


## The Existence of Victims in the Implementation of Diversion in the Resolution of Criminal Acts Committed by Children

Najmi Rabbani<sup>1\*</sup>, Cahya Wulandari<sup>2</sup>

<sup>1,2</sup> Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia.

 : rabbaninajmi01@students.unnes.ac.id

Corresponding Author\*



### Abstract

**Introduction:** Indonesia's juvenile justice system faces significant challenges in implementing diversion mechanisms that marginalize victim existence. The assault case involving seven motorcycle-riding juveniles in Tasikmalaya demonstrates substantial gaps between normative guarantees and restorative justice practices that predominantly focus on offenders rather than victims' needs and participation.

**Purposes of the Research:** This study examines victim existence in diversion efforts within Indonesia's juvenile criminal justice system and analyzes factors influencing restorative justice implementation. The research aims to identify structural barriers preventing meaningful victim participation in juvenile diversion processes.

**Methods of the Research:** The research employs qualitative juridical-empirical methodology through semi-structured interviews with prosecutors and legal document analysis. This approach enables comprehensive examination of diversion practices in concrete cases, revealing implementation gaps in restorative justice frameworks.

**Results Main Findings of the Research:** Findings reveal that diversion processes remain dominated by offender-oriented approaches, systematically marginalizing victim participation and recovery needs. Despite Article 6 of Law Number 31/2014 guaranteeing psychosocial rehabilitation for victims, adult victims receive inadequate support compared to child victims. The Tasikmalaya case, involving collective revenge motives, resulted in Rp75 million compensation from Rp120 million total medical costs. Inhibiting factors include structural-institutional limitations, socio-cultural resistance, and psychological-participatory challenges. Achieving meaningful victim existence requires structural reforms integrating victimological approaches, prioritizing measurable recovery mechanisms, and strengthening institutional capacity for substantive victim participation while maintaining child welfare principles.

**Keywords:** Victim Existence; Diversion; Juvenile Criminal Justice; Restorative Justice; Victimology.

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## INTRODUCTION

Indonesia, as a nation founded on the rule of law, holds a constitutional responsibility to ensure the protection and welfare of all its citizens, including children who represent the nation's future. Coordinating Minister for Human Development and Culture (Menko PMK) Muhadjir Effendy emphasized that approximately 79.55 million children, equivalent to 30.1% of Indonesia's total population, underscore the critical importance of collective efforts in child protection, care, and education, requiring support from various societal elements.<sup>1</sup> This demographic reality forms a fundamental basis for the government in designing comprehensive policies related to child protection, including within the context of a just and

<sup>1</sup> Tratama Helmi Supanji Kemenko PMK, "Menuju Indonesia Emas 2045, Pemerintah Siapkan Generasi Muda Unggul Dan Berdaya Saing," Kemenko PMK, 2020, <https://www.kemenkopmk.go.id/anak-sebagai-penentu-masa-depan-indonesia>.

humane juvenile justice system. Child protection is not solely the responsibility of the government and parents but also involves educational institutions and the broader community to realize the vision of Indonesia Emas 2025.

A profound understanding of adolescent developmental phases is essential in constructing a responsive juvenile justice system. From a psychological perspective, adolescent development is classified into three main phases reflecting the dynamics of biological, cognitive, and socioemotional maturation. The pre-adolescent phase (11-14 years) is characterized by significant physical changes such as the growth of reproductive organs, bones, and muscles, alongside emotional fluctuations due to hormonal instability that trigger anxiety and social sensitivity.<sup>2</sup> In the early adolescent phase (13/14-17 years), physical growth peaks accompanied by the emergence of abstract thinking abilities, fostering critical attitudes toward authority and exploration of social identity. This phase is crucial as adolescents begin to form more complex peer groups and become vulnerable to negative environmental influences, such as delinquency resulting from peer conformity pressure.<sup>3</sup> The late adolescent phase (17-21 years) focuses on consolidating self-identity through educational and career choices, as well as managing financial and emotional independence.

From a psychological development standpoint, the early adolescent phase is highly susceptible to external environmental influences. During this stage, adolescents experience intense identity struggles and a tendency to challenge authority as part of their personal identity formation process.<sup>4</sup> Additionally, adolescents in this phase exhibit psychological characteristics including a desire for social recognition, a need for peer conformity, and emotional instability, which increase their vulnerability to risky behaviors. This complexity is exacerbated by the influence of social media and digital technology, which facilitate the dissemination of values and behaviors not always aligned with prevailing social norms. Consequently, the phenomenon of juvenile delinquency transforming into criminal acts emerges as a manifestation of the complex interaction between internal factors (psychological development) and external factors (environmental influences).

