

EDUCATING CHILDREN ON LEGAL MATTERS THROUGH LOCAL WISDOM PRINCIPLES APPROACHES AND ENHANCING RESTORATIVE JUSTICE IN THE CRIMINAL LAW SYSTEM

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Abstract

This research addresses the inclusion of a restorative approach in Juvenile Justice resolutions and the use of local wisdom knowledge to support Restorative Justice practices for young offenders in Indonesia. It utilizes a normative judicial procedure and a blend of research methods, including conceptual, historical, legislative, and case-based approaches. Primary, secondary, and tertiary legal sources are employed and analyzed descriptively to track the evolution of children's legal interactions and to strengthen Restorative Justice within the nation's criminal law system, particularly for Juvenile Justice. The findings underscore the necessity of reevaluating the use of local wisdom in achieving Restorative Justice in legal disputes involving children. Local wisdom methods and local wisdom, which consider cultural and social factors, are emphasized in crime investigations. The proposed punishment under this system is punitive, educational, and benefits society at large. The implementation of this approach may enrich the restorative justice system, providing a more comprehensive and effective framework for educating children about legal matters.

Keywords: restorative justice; child criminal; diversion; local wisdom; criminal act

A. Background

The word "state" may signify either one of two things. The first is that it is distinct from other types of social organizations in the main and secondary voluntary categories due to its own distinctive features.² Every nation struggles with the issue of Juvenile Justice, which manifests itself both as a problem for children as victims of crime and as a problem for children as subjects of criminal activities. There are a number of causes that lead to

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¹ Mohamad Hidayat Muhtar, "Sistem Pemerintahan Indonesia," in *Hukum Tata Negara: Konsep Dan Teori* (Global Eksekutif Teknologi, 2023), 168.

Juvenile Justice. From one's upbringing to their immediate surroundings to their own internal struggles.³

Provisions specific to juvenile offenders may be found in Law 11 of 2012, which regulates the Juvenile Justice. Juvenile offenders are defined in Article 1, paragraph 2 of this Law as minors who have committed a crime, been the victim of a crime, or observed a crime. When children break the law in Indonesia, rather than focusing on rehabilitation and retribution as with adults, the focus is on reform and victim restoration (restorative justice). This is why supporting a Restorative Justice strategy to reduce youth crime is so important. Criminal justice advocates often point to restorative practices as a way to meet requests for reparations that are fair to everyone involved. One paradigm that might serve as a framework to address criticisms of the existing criminal justice system is the Restorative Justice approach.⁴

Muladi defines restorative justice as a philosophy that prioritizes restitution for victims of crime. This loss may be recouped via concerted efforts of all concerned parties working together.⁵ The term "restorative justice" refers to a paradigm within the American criminal justice system that places an emphasis on mending broken bonds between offenders, victims, and communities. This alternative paradigm of crime control emphasizes punishment as a primary means of deterrence. Because it gets to the heart of the matter and discourages further criminal behavior, restorative justice is seen as preferable.

Restorative justice was developed by a wide range of experts, including Howard Zehr, John Braithwaite, Mark Umbreit, Lode Walgrave, and Kay Pranis. Restitution, participation, inclusion, and accountability are the four pillars on which restorative justice is built, as described by Howard Zehr. Restorative shaming is a concept first advocated by John Braithwaite. Restorative justice, as advocated by Mark Umbreit, consists of four steps: reflection, conversation, repair, and closure. In an effort to reform a criminal justice system that places too much emphasis on punishment at the expense of victims, Lode Walgrave has called attention to the potential benefits of restorative justice. Restorative justice, as proposed by Kay Pranis, involves three primary components: the conversation process, the mending of harms, and the mending of relationships.⁶

³ Bambang Sarutomo, "PENYEBAB ANAK DI BAWAH UMUR MELAKUKAN TINDAK PIDANA PENCURIAN DI KABUPATEN DEMAK," *International Journal of Law Society Services* 1, no. 1 (March 10, 2021): 46, <https://doi.org/10.26532/IJLSS.V1I1.14741>.

⁴ Ulang Mangun Sosiawan, "Perspektif Restorative Justice Sebagai Wujud Perlindungan Anak Yang Berhadapan Dengan Hukum (Perspective of Restorative Justice as a Children)," *Jurnal Penelitian Hukum De Jure* 16, no. 4 (2017): 426, <http://ejournal.balitbangham.go.id/index.php/dejure/article/download/197/60>.

⁵ Yutirsa Yunus, "ANALISIS KONSEP RESTORATIVE JUSTICE MELALUI SISTEM DIVERSI DALAM SISTEM PERADILAN PIDANA ANAK DI INDONESIA," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 2, no. 2 (August 31, 2013): 233, <https://doi.org/10.33331/RECHTSVINDING.V2I2.74>.

⁶ Septa Candra, "RESTORATIVE JUSTICE: SUATU TINJAUAN TERHADAP PEMBAHARUAN HUKUM PIDANA DI INDONESIA," *Jurnal Rechts Vinding: Media*

Restorative justice places significant emphasis on meetings between those affected by a crime and those who care about their wellbeing. According to Achmad Ali, restorative justice is defined as a process in which "the involved parties from a specific violation collaboratively identify the losses, meet obligations and needs, and view change as an essential right for the success of the process". The structure of this paragraph has been adjusted for improved clarity and readability".⁷

According to Adrianus Meliala, criminals are presented to victims or their families in a forum aimed to build empathy on all sides in an effort to resolve conflicts and promote healing within the framework of restorative justice. Therefore, rather than confirming the violator's guilt and then imposing criminal sanctions, the focus of conflict resolution should be on the active role of the conflicting parties through mediation or compensation for material and immaterial losses in the form of restitution or compensation, and the restoration of harmonious human relations between the parties (humanization).⁸

With respect to the transfer of the resolution of Juvenile Justice from the criminal justice process to procedures outside the criminal justice system, as defined by the Diversion System, as set out in Article 1 number 5 of the Law on the Juvenile Justice. Diversion seeks to: 1) Bring about reconciliation between the victim and the kid; 2) Settle child custody disputes outside of court; 3) Protect young people from having their freedoms curtailed; 4) Inspire participation; and 5) Instill a feeling of responsibility for youngsters.⁹

Law Number 11 of 2012 pertaining to the Juvenile Justice System includes a Diversion arrangement; however, this does not apply to all juvenile offences. This is only an option for crimes that meet two criteria: (1) they carry a sentence of less than seven (7) years in jail, and (2) they are not repeat offences.¹⁰

The failure to perform local wisdom obligations is listed as an accessory crime in Article 71, paragraph 2 of Law Number 11 of 2012 related to the Juvenile Justice. Secondary penalties are intended to follow and augment main punishments, as stated in the basic principles of criminal law. In alignment with this concept, this study aims to utilize traditional methods and local knowledge to strengthen restorative justice within the criminal law system, with a particular focus on juveniles in conflict with the law, as

Pembinaan Hukum Nasional 2, no. 2 (August 31, 2013): 269, <https://doi.org/10.33331/RECHTSVINDING.V2I2.76>.

⁷ septa chandra, "LEGAL POLITICS OF ADOPTING RESTORATIVE JUSTICE IN CRIMINAL LAW REFORM," *Fiat Justisia: Journal of Legal Sciences* 8, no. 2 (August 13, 2014): 269, <https://doi.org/10.25041/FIATJUSTISIA.V8NO2.301>.

⁸ Septa Candra, "RESTORATIVE JUSTICE: A REVIEW OF CRIMINAL LAW REFORM IN INDONESIA," *Rechts Vinding Journal: National Law Development Media* 2, no. 2 (August 31, 2013): 263–77, <https://doi.org/10.33331/RECHTSVINDING.V2I2.76>.

⁹ Article 6 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

¹⁰ Article 7 paragraph (2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

stipulated by Law Number 11 of 2012 regarding the Juvenile Justice in Indonesia. By adopting traditional legal methods and local wisdom, diversion is perceived as an effective strategy to guide juveniles who have encountered legal issues.

This initiative seeks to enable foster parents to understand and apply Indonesian traditional legal norms and values when dealing with juveniles who have violated the law. The aim is to restore balance and harmony within the community, especially when managing issues related to juveniles in conflict with the law. Problem-solving and imposing penalties based on local wisdom are considered part of this restorative process.

Children who violate the law have rights that need to be upheld during conflict resolution. The resolution should ensure the child's right to justice, not only as an offender or victim, but also with consideration to the welfare of society as a whole. Through this approach, we can effectively integrate the concept of diversion, as stated by Law Number 11 of 2012 on the Juvenile Justice, by giving restorative justice practices a prominent role.

B. Identified Problems

Considering the aforementioned factors, this study aims to address two crucial questions: 1) What is the progress in applying restorative techniques when handling cases involving children in conflict with the law? 2) How can restorative justice be effectively utilized to resolve cases involving children in conflict with the law in Indonesia?

C. Research Methods

The research methods used are conceptual (conceptual approach), historical (history approach), legislative (statute approach), and case-based (case-based approach) in order to obtain results consistent with normative juridical research. There are three types of legal sources in use: primary sources, secondary sources, and tertiary sources.¹¹ As a means of bolstering Restorative Justice in Indonesia's Criminal Law system and the criminal justice system for children, the next step will be to analyze the collected legal materials using descriptive analysis techniques to analyze and explain the growth of children's interactions with the law from the perspective of local wisdom and local wisdom.

D. Research Findings and Discussions **Restorative Justice Arrangements in the Juvenile Justice in Conflict with the Law in Indonesia**

Based on international legal instruments for children with legal concerns, such as The Beijing Rules, UNICEF established restorative justice, also known as restorative justice in positive law. This idea centers on Justice, which has the power to repair situations for both juvenile offenders and juvenile victims, as well as troubled communities as a whole. With a view to

¹¹ Soerjono Soekanto dan Sri Mamudji, "Penelitian Hukum Normatif Suatu Tinjauan Umum," in *Rajawali Pers, Jakarta, 2007*.

elevating the roles of victims, offenders, and society as three critical determinant dimensions in the criminal justice system for the welfare and security of society, Restorative Justice centers its attention on crime as loss/damage and justice (justice), which is an attempt to repair the damage.¹²

Both victims and offenders are given equal consideration under Restorative Justice. The Restorative Justice model also encourages offenders to change their behavior. This is founded on a philosophy of Justice that views criminal acts as attacks on persons and communities rather than the state itself. The greatest levels of victim satisfaction and offender responsibility may be seen in cases where restorative justice has been used to facilitate discussion between victims and offenders. The idea is straightforward. Justice is no longer determined by the victim's ability to exact vengeance on the offender (whether by physical, psychological, or punitive means).¹³

The Juvenile Justice (No. 11 of 2012) governs juvenile justice in Indonesia. The provisions of this legislation for the protection of children are grounded in human rights and international law, and they take into account children's particular circumstances while interacting with the legal system. Restorative Justice, which seeks to mend fences among offenders, victims, and the community, is one method used in Indonesia's juvenile justice system.

However, there is still a lack of consensus among experts on the effectiveness and practices of restorative justice in the juvenile justice system. Professionals such as Howard Zehr and John Braithwaite have advocated for Restorative Justice as a more effective and all-encompassing method of dealing with teenage misbehaviour.¹⁴ Some, like Jeffrey Fagan, claim that restorative justice is not always successful in decreasing crime.¹⁵ It is the opinion of certain Indonesian legal experts that the concept of restorative Justice in the juvenile justice system might benefit from the incorporation of local wisdom and local knowledge into the treatment of children with legal disputes via the use of Diversion. However, there are many who worry that discrimination and human rights violations might result from the alternative tactic of relying on local wisdom law and local knowledge. The use of Restorative Justice in Indonesia's juvenile justice system must be monitored and evaluated to ensure that children's human rights are being protected. This is done so that restorative justice may be employed in its most effective form while still protecting the human rights of children.

The juvenile justice system deals with juvenile offenders, juvenile crime victims, and juvenile crime witnesses. Anyone under the age of 18 who

¹² Dewi Setyowati, "Memahami Konsep Restorative Justice Sebagai Upaya Sistem Peradilan Pidana Menggapai Keadilan," *Pandecta Research Law Journal* 15, no. 1 (June 27, 2020): 122, <https://doi.org/10.15294/PANDECTA.V15I1.24689>.

¹³ Hanafi Arief and Ningrum Ambarsari, "PENERAPAN PRINSIP RESTORATIVE JUSTICE DALAM SISTEM PERADILAN PIDANA DI INDONESIA," *Al-Adl: Jurnal Hukum* 10, no. 2 (August 13, 2018): 79, <https://doi.org/10.31602/AL-ADL.V10I2.1362>.

¹⁴ B Toews, *The Little Book of Restorative Justice for People in Prison: Rebuilding the Web of Relationships*, 2006, 79,

¹⁵ Toews, 79.

is accused of having committed a crime is considered a kid in dispute with the law. If a child under the age of 18 (eighteen years) suffers emotional, mental, or financial harm as a result of criminal activity, they are considered a victim; if a child under the age of 18 (eighteen years) becomes a witness, they are considered able to provide information for the benefit of the legal process beginning with the investigation, prosecution, and court hearings of a criminal case. Juveniles are treated differently than adults in criminal proceedings, and these special considerations are codified in their own set of rules. Sometimes different sorts of judgements develop that the management of children, particularly children in legal problems, deserves special attention since not everyone in the community understands or accepts the procedure of dealing with child issues. It is said that youngsters should not be disciplined. It's not too far, however there are strict regulations regarding the procedure of handling.¹⁶

The ideas of Restorative Justice are woven into the fabric of the juvenile justice system to help achieve long-term benefits for both the juvenile population and society as a whole. Due of the many different concepts and forms that restorative justice has taken throughout the years, its very definition is distinct. As a result, the phrase "restorative justice" encompasses a wide variety of synonyms, including but not limited to: communitarian justice; positive justice; relational justice; reparative justice; community justice; and so on.¹⁷

Of course, there are age limits on the group of juvenile offenders. They are juveniles accused of committing a crime and are 12 years old but not yet 18 years old. If a youngster is under 12 and commits a crime, he is not considered a juvenile delinquent. Therefore, he is not covered by this rule. Similarly, those who reach the age of majority (18) are no longer regarded minors and are instead subject to the adult criminal law rules. Additionally, minors under the age of 18 make up the demographic of victims of crime. Children under the age of 18 make up one group. Both victims and witnesses who are under the age of 18 are considered to be of the same group. A youngster under the age of 12 might be labeled as either a victim or a witness. It should be obvious from reading this rule that minors under the age of twelve may be both victims and witnesses.¹⁸

According to Law No. 11 of 2012, there are different types of legal protection for children who get into trouble with the law. These four categories are: (1) protection during the legal process/trial (litigation); (2) protection outside the legal process/trial (non-litigation); (3) protection before

¹⁶ J Fagan, "The Limits of Diversion: Rethinking the Rationale for Diverting Youthful Offenders," *Justice Quarterly* 22, no. 2 (2005): 216.

¹⁷ Mahir Sikki, "Sekilas Tentang Sistem Peradilan Pidana Anak - Pengadilan Negeri Palopo," accessed May 9, 2023, <https://www.pn-palopo.go.id/30-berita/artikel/363-sekilas-tentang-sistem-peradilan-pidana-anak>.

¹⁸ Yusi Amdani, "Konsep Restorative Justice Dalam Penyelesaian Perkara Tindak Pidana Pencurian Oleh Anak Berbasis Hukum Islam Dan Adat Aceh," *Al-'Adalah* 13, no. 1 (2016): 62, <https://doi.org/10.24042/ADALAH.V13I1.1130>.

the legal process/trial begins; and (4) protection after the legal process/trial concludes.

1. Litigation

Referring to Law No. 11 of 2012, there are several special rules for children who conflict with the law, namely:

- a. Children's courtroom.
- b. The child's identity is kept secret in print and electronic media reporting.
- c. Offenders before the age of 12 are returned to their parents or guardians.
- d. Officers do not wear official attire.
- e. Must be given legal assistance and accompanied by a social adviser.
- f. Parents and someone trusted by the child or a social worker must be accompanied.
- g. Obtain consideration or advice from community counselors after a crime has been reported; if necessary, seek advice from educational experts, psychologists, psychiatrists, religious leaders, professional social workers or social welfare workers, and other experts.
- h. Children who are arrested are placed in special services for children.
- i. Children are not detained if they receive guarantees from their parents.
- j. Examination of child cases in courts declared closed to the public, except for the reading of decisions.¹⁹

The purpose of Law No. 11 of 2012 is to safeguard children's rights and to make sure that the juvenile justice procedure is fair and tailored to the specific needs of juvenile offenders. The guidelines address issues including the need for separate courtrooms for juvenile cases, the confidentiality of juvenile names in the media, and the safeguarding of juvenile rights. Children also have the right to be represented by an adult they trust from their community or by a parent, and to have access to legal counsel.

This demonstrates that Indonesia's juvenile justice system makes an attempt to safeguard children's rights and provide them with the appropriate protection and rehabilitation after they have been involved in criminal activity. However, several barriers remain to enforcing these regulations, including a lack of funding and space to accommodate children's needs throughout the criminal justice process. To guarantee that children's rights are adequately safeguarded throughout the juvenile

¹⁹ Analiyansyah Analiyansyah and Syarifah Rahmatillah, "PERLINDUNGAN TERHADAP ANAK YANG BERHADAPAN DENGAN HUKUM (Studi Terhadap Undang-Undang Peradilan Anak Indonesia Dan Peradilan Adat Aceh)," *Gender Equality: International Journal of Child and Gender Studies* 1, no. 1 (March 1, 2015): 55, <https://doi.org/10.22373/EQUALITY.V1I1.779>.

justice process in Indonesia, more serious attention and strong commitment from all stakeholders is required.

2. Non Litigation Through Diversion

Diversion or transfer of settlement of child cases from the criminal justice process to procedures outside the Criminal Justice is required in the Juvenile Justice System under Article 5 paragraph (3) of Law no. 11 of 2012. Diversion aims to restore harmony between victims and children, find alternatives to incarceration, keep kids out of the system, get more people involved, and teach them to take responsibility for their actions. If a juvenile's offence has a maximum prison sentence of less than seven years and is not a repeat offense, then Diversion must be sought at the district court level of investigation, prosecution, and examination.

When deciding whether or not to implement Diversion, investigators, public prosecutors, and judges must take into account the nature of the offense, the juvenile offender's age, the results of sociological research conducted by Bapas, and the strength of the offender's family and community. Meanwhile, a victim's permission is required for any kind of diversion arrangement to go into effect. Except in cases of infractions, misdemeanors, crimes without victim, or offenses where the value of the victim's loss is less than the local, provincial minimum wage, the victim's family and the child's willingness are limited to no more than that amount. The outcomes of a diversion agreement may include, but are not limited to: a) Peace with or without compensation; b) Handover to parents/guardians; c) Participation in education or training at educational institutions or LPKS for a maximum of 3 (three) months; or d) Society service.

The primary goals of Indonesia's juvenile justice system diversion are victim and child reconciliation, non-judicial resolution of child cases, protection of youth autonomy, community engagement, and the development of adult responsibility. This is in line with the restorative justice notion of repairing harm and mending fences between offenders and those they've wronged. But not all juvenile offenses are eligible for this diversion endeavor inside the legal system. Diversion may be used during the investigation, prosecution, and sentencing stages if the juvenile offender's offence carries a maximum prison sentence of less than seven years and is not a repeat offense.

When deciding whether to implement Diversion, law enforcement, prosecutors, and judges must take into account the nature of the offense, the juvenile offender's age, the outcomes of Bap study, and the strength of the juvenile's social network. Victim approval is also required for the diversion arrangement. Except for infractions, misdemeanors, crimes without a victim, or the value of the victim's loss, the value of the child's family and the child's willingness is no more than the value of the local, provincial minimum wage. Peace with or

without restitution, return to parents or guardians, up to three months of schooling or training, or community service are all possible outcomes of a diversion agreement.

The Urgency of Local Wisdom in Realizing Restorative Justice in the Settlement of Cases of Children in Conflict with the Law in Indonesia

Personality is reflected in customs, which provide a window into a nation's spirit as it evolves through time. Regional and temporal variations exist throughout every culture. This difference is the single most important aspect of national character. Traditional local wisdom practices persisted despite the widespread adoption of modern conveniences and higher levels of education. At least, history shows that adat evolves with the development of its society.²⁰

Indonesian traditional law is a product of cultural evolution. local wisdom communities that adhere to it are recognised under Article 18B, paragraph 2, and Article 28I, paragraph 3, of the 1945 Constitution of the State of Indonesia. It is stated in Article 18B, paragraph (2): "The state recognises and respects local wisdom community units and their traditional rights as long as they are still alive and by the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law." To paraphrase Paragraph 3 of Article 28I: "Cultural identity and rights of traditional communities are respected by the times and civilization developments. "Law enforcement, prosecutors, judges, and jails are not necessary for the enforcement of local wisdom. In the village hall or sub-district office, where the administration of justice also takes place, decisions on local wisdom institutions or their resolution are decided via consensus discussions. Because no other authority really comprehends the trials being through by the general people and the members of the community save the traditional institution. Young people whose acts bring them into touch with the state must have their cases addressed as fast as possible in line with local traditions to avoid additional damage to the social order of local wisdom communities.

The significance of this form of peaceful solution (non-litigation) is highlighted by the fact that it eliminates hatred and promotes solidarity among local wisdom peoples. Traditional legal systems are predicated on the principle that legal conflicts should be settled as quickly, simply, and inexpensively as feasible. Since it is in the best interests of all parties concerned that there be a clear and simple mechanism for resolving conflicts of this sort, criminal procedure is a cornerstone idea of positive law. The parties may save time and effort by working together to design a contract that effectively and fairly expresses their interests without resorting to the conventional legal system.

²⁰ Wencislaus Sirjon Nansi and Wahyu Jontak, "RESTORATIVE JUSTICE STRENGTHENING THROUGH TRADITIONAL APPROACHES AND LOCAL WISDOM AS AN ALTERNATIVE SETTLEMENT OF CHILD CRIMINAL CASES," *Journal of Legal Studies* 7, no. 2 (August 5, 2018): 295, <https://doi.org/10.30652/JIH.V7I2.5587>.

Law No. 11 of 2012 regulating the Juvenile Justice System established the Diversion approach to resolving juvenile cases, which emphasizes the importance of Restorative Justice while still involving the perpetrators, victims, families of perpetrators/victims, Community Advisors, and Professional Social Workers in reaching a consensus.

According to the preceding, the law's control of local wisdom penalties does not take into account what is best for the kid. Taking into account that juvenile offenders are still subject to punishments based on the *Ultimum Remidium* principle. In this situation, local wisdom punishments are only applied in addition to the primary penalty, and their specific manner of application is determined by the severity of the primary sentence. Only if the first sentence is enacted will the supplementary punishment be carried out automatically.

With due consideration for the principles and conditions of Diversion as stated in Law no. 11 of 2012 pertaining to the Juvenile Criminal Justice System, local wisdom punishment is the *Primum Remidium* or the most critical effort in the process of resolving cases involving children in conflict with the law. By incorporating local wisdom punishment into the major penalty, attempts to safeguard children as offenders and victims will be in line with the principles of local wisdom law in returning it to its original condition. It's likely that members of both sides' families, as well as the larger community, will experience the same thing. Therefore, in order to establish legal protection features for children in conflict with the law, it is necessary to assess the development of children in dispute with the law via the approach of local wisdom and local knowledge. In addition, this idea may help Indonesia's criminal justice system embrace Restorative Justice moving forward.

The benefits of local wisdom in dealing with adolescent offenders in the court system. local wisdom is an essential part of Indonesian culture, as recognised by the country's constitution. When it comes to resolving child-related disputes, local wisdom is adequate since it has the potential to restore peace and stability to the society. Despite the advantages of local wisdom, its application is questioned by certain experts and scholars.

Some people argue that the subjective character of local wisdom makes it more likely that injustice will occur. Worries that modern and international legal principles might be threatened by the use of local wisdom are also voiced. It is still debatable how significant local wisdom is in resolving difficulties involving children who are in dispute with the law. Disputes involving minors may be resolved more quickly, easily, and cheaply via the use of local wisdom, so the argument goes. Many people, however, are concerned that when local wisdom is employed, cases involving children may be neglected. The government must use extra caution to protect the rights of juveniles if it chooses to use local wisdom in the juvenile justice system. In order to put Restorative Justice first, protecting children's rights while also seeking workable solutions to situations where minors have come into conflict with the law.

E. Conclusions

According to Law No. 11 of 2012 pertaining to the Juvenile Justice System, there are two (2) methods for resolving Juvenile Justice: litigation (through the trial process) and non-litigation (via the diversion process with a restorative justice approach). In Indonesia, local wisdom and Restorative Justice play a crucial role in resolving legal problems affecting children. Keeping in mind that using local wisdom or local knowledge to settle problems involving children may serve and ensure the best interests of these children in confrontation with the law. Although the Juvenile Justice System Improvement Act (Act No. 11 of 2012) includes provisions addressing local wisdom criminal punishments, this Act has not fully established local wisdom as *Primum Remedium* (primary effort) in resolving situations involving minors who are in dispute with the law. Since Law No. 11 of 2012, Article 71(2) stipulates that local wisdom punishments are only additional forms of punishment. The concept of a secondary penalty, however, has to include in the initial sentence. There can be no secondary punishment if the first punishment is not executed quickly. The function of law enforcement and the government is vital in optimising the system of sustaining local wisdom rules that apply and live among society based on local knowledge. Such laws may foster a feeling of justice in a society as a whole, and among local wisdom peoples in particular. Also, especially when it comes to minor offenders, local wisdom punishment should be examined for integration into Indonesia's present criminal code.

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