

Article 6. The scope of freedom to make decisions

- 6.1. Given the diverse special needs of children and the diversity of available measures, adequate scope for freedom of decision making will be permitted at all stages of the judicial process and in different stages of judicial administration for children, including prosecution, prosecution, decision-making and its advanced settings.

Article 7. Rights of the child

- 7.1. Basic procedural protective measures such as presumption of innocence, right to be notified of demands against them, the right to remain silent, the right of lawyers, the right to the presence of guardian parents, the right to face and cross check witnesses and the right to appeal to the higher authorities will be guaranteed at all stages of the judicial process.

In Article 37 of the Convention on The Rights of The Child letter d it is mentioned that: "Arrest, detention and imprisonment shall only be used as an act in the last resort and for a very short short term".

This means that in fact international law also considers that the imprisonment is the last step taken in handling child crime. And that too with the terms imposed in a very short period of time. Article 40 contains the following detailed principles:

Any child accused of being sued or declared to have infringed a right to the right shall be entitled to be treated in any manner:

- a. Which corresponds to the progress of the child's understanding of his or her dignity.
- b. That strengthens respect for the child's respect for the human rights and freedoms of others;

- c. Consider the child's age and desire to advance develop the reintegration of children and develop the child's expectations of his constructive role in society.

The treatment of children as perpetrators of crime is different from that of adult criminals. This is because it is influenced by the level of maturity of children who have not perfect. This is as stated by Haskell and Yablonsky that in today's legislation delinquent children are distinguished from adult criminals on the basis of several factors:

- a. Distinguished by age, usually 18 years.
- b. Delinquent children are usually considered as less accountable for their actions.
- c. In dealing with delinquent children, the emphasis is on the child's personality and the factors that are the motivation for the offense.
- d. The act or guidance on delinquent children is directed more toward programs that are therapeutic rather than punitive.

Despite the changes, the juvenile justice process has a tendency to emphasize less on its legal aspects, and its procedures in the courts are more informal and individualized.

The special protection for children in conflict with the law carried out through:

1. The treatment of the child is humanly appropriate to the dignity and rights of the child.
2. Provision of special escort officers from an early age;
3. Provision of special advice and infrastructure;
4. The imposition of appropriate sanctions for the best interests of the child;
5. Ongoing monitoring and recording of the development of children in conflict with the law;
6. Giving guarantees to maintain a relationship with parents or family; and
7. Protection from identity coverage through mass media and to avoid labeling ([Act No. 23 of 2002 Article 64 paragraph \(2\)](#)).

Therefore, educative punishment system is used as a form of punishment system that exists today. Denga pay more attention to the rights and obligations of children, and provide them in an act (treatment) that can promote or develop the integration of children for their role in the community can be a better. Treatment is provided by placing them in care institutions or coaching and guidance that not only provide education and work training, but spiritual institutions can provide moral and spiritual improvement, so that mental improvement can be more easily implemented.

The position of a child convicted by submission to a parent, care or coaching organization, training center, or social institution, shall not be cited as a fall of a crime committed by that child and / or the abolition of a child's right to impose the child's imprisonment.

Children have the right to be nurtured in order to perform their duties as good citizens so that with early coaching may prevent children from further criminal acts. One of the best coaching comes from the family, but sometimes the social counseling interventions in the family often indicate that to solve the deviation done by the child is solved by way of deliberation, persuasion or expulsion of the child as the perpetrator of the crime.

Actions that, according to the family, are the view that it is a substitution of the educational process for the growth and development of the child, it will actually make the child feel neglected and depressed. The position of the family is very fundamental and has a vital role in educating children. If education in the family fails, then children tend to misbehavior in society and often lead to crime and criminal acts.

Therefore, coaching children by putting children into social institutions such as religious institutions that better understand good moral development to children, will

be more effective and efficient on moral improvement of children.

Educational Criminal System Against Children as Criminal Actor in Indonesia at This Time

The Juvenile Justice System is all elements of the criminal justice system involved in handling cases of child mischief, which may result in children facing the law. The objective of integrated juvenile justice system should be more emphasis on socializing, rehabilitation and social welfare because in handling child case fulfillment and protection of children's rights become the main purpose and should be based on the principle of the best interests of the child (child) and not neglected child welfare. Child welfare is important because:

1. The child is the potential and successor of the ideals of the nation whose foundation has been laid by the previous generation;
2. In order for each child to assume such responsibility, he / she should have the opportunity to grow, develop naturally;
3. That in the community there are children who experience barriers to spiritual, physical, social, and economic welfare;
4. The child has not been able to take care of himself;
5. That removal of such barriers will only be implemented and obtained if the child welfare business is assured
6. Child Welfare is a system of life and livelihood of children that can guarantee its growth and development properly both spiritually, physically and socially (Act No 4 of 1979 Article 1 point 1 a).

In the Convention on the Rights of the Child the obligations are stipulated in Article 3 as follows:

- a. In all acts concerning children, conducted by state or private social welfare agencies, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration.
- b. States Parties undertake to ensure the protection and care of children as is necessary for their welfare, taking into account the rights and duties of their parents, legal guardians or other persons legally entitled to him, and for this purpose, shall take all appropriate legislative and administrative measures.
- c. States Parties shall ensure that the institutions, services and facilities responsible for the care and protection of children shall conform to the standards prescribed by the competent authorities, particularly in the field of safety, health, in the amount of staff conformity, they as well as authorized supervision.

Based on the scope of children's rights in the Convention on the Rights of the Child, briefly the contents of the Convention on the Rights of the Child are divided into:

- a. The right to survive (survival) That every child has the right to be able to live his life and must be fulfilled all the needs of the child.
- b. Right to develop (development) That every child has the right to go to school, play, everything that can be done to develop the child.
- c. Right to protection (protection) That every child should get protection especially when a child must be in conflict with the law. For example when a child commits a crime it must be protected in running a series of inspection process.
- d. Right to participate in community life (participation) Whereas children are entitled to participate in informal activities in order to develop talents and interests.

Viewed from the parties who are obliged to implement the Convention on the Rights of the Child in this case the State and the parties responsible for the fulfillment

of the rights of the child, namely adults in general, the CRC contains 3 (three) orders, namely:

1. Fulfillment (fulfill) State and adults must meet all the needs of the child.
2. Protection (protect) from the State and adults should protect the child from any form.
3. Respect (respect) State or adult should respect the opinion of the child.

However, the current punishment system for children as perpetrators of criminal acts is more to include them in the Penitentiary of Children than to return them to guardian parents, or to other social institutions engaged in education, coaching and work training. The practice of handling of diligent perpetrators based on Act No. 3 of 1997 turned out to tend to be punitive, delinquent children tend to be coaching delicately but in reality mixed with prison for adults.

The judge as the final decisive institution over the fate of the child prefers to "punish" by placing the child in a Penitentiary rather than providing an alternative verdict. Though putting a child into a Penitentiary is not the only way to improve the moral and behavior of children. State custody as a place of detention before a court decision is established, often placing children mixed with adult prisoners. Article 45 paragraph (3) and paragraph (4) of Act No. 3 of 1997 states that the place of child detention should be separated from the place of adult detention and during the child's detention, the physical, spiritual, and social needs of the child shall remain satisfied.

The number of detention centers for children in Indonesia is still not fulfilled. Usually in practice the strategy taken to protect children who are forced to be placed in adult prisons is to place them in a separate room and separate from the adult prisoners. This is to avoid negative consequences because it is feared can transmit bad experiences to children so it can affect mental development. However, due to the existing limitations, there is often a shortage of rooms reserved for children, which ultimately result in children being placed in adult prisons, but sex segregation is still performed.

The integration of child custody with adult detainees is very dangerous. In addition it does not reflect the protection of the child. Children may know experiences of crimes they have never known before and even children may become victims of sexual harassment while in detention. Until now with the existence of Act No. 3 Year 1997 on Juvenile Court can not be a judge consideration to provide alternative punishment as stated in Article 24.

Criminal or action penalty must be accountable and may be beneficial to the child. This is to prevent undesirable consequences that are detrimental to the child, so it is necessary to note the ethical basis for criminal prosecution that is justice as the sole basis of punishment. Criminal should be educative, constructive, non destructive and must meet the interests of the child in question. Educative punishment to children, by punishing them for moral guidance and morals conducted by religious institutions, education or work training is still minimal applied by the judge at this time.

In its development, the protection of children against the law can not only be resolved through the judicial process but can also be resolved outside the criminal justice process or known as the diversion where the settlement involves the perpetrator, the victim, the victim's family, and other related parties together it is looking for a fair solution by emphasizing restoration of the original state, rather than retaliation known as the restorative justice approach. Restorative Justice, is considered a modern and more humane model of punishment for the "punishment" model for the children (Volz, 2009).

CONCLUSION

From the elucidation of the formulation of the problem of Educational Penal System Against Children as Actors of Criminal Act in Indonesia finally obtained the conclusion that is: The educational punishment system prevailing in Indonesia at the moment is not as expected. The protection of children as perpetrators of criminal offenses should really receive serious attention from the government. Children who conflict with the law in a child's position as a criminal offender in addition to need protection and self security also require protection in the form of special regulations that ensure the interests of children. Act No. 3 Year 1997 basically gives stigma to children. Pen "cap" or labeling of children that he as a perpetrator of crime has a great effect on the child's psychological growth. This stigma begins when the child comes into contact with the first legal process in the police until the end of the proceedings. In addition, the provisions contained in Act No. 3 Year 1997 on Juvenile Justice emphasize more on the terms of straf or punishment, although it is also explained that children can be returned to parents, guardians or foster parents, as well as social departments.

But in the implementation of the field of law enforcement officials put forward the imposition of imprisonment rather than sanctions that can improve the moral of children. Knowledge of law enforcement officers especially in Indonesia about handling child cases is still lacking. The rules applied also almost the same treatment with the application of rules for adult convicts. Psychological considerations and interests of the child become number two. Yet for child case handlers should be very different with the treatment of adult criminal actors. The rules that underlie the formation of protection for children should be controlled and well understood, so in the implementation of sanctions for children put forward sanctions that can be more educative. The number of child prisons in Indonesia is also very limited to be one of the obstacles to the separation between adult and child criminals as perpetrators of criminal acts. It is not surprising that in some parts of Indonesia that belong to remote areas, children as perpetrators of criminal acts are often placed in detention centers of adult criminal acts. The rules covered are not rules devoted to children but to adults, so that children do not get better but most make children smarter in crime because they gain new knowledge about the adult criminal perpetrators.

Establish special schools for children involved in crime, increase the number of religious schools and vocational training centers in each city districts in Indonesia, Increase the number of child prisons and child prisoners according to the number of districts in Indonesia and Increase the knowledge of law enforcement officers in handling child cases and preparing law enforcement officers who are specifically established to handle child cases.

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