

Application of Law Enforcement Due Process System in Law Against Child Crimes

Yoslan K. Koni¹, Marten Bunga², Dince Aisa Kodai³, Nurwita Ismail⁴, Mega S. Tangahu⁵

¹ Faculty of Law, Gorontalo University, Gorontalo-Indonesia, yoslanscripthouse@gmail.com

² Faculty of Law, Gorontalo University, Gorontalo-Indonesia, Martenbunga0@yahoo.co.id

³ Faculty of Law, Gorontalo University, Gorontalo-Indonesia, dincekodai452@gmail.com

⁴ Faculty of Law, Gorontalo University, Gorontalo-Indonesia, nurwitaismai90@gmail.com

⁵ Student Faculty of Law, Gorontalo University, Gorontalo-Indonesia, megatangahu@gmail.com

ABSTRACT

Purpose To know and analyze the application of the due process of law system in law enforcement against child crime, to find out and analyze what are the factors that influence law enforcement on the implementation of the due process of law system. By using this type of research is Normative research. Normative research is meant as legal research which studies normative law. The normative approach method is used to examine the aspects of the law according to laws and regulations relating to the implementation of the Due Process Of Law system in Criminal law, especially against child crimes. The results of the research show that law was born to humanize humans, so law enforcement or law enforcement must provide benefits or benefits to society. The quality of development and law enforcement is demanded by society at this time not only for formal quality, but also for material / substantial quality. Substantively, the implementation of child protection must be in accordance with relevant professional ethics, to prevent deviant behavior in the exercise of authority, power and strength in the implementation of child protection. The concept of due process is like prioritizing the rule of law, law enforcement officers must recognize, respect, protect and guarantee the rights of suspects. Law and justice is an integrity between normative idealism and human action. If the three of them are no longer combined and become judicial cohesion, then what will generally occur is a lameness whose mode and packaging is destructive and dysfunctional, which then makes it easy for someone and the public to draw conclusions or create estimates, there has been a play and a dramatization project that is still under the guise of carrying out their duties. , what is meant in it is to impose a legal decision.

ARTICEL INFO

Keywords:

Application; Law Enforcement; Due Process; Child Crimes

How to cite:

Koni, Y. K., Bunga, M., Kodai, D. A., Ismail, N., Tangahu, M.S., (2021). Application of Law Enforcement Due Process System in Law Against Child Crime. *Musamus Law Review*, 3(2), 72-83

Copyright © 2018 MuLaRev.
All rights reserved.

1. INTRODUCTION

Today, Indonesia has a tendency to over-criminalize, where every law-making is charged with a criminal charge, on the grounds that the norms in it are more obeyed.

This was exacerbated by the fact that the criminal threats used more punishments against freedom such as imprisonment and imprisonment. Even though there is a threat of criminal fines, due to the cumulative sanctions formulation (imprisonment and fines), this is a burden on the criminal justice subsystem that is in its downstream, namely the Penitentiary.¹

The regulation and application of due process of law in the enforcement of criminal procedural law in Indonesia can be found in the Criminal Procedure Code because the due process of law is an application of the Criminal Procedure Code itself. Not only does the Criminal Procedure Code want the creation of a fair trial process but there are also several laws and regulations that support creating a fair trial process that can protect everyone's rights.² An even application of the legal system, the presumption of guilt and the presumption of innocence, must still have a balanced place in proportion to the judges in handling cases in the judicial process. The process of implementing legal mechanisms for juvenile criminal justice starts from the stages of investigation, investigation, prosecution, trial and implementation of decisions. At the beginning of the investigation and investigation process, then the prosecution in the indictment of the public prosecutor, which has been compiled carefully.

In law it is known as the principle of pre-assumption or the presumption of innocence. This principle also applies to corruption cases. A person is obliged to be presumed innocent until there is a permanent legal decision which states otherwise. This should be applied in a due process of law. In the implementation of criminal justice, there is a legal term that can summarize the ideals of criminal justice, namely "due process of law" which is a fair and proper legal process³ but of course in court there will be a presumption of guilt by the public prosecutor, and the judge must make a permanent decision by looking at both parties equally as the system we adhere to in Indonesia, namely the accusatoir system and not the inquisitoir system.

The act of fighting or legal battles carried out by the suspect and the public prosecutor in a trial is an accusatoir character which is included in the principle of criminal procedure. Enforcing justice is not just about carrying out formal procedures. Mahfud MD argued that one better and more noble behavior is to uphold the values of justice in the judiciary, rather than just implementing regulations that have been stated in the law. Officials who are tasked with enforcing laws in Indonesia carry out their duties based on the regulations that are laid down in formal law.⁴ The legal problems that occurred were carried out in accordance with the applicable provisions, the police carried out the arrest of the perpetrator, carried out a procedural study, the prosecutor had also carried out an investigation and investigation process. Likewise, law enforcers whose job is to defend and keep the human rights of suspects protected, are carried out

¹ Febby Mutiara Nelson, 2020, *Due Process Model Dan Restorative Justice Di Indonesia : Suatu Telaah Konseptua*, JURNAL HUKUMPIDANA & KRIMINOLOGI, volume 1 No 1 Oktober, p. 93

² Rahmat Efendy Al Amin Siregar, 2015, *DUE PROCESS OF LAW DALAM SISTEM PERADILAN Pidana Di Indonesia Kaitannya Dengan Perlindungan HAM*, Fitrah Jurnal Kajian Ilmu-ilmu Keislaman, p. 44

³ *ibid.* p.45

⁴ Lihat artikel "Menegakkan Keadilan Jangan Sekedar Menegakkan Hukum" dalam situs <http://erabaru.net/65-opini/10099-menegakkan-kadilan-jangan-sekesar-menegakkan-hukum> diakses pada 10/12/2019 Jam 11.37 am

by lawyers. Then the judge has the duty to determine the verdict after hearing the cases presented by both parties

Due process of law in the criminal justice system is defined as a legal process that is good, correct and fair. The term fair is often interpreted as a basic safeguard as a guarantee that individuals are not unfairly punished. Such a legal process occurs when the law enforcers associated with the process not only carry out their duties in accordance with the existing regulations, but also ensure that all the rights of the suspect / defendant that have been determined are applied. A fair legal process is also obliged to implement the principles and principles that underlie the fair legal process (even though these principles or principles are not positive legal regulations).

The basis for the due process of law is a rule intended for countries that prioritize the rule of law. The law applied in the country must have procedural standards. This principle is based on the rules and ways of protecting the individual. There are two procedures that are examined in this principle, namely whether the suspect loses his/her rights when tried by the public prosecutor based on the rules in law? Second, if the general prosecutor has carried out the prosecution process according to the rules, is the rule in accordance with the due process principle?⁵

Children who are faced with the law have their own provisions compared to other legal issues. Judges' decisions on child issues must be carried out more carefully. The application of Due Process Of Law in the law enforcement system needs to be considered because seeing the current situation and conditions, many children have to deal with the law, children as criminals often occur and are encountered. The number of court decisions that are deemed improper for children. This raises public unrest about the process of the law's operation. The number of minor problems that later ended with a prison sentence caused an interest that there were many deprivation of neglected children's rights. In order for this research to be more focused on the expected results, the researcher limits it to the formulation of the problem: How is the application of the due process of law system in law enforcement against child crime? And the factors that influence law enforcement on the implementation of the due process of law system? This research can be used as a basis for further research on the implementation of the due process of law system as an effort to enforce the law in child criminal cases.

2. METHOD

The normative approach method is used to examine legal aspects according to the laws and regulations relating to the implementation of the Due Process of Law system in cases of criminal acts against children.

3. RESULTS AND DISCUSSION

Basically, the implementation of the due process of law basis is the mechanism carried out and obliging legal instruments to have standards in proceedings for a country that upholds legal values. This process emphasizes the rules and forms of personal protection, the due process system is tested at least 2 things, including:

⁵ Eddy. O. S. Hiariej, 2012, *Teori dan Hukum Pembuktian*, Erlangga, Jakarta, p. 31

- a. Ensure that the rights of suspects are accommodated in the demands of the public prosecutor by not eliminating their rights in accordance with the rules stipulated by law.
- b. Then, if the procedure is in conformity with the provisions, then find out whether the rules have been implemented in accordance with the due process system.

Protection of children is intended as a form of specialization / specialization in viewing children as perpetrators of crime / delinquency or as victims of delinquency by children or other adults. Protection of children is not only carried out in terms of material legal protection, but also must pay attention to formal legal protection and the law of the implementation of criminal acts up to the pickle law according to the concept of due process of law.

According to Article 10 of the Indonesian Criminal Code, there has not been any amendment, where there are penalties of death, imprisonment, imprisonment, imprisonment and fines as the main crimes. Although then there were additional types of sanctions in the Juvenile Criminal Justice System Law, namely sanctions for supervision and social cooperation. What is clear is that it is limited to only children in conflict with the law, not to all perpetrators⁶

Every child has the right to get a proper and fair legal trial based on the principles contained in the criminal law. The point is that every child who is a suspect or defendant has the right to be investigated and investigated in accordance with the existing procedural law. In the application of this due process, Law enforcement officials must create a just law by respecting the rights of children as suspects, protecting and guaranteeing their rights.

In Law Number 23 of 2002 Article 1 Number 2, normative child protection explains that children are protected and given guarantees to be able to live and develop, to fully participate based on the dignity of humans they are born with. Children must be protected so that they can carry out their obligations and get their rights.

Protection of children needs to be done by taking into account the basic implementation, including:

- a) From a philosophical point of view, the implementation of child protection is reflected in Pancasila, which is the basis for organizing life in society, nation and State.
- b) From an ethical point of view, Child Protection is said to be in accordance with professional ethics
- c) From an ethical point of view, Child Protection is said to be in accordance with the professional ethics associated with it. This is intended as a form of prevention of deviant behavior towards authority or power in child protection measures
- d) From a juridical perspective, child protection efforts from this point of view must be based on the rules of the 1945 constitution and other existing regulations. The application of the system from a juridical perspective must

⁶ Op.cit, FebbyMutiaraNelson, p. 93

apply the law in an integrated manner based on other areas of law that are related to it or it is also known as integrative application.⁷

Protection of children is carried out for the sake of prevention, rehabilitation and empowerment of children who are not well treated, suffer from neglect or exploitation with the aim that the child can be guaranteed their survival and life, because children are a vulnerable and dependent group.. Protection of children is intended as a form of specialization / specialization in viewing children as perpetrators of crime / delinquency or as victims of delinquency by children or other adults. Child protection is not only done in terms of material legal protection, but also must pay attention to formal legal protection and the law of the implementation of criminal acts up to the law of punishment in accordance with the concept of due process of law.

Every child has the right to get a proper and fair legal trial based on the principles contained in the criminal law. The point is that every child who is a suspect or defendant has the right to be investigated and investigated in accordance with the existing procedural law. In the application of this due process, law enforcement officials must come up with a fair law by respecting the human rights of children as suspects, protecting and guaranteeing their rights.

As for protecting children's rights, it is necessary to observe the following principles⁸:

- a. Children cannot fend for themselves. The first principle is used to protect children as a guide for him to carry out his life in a state of nation and state. Children must get protection from their parents, their closest people and even the State. This is because children have not been able to protect their rights independently
- b. The best interest of the child. This principle states that protection measures imposed on children must be implemented properly. Children's rights are considered as a high priority in their fulfillment. This principle is applied on the grounds that children are predominantly victims of criminal acts because most of them basically do not know whether it is a mistake or not. If this is ignored, the community or parents do not provide education and notification to the child that what was done was a mistake, then in the future the child's actions will become more uncontrollable..
- c. Life-circle approach. In this case, it is understood that children must be protected from an early age and carried out continuously. It is even said that children get their protection from the time they are in the womb until they grow up and can distinguish between good and bad things and make their own decisions. Parents must keep their children healthy and well-nourished and get proper education as a basic right that children have..
- d. Intersectoral. There are micro and macro factors in the discussion of children's destiny. This factor also depends on things directly or indirectly. The act of protecting children's rights requires a fighting spirit which requires the attention of all parties based on their level and importance.

It is necessary to understand the age limit for children so that children who are involved in the law can get trial in juvenile court. Based on Article 1 and Article 4

⁷Maidin Gultom, 2012, *Perlindungan Hukum Terhadap Anak dan Perempuan*, Refika Aditama, Bandung. p, 71

⁸ Ibid, p. 71

paragraph (1), it is stated that a child is a child who commits delinquency but is not quite eighteen years old and is not married. In article 1 point 1 this only categorizes children who make mistakes. Both male and female. Whereas in Article 4 paragraph (1) it is explained that children who are at least eight years old but not married and not quite eighteen years old can have a trial for children when making acquaintances.

The provisions of the Article mentioned explain that delinquents who get trial at the juvenile trial are those who fall into the category based on the provisions of the Constitution, namely children between the ages of eight and eighteen and who have never been married. However, it is different if the child has already been married. Even though they are not yet eighteen years old enough and have made mistakes in society, then the adult trial applies to it and not the adult trial.

The elements related to the Juvenile Criminal Justice System have almost the same rights as the general court, namely consisting of the police who, as they are, are investigators who will deal directly with the child suspect. The police also have the right to determine whether the behavior carried out by a suspect can be continued or can be said to be a category of criminal offense or not. The second element is that the prosecutor has the duty to try the child and give a decision on the case he is facing, and and the third and the court. This stage is the court and general court. where the child is tried in a closed trial. and every right they have is safeguarded. At this stage the child will get a decision from the action he takes.⁹

The guidelines used to prosecute children are intended to ensure the welfare of children in their future. In terms of psychological aspects of child protection in justice, it is aimed at avoiding children from acts of abuse, indecent behavior, neglect and anxiety and others..

- a. The juvenile justice system is intended to guarantee the rights of children without sacrificing the interests of society. Moreover, Juvenile Justice is aimed at providing a deterrent effect with the aim of educating children to be better in the future. Therefore, in the juvenile court, it must be tried fairly and thoroughly based on the law that has been determined. in the explanation of the law governing juvenile court, the trial distinguishes between children and adults. The differences lie in¹⁰: Age restrictions regulated in the juvenile court law. that is, those who are tried in the juvenile court are children who are at least 8 years old and under 18 years of age and are not yet married.
- b. Based on Article 21 of the Law on Juvenile Court, only adjudicates delinquent child issues.
- c. Children's cases are handled only by special officials in the form of child investigators and investigators as well as child prosecutors and judges.
- d. In juvenile court, community participation is needed as well as laws that prosecute naughty children as well as the existence of social prisons and the existence of social work
- e. As much as possible be painted and examined, this is done to maintain the child's psychology where judges and public prosecutors and legal advisors do not wear a gown..

⁹ Lihat ketentuan Pasal 2 Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak

¹⁰ Op.Cit, Maidin, p. 195-196

- f. What is only done is done by the child without parental interference. if it is found that the child is working with a joint crime, then let the general court or if he has military status
- g. Courts are conducted by closed courts and not open courts. However, the reading of the decision is carried out in a public trial based on articles 153 and 57 of Law Number 3 of 1997
- h. An examiner who conducts an examination in a juvenile court is only carried out by a judge. If the child suspect is sentenced to imprisonment of more than 5 years and there is evidence, then this is regulated in accordance with Article 11, namely the case of the child suspect will be examined by a panel judge.
- i. In juvenile court cases, the detention period is shorter as regulated in the Criminal Procedure Code. This is done to prevent changes and impacts on social relationships and the physical and mental development of children
- j. The punishment given is relatively lighter because it only has a deterrent effect and is expected to make children into better human beings in the future and be able to return to the midst of society. j. The punishment given is relatively lighter because it only has a deterrent effect and is expected to make children into better human beings in the future and be able to return to the midst of society.

In the criminal law system, legal protection for children is essentially intended to prevent and keep children away from the judicial process. The form of legal protection for children who are in conflict with the law or children in conflict with the law, one of the steps taken is in the form of legal settlement through diversion which leads to efforts to realize Restorative Justice .

Restorative justice has an important meaning in solving crimes involving children. A restorative criminal justice process has the view that realizing justice is not only a matter for the government and the perpetrators of crime, but more than that it must provide justice in a totality that cannot ignore the interests and rights of victims and society.¹¹

Restorative justice is a thought that responds to the development of the criminal justice system that starts from the involvement of the people and victims who feel left out by the rules contained in this juvenile justice system. In addition, the presence of a restorative justice system is considered to be a guideline of thought that can be used in responding to a criminal act for law enforcers. efforts to solve problems with this approach provide a strong paradigm of thinking in understanding and dealing with a criminal act. This is in line with the provisions contained in Article 5 of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System which explicitly states that the Juvenile Criminal Justice System is obliged to prioritize the Restorative Justice Approach.

Restorative justice is a flow of transition from formal to unofficial crimes as another form of handling criminal defendants. And includes all the ways that involve the parties in the criminal act in order to find solutions to problems in the handling of the consequences of children's naughty acts in the future.¹² Law No. 11 of 2002 regarding the juvenile criminal justice

¹¹ Erny Herlin Setyorini¹, Sumiati², Pinto Utomo, 2020, Konsep Keadilan Restoratif Bagi Anak Yang Berkonflik Dengan Hukum Dalam Sistem Peradilan Pidana Anak, DiH: Jurnal Ilmu Hukum Volume 16 Nomor 2 Agustus, p. 157

¹² Lilik purwastuti yudaningsih,2014, jurnal ilmu hukum, penanganan perkara anak melalui restorative justice, p. 7

system, diversion is carried out by transferring the settlement of child problems to a process that is outside the court. Based on restorative justice, where all related parties who commit crimes collectively find ways to solve the problems they are doing as a form of effort to make the situation better. This was done to find a more reassuring solution but not to forget the deterrent effect of the suspect's actions. So with that, the protection of the law on children who do problems in the community can still prioritize its interests.

In the perspective of the criminal justice system, except for criminal acts of corruption and violations of human rights, the process of law enforcement powers in the field of criminal law includes all powers / authorities in enforcing criminal law, which is carried out through Judicial power by the police ;

- a. Judicial power by the prosecutor's office;
- b. Judicial power by the court;
- c. Correctional power by correctional institutions.¹³

Factors that influence law enforcement on the implementation of the due process system by law enforcement for child protection include:

3.1. Child Investigator

The National Police of the Republic of Indonesia are in charge as the mandate of law enforcement, namely to maintain and improve legal order by jointly making efforts to create public order and security¹⁴. This can be done together with all members of the community as well as existing officials and law enforcers.

Article 30 of Law Number 2 of 2002 concerning the Police states that the National Police has the authority to investigate all criminal acts. Thus, based on these provisions it is sufficient to provide litigation to the police agency.

Furthermore, in article 41 paragraph (1) juvenile court, there are special investigators from the police team who are determined by a decision of KAPOLRI or other officials appointed by KAPOLRI.

To become a child investigator, one must fulfill the requirements based on the law (article 41 paragraph (2) of the Law on juvenile court, namely,;

- a. has experience as an adult criminal investigator; and
- b. have interest, attention, dedication, and understand children's problems.

3.2. Child public prosecutor

Based on the 1945 Constitution which has been amended for the fourth time, in article 24 paragraph (1), the duties and powers of the prosecutor are not explicitly regulated, so that by using grammatical and teleological interpretations that the duties and powers of the prosecutor's office are contained within the judicial bodies. This means that according to the word "judiciary", it shows the meaning that the prosecutor is also involved in the process of law enforcement in court.

Law No. 16 of 2004 on article 30 provides a flexible space, namely that the prosecutor's office is not only serving as a public prosecutor, but also as an investigator.

Article 53 paragraph (1) of the Juvenile Court Law recognizes that there are special public prosecutors who are held in juvenile trials based on the decision of the Attorney General or other law enforcement officials appointed by the Attorney General. In the

¹³ Fachmi, 2011, *Kepastian Hukum Mengenai Putusan Batal Demi Hukum Dalam Sistem Peradilan Pidana Di Indonesia*, Ghalia Indonesia, Bogor, p. 57

¹⁴ Lihat pasal 30 ayat (4) UU Nomor 20 Tahun 1982 Tentang Ketentuan-ketentuan Pokok Pertahanan dan Keamanan Republik Indonesia

case of becoming a public prosecutor in a juvenile court, he must meet the following requirements:

- a. Having experience as an adult criminal prosecutor;
- b. Dedicated, interested, caring and understand the problems faced by the child defendant.

3.3. Child judge

Court (court) is the end of a judicial process, it is natural that it is often argued that the court is a bull of justice. Because at the judgment, a suspect and / or defendant can fantasize and dream of getting justice, through the verdict that will be handed down by the judge. One of the most important essences of the process and procedural cases of children in the SPPA Law is the "judge's decision" or "court decision" as the final settlement of juvenile cases. The consequence of pronouncing the judge's decision can be drawn from the basic assumption that on the one hand it is beneficial for the child to obtain legal certainty (*rechtszekerheids*) regarding their status to take an attitude towards the decision whether to accept the decision, think about it, reject the verdict and make legal remedies for appeal, cassation, clemency, etc.¹⁵

The substance of the judge's decision, in addition to legal certainty, must also include philosophical aspects, namely a sense of justice and truth. Decisions of judges must be able to prioritize the values of detail in society. Decisions that prioritize the value of justice will be able to satisfy and create a sense of relief, security, comfort and prosperity in society. In the sociological aspect, it is very important to be given space. The values of justice will live if the culture and values that live in society have a proper place in a judge's decision.

Judges' decisions will be fair and have legal certainty if normative legal rules can be implemented properly based on accountable moral rules. However, if the opposite is done, it can be said that the decision cannot be taken or is void. Judges in juvenile justice are those specially selected to try children's cases at the state court, high court and the Supreme Court. Child judge, At the district court level, juvenile judges are selected in accordance with the decision of the Chief Justice of the Supreme Court based on the recommendations of the Head of the District Court through the head of the Court.

Child judges must meet the requirements, namely having experience in the field of general law courts and being highly dedicated, having an interest in children's cases or cases and showing an attitude of concern and understanding of the problems faced by the child defendant. Judge of Appeal of children, Meanwhile, the regulation of judges at the second level (Judge of Appeal) is formulated in article 12 to article 15 of the Juvenile Court Law. That to become a child judge, it is determined based on the Decree of the Chief Justice of the Supreme Court upon the recommendation of the Chairperson of the High Court concerned. To become a judge of appeals for children, you must meet the same requirements for the enforcement of juvenile judges.

¹⁵ Andik Prasetyo, 2020, *Perlindungan Hukum Bagianak Pelaku Tindak Pidana*, Jurnal Ilmu Hukum, Volume 9, Nomor 1 Juni, p. 57

3.4. Correctional children

Apart from the police, prosecutors and courts, there is one more component which is basically the position and position outside of the judicial process, but in the context of SPP. This institution is one of the SPP's sundari. Because its existence is still in the context of the system, namely the criminal justice system. The institution in question is a criminal executing agency or an execution institution, namely a correctional institution¹⁶.

Normatively, a special prison advisory agency for children is assigned to:

1. Helping to facilitate the tasks of investigators, public prosecutors and judges and to report the results of correctional research
2. Conducting guidance, supervising and providing guidance and assistance to naughty children in accordance with the decisions imposed by the court in the form of supervised crimes, legal crimes, paying fines, children who are released on condition from prison and handover of naughty children to the State to participate in job training.

Efforts to protect and foster children against the problems they face in society are certainly facing challenges that exist in society. There are deviant behaviors that make children violate the law regardless of their social and economic status. Besides that, they also do not have the opportunity to get psychological, physical and social attention. So that situations often occur that are detrimental to himself and others.

There are many factors that can cause changes in children, especially their character. This negative impact can come from rapidly developing developments such as the global era that triggers communication and information tools and advances in science and technology as well as lifestyles that cannot be facilitated properly by parents or adults around them.

Especially for children who are less affectionate, it will greatly affect their mental development. Children tend to more easily follow people around them. It is not uncommon for children to fall into things that are not good. This is the impact of the child not being ready and unable to adapt and the improper parenting style of the parents.

Especially now that society demands a law enforcement that is of substance quality and not just formal quality. This of course is in accordance with the aim of upholding human rights and the values of justice and honesty. As well as raising and reaffirming the values of trust in society. So as to create a judiciary that is free from acts of corruption, collusion and nepotism in the judiciary. Also to realize the implementation of a dignified and dignified government because it is clean from KKN.

The role of law in a free society is to enforce the truth and justice, which is something that is carried out by avoiding discriminatory practices and not taking sides. Law enforcement is carried out in a way that does not make a matter of the consequences of the law being decided whether it is fun or terrible. Law enforcement must be carried out in a manner that does not conflict with public order, needs and awareness. Law enforcement must also avoid feelings of injustice and neglect in society. This is because

¹⁶ Op.Cit, Fachmi, pp. 85-86

these attitudes are natural attitudes that arise naturally in the heart of humans or society, where law is a question of justice. Where it is said that a law that does not create justice means it cannot be said to be a law.

Law, judge and justice are interconnected components in the application of normative idealism and actions from society. If the three of them do not synergize, there will be gaps in government and legal chaos in society. Moreover, it will have a bad impact on the State. In an effort to improve the criminal justice system, a system of recruiting and fostering human resources must be created which must have broad insight into the needs of the function. Get good training and have high skills¹⁷. Maidin¹⁸ argues that such a level of resources can only be expected to create professional development (professional advancement), increased performance improvement, increased behavior improvement and career development.

Indonesia did not even fully implement the due process, but it could be possible that the value contained in it is in line with what is contained in KUHAP, namely providing a form of protection for the rights of the suspect and the defendant. In the end, the application of the Due Process of law in criminal law enforcement does not only pay attention to the values contained in KUHAP, in order to create a fair trial process, it is necessary to pay attention to the provisions contained in several laws and other regulations that can support to create a fair trial process that can protect all one's rights, especially children's rights.

4. CONCLUSION

The application of the due process of law system in the realm of law enforcement on child criminal acts does not only pay attention to the values contained in it KUHAP, in order to carry out a series of actions that are not arbitrary, it is necessary to pay attention to the provisions contained in other laws. In the process of solving children's cases, there are two efforts to resolve (double track system) that are taken, namely formal efforts through examination at court by imposing criminal sanctions and settlement through non-formal efforts to seek sanctions for acts imposed on children, namely through the diversion process. to find alternative solutions through non-formal judicial institutions by conducting joint discussions involving parents, children suspected of committing criminal acts as well as victims and their parents or guardians as well as a professional expert. This is adjusted to the Restorative Justice principlee. It is necessary to have a good correlation between law enforcers so that there is no limp with the mode of assignment, faced with problems and challenges in society, with social and economic status, lack of physical, mental, and social attention. So that the child commits a criminal act intentionally or unintentionally. In addition, factors that have had a negative impact are the influence of globalization, changing times into times of changing knowledge and technology, which are considered to have an impact that affects the thinking patterns of children. Parental behavior is also considered to have an impact on changing children's attitudes.

¹⁷ Op. Cit, Maidin, p. 199

¹⁸ Ibid, p. 200

REFERENCES

- Andik Prasetyo. 2020. Perlindungan Hukum Bagikanak Pelaku Tindak Pidana, *Jurnal Ilmu Hukum*, Volume 9, Nomor 1 Juni
- Article. "Menegakkan Keadilan Jangan Sekedar Menegakkan Hukum" in the site <http://erabaru.net/65-opini/10099-menegakkan-kadilan-jangan-sekesar-menegakkan-hukum> accessed on 10/12/2019 at 11.37
- Eddy. O. S. Hiariej, 2012, *Teori dan Hukum Pembuktian*, Erlangga, Jakarta
- Erny Herlin Setyorini, Sumiati, Pinto Utomo. 2020. Konsep Keadilan Restoratif Bagi Anak Yang Berkonflik Dengan Hukum Dalam Sistem Peradilan Pidana Anak, *DiH: Jurnal Ilmu Hukum* Volume 16 Nomor 2 Agustus.
- Fachmi. 2011. *Kepastian Hukum Mengenai Putusan Batal Demi Hukum Dalam Sistem Peradilan Pidana Di Indonesia*, Ghalia Indonesia, Bogor
- Febby Mutiara Nelson, 2020, *Due Process Model Dan Restorative Justice Di Indonesia : Suatu Telaah Konseptua*, *JURNALHUKUMPIDANA&KRIMINOLOGI*, volume 1 No 1 Oktober.
- Lilik Purwastuti Yudaningsih. 2014. *Jurnal Ilmu Hukum*, Penanganan Perkara Anak Melalui Restorative Justice.
- M. Alvi Syahrin, *Majalah Hukum Nasional* Nomor 1 Tahun 2018, Penerapan Prinsip Keadilan Restoratif Dalam Sistem Peradilan Pidana Terpadu (The Implementation of Restorative Justice Principlesin Integrated Criminal Justice System).
- Maidin Gultom, 2012, *Perlindungan Hukum Terhadap Anak dan Perempuan*, Refika Aditama, Bandung.
- Rahmat Efendy Al Amin Siregar. 2015. *DUE PROCESS OF LAW DALAM SISTEM PERADILAN Pidana Di Indonesia Kaitannya Dengan Perlindungan HAM*, *Fitrah Jurnal Kajian Ilmu-ilmu Keislaman*.