The phenomenon of juvenile delinquency has shown concerning trends across various regions in Indonesia, including Tasikmalaya City. Based on data from the Central Statistics Agency in 2022, Indonesia experienced a 12.3% increase in cases of children in conflict with the law compared to the previous year.<sup>5</sup> A case that has drawn public attention and is relevant to this research is the assault incident committed by seven motorcycle-riding juveniles against pedestrians in Tasikmalaya City. As reported by Detik Jabar, the seven perpetrators, who were students, carried out the assault with motives allegedly characterized as "random attacks," where they randomly attacked pedestrians they encountered during their convoy.<sup>6</sup> This case reflects the complexity of juvenile delinquency

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<sup>2</sup> Abdi Mahesha, Dinie Anggraeni, and Muhammad Irfan Adriansyah, "Mengungkap Kenakalan Remaja: Penyebab, Dampak, dan Solusi," *PRIMER : Jurnal Ilmiah Multidisiplin* 2, no. 1 (February 24, 2024): 16–26, <https://doi.org/10.55681/primer.v2i1.278>.

<sup>3</sup> Erny Herlin Setyorini, Sumiyati, and Pinto Utomo, "Restorative Justice Concept for Children Conflicting Laws in Children Criminal Justice System," in *Proceedings of the International Conference on Law Reform (INCLAR 2019)* (International Conference on Law Reform (INCLAR 2019), Batu, East Java, Indonesia: Atlantis Press, 2020), <https://doi.org/10.2991/aebmr.k.200226.040>.

<sup>4</sup> Taufik Mohammad and Azlinda Azman, "'Do i Want to Face the Offender?': Malaysian Victims' Motivation for Participating in Restorative Justice," *Contemporary Justice Review* 24, no. 3 (July 3, 2021): 290–311, <https://doi.org/10.1080/10282580.2021.1881892>.

<sup>5</sup> Nurma Midayanti, *Statistik Kriminal 2022* (Badan Pusat Statistik, 2022), <https://www.bps.go.id/id/publication/2022/11/30/4022d3351bf3a05aa6198065/statistik-kriminal-2022.html>.

<sup>6</sup> Faizal Amiruddin, "7 Berandalan Bermotor Penganiaya Pejalan Kaki di Tasik Berstatus Pelajar," portal berita, detikjabar, 2023, <https://www.detik.com/jabar/hukum-dan-kriminal/d-7101745/7-berandalan-bermotor-penganiaya-pejalan-kaki-di-tasik-berstatus-pelajar>.

problems that culminate in serious criminal acts, with implications for public safety and order while causing profound trauma to victims.

The victims in the assault incident sustained physical injuries requiring intensive medical treatment, as reported that one victim named Rian Andrian (36) suffered a lacerated head wound requiring 40 stitches and his little finger was nearly severed, while another victim, Atang (32), sustained a lacerated head wound requiring 10 stitches. The consequences of this incident not only implicate physical dimensions but also cause psychological trauma with long-term impacts on the victims. Ironically, in the case resolution process through diversion mechanisms, the interests and rights of victims often do not receive proportional attention, thereby creating imbalances in the implementation of restorative justice.

In Indonesia's juvenile justice system, a paradigmatic transformation occurred with the enactment of Law Number 11 of 2012 concerning the Juvenile Justice System (Law SPPA). This regulation introduced a fundamental shift from a retributive approach oriented toward punishment to a restorative approach emphasizing the restoration of relationships and reintegration for child perpetrators, victims, and other related parties. The concept of restorative justice, as defined in Article 1 paragraph 6 of the Law SPPA, is "the settlement of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek fair solutions by emphasizing restoration to the original state, rather than retaliation." This paradigm is implemented through diversion mechanisms aimed at diverting child case resolution from criminal justice processes to processes outside the court system. Paradoxically, there exists a significant gap between the philosophical idealism of the Law SPPA and its field implementation. This condition illustrates a disparity between policy formulation and its practical application, which potentially distances the juvenile justice system from its primary objective of achieving child welfare and comprehensive restorative justice.

In its implementation, diversion often tends to favor the interests of children as perpetrators (offender-oriented approach) rather than the interests of victims (victim-oriented approach). Research conducted by Dinata (2020) reveals that victim-based restorative approaches in diversion have not been fully implemented.<sup>7</sup> In practice, diversion outcomes pay more attention to the interests of child perpetrators than to the interests of victims, where diversion agreements obtained in the form of restitution, medical and psychosocial rehabilitation, surrender to parents/guardians, or participation in education or training at educational institutions, remain oriented toward perpetrator recovery. Victim recovery merely becomes a requirement established as far as possible to distance perpetrators from criminal sanctions.

Suryandari (2020), in her study on "The Influence of Parenting Patterns on Juvenile Delinquency," identified that although external factors such as the family environment play a significant role in shaping adolescent behavior, the application of sanctions in juvenile delinquency cases often neglects this aspect and places greater emphasis on individual accountability.<sup>8</sup> This gap reflects a disconnection between the theoretical understanding of

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<sup>7</sup> Umar Dinata, "Implementasi Prinsip Restorative Justice Berdasarkan Victim Oriented Dalam Diversi Guna Penyelesaian Tindak Pidana Yang Dilakukan Oleh Anak (Studi Pada Unit PPA Satreskrim Polres Pesisir Selatan)," *UNES Law Review* 2, no. 4 (August 16, 2020): 444–53, <https://doi.org/10.31933/unesrev.v2i4.136>.

<sup>8</sup> Savitri Suryandari, "Pengaruh Pola Asuh Orang Tua Terhadap Kenakalan Remaja," *JIPD (Jurnal Inovasi Pendidikan Dasar)* 4, no. 1 (January 31, 2020): 23–29, <https://doi.org/10.36928/jipd.v4i1.313>.

the etiology of juvenile delinquency and the practical approach within the juvenile criminal justice system, impacting the effectiveness of diversion efforts in addressing the root causes of deviant adolescent behavior.

The dilemma between protecting the interests of the child as the offender and fulfilling the rights of the victim constitutes a complex discourse within the juvenile criminal justice system. A comprehensive restorative justice approach should balance these two aspects; however, in reality, there is a tendency to overlook the victimological dimension. In the assault case involving motorcycle-riding juveniles in Tasikmalaya, the victims did not receive proportional justice through the diversion mechanism, especially when the diversion agreement failed to provide adequate restitution for the material and immaterial losses suffered. This indicates a gap between the conceptual idealism of restorative justice and its practical implementation within the juvenile criminal justice system.

According to Chapter II on Diversion Obligations in the Attorney General Regulation Number PER-006/A/JA/04/2015 concerning Guidelines for the Implementation of Diversion at the Prosecution Level, prosecutors, as key actors in the criminal justice system, have a strategic role in implementing diversion at the prosecution stage. Prosecutors have the authority and obligation to carry out diversion efforts for criminal acts punishable by imprisonment of less than 7 years and that are not repeat offenses. In this context, prosecutors act as facilitators who must balance the interests of the child as the offender with the interests of the victim in the legal resolution process. However, in practice, prosecutors often face dilemmas in accommodating both interests, especially when dealing with serious cases such as assaults causing physical injuries and psychological trauma to victims.

Research conducted by Tobing (2024) identified that the main obstacles in implementing diversion within Indonesia's Juvenile Criminal Justice System include limited inter-agency coordination, a shortage of competent human resources, and the absence of specific standard operating procedures to ensure the protection of victims' interests in diversion efforts.<sup>9</sup> This disharmony results in system inefficiency in achieving comprehensive restorative goals, where the recovery process should not only focus on the reintegration of offenders but also on the restoration of victims' conditions and the repair of social relations damaged by criminal acts.

Furthermore, the implementation of victim-oriented restorative justice principles faces multidimensional obstacles, particularly regarding the dynamics of victim family participation, which often reluctantly engages in informal resolution processes.<sup>10</sup> On one hand, structural pressure on law enforcement officials to pursue diversion with the expectation of victim consent in accepting diversion agreements potentially neglects the voluntary principle that forms the foundation of restorative justice. On the other hand, partial understanding of restorative philosophy among stakeholders, limited facilitator competence in managing psychosocial dynamics, and the absence of holistic support systems (such as post-diversion monitoring mechanisms and victim rehabilitation) create gaps between theory and practice. These challenges not only erode the essence of victim

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<sup>9</sup> Septy Juwita Agustin Br Tobing, "Diversion Program Implementation Under the Juvenile Justice System Act in Indonesia: What Works, What Does Not?," *Restorative: Journal of Indonesian Probation and Parole System* 2, no. 1 (April 30, 2024): 46-60, <https://doi.org/10.61682/restorative.v2i1.12>.

<sup>10</sup> Muhamad Khalil Ibrahim Ali et al., "Effectiveness And Challenges Of Implementing Restorative Justice In Components Of Indonesia's Criminal Justice System," *Rewang Rencang : Jurnal Hukum Lex Generalis* 5, no. 7 (2024), <https://jhlgr.rewangrencang.com/>.



participation as legal subjects but also threaten the achievement of substantive justice that justifies the existence of diversion in the juvenile criminal justice system. This problematic becomes even more complex when dealing with serious cases such as assaults committed by motorcycle groups in Tasikmalaya.

Behind the complexity of these issues lies the urgency to develop a diversion model that not only focuses on the interests of children as offenders but also provides proportional attention to the rights and interests of victims. Tobing (2024) argues that the effectiveness of diversion programs needs to be evaluated from various perspectives, including the victim's perspective, to identify aspects that require improvement in implementation.<sup>11</sup> This comprehensive approach requires synergistic collaboration among various stakeholders, including law enforcement officials, social workers, psychologists, and communities, to ensure that diversion can achieve its goals in realizing balanced restorative justice.

The existence of victims in diversion efforts demands recontextualization within a comprehensive victimological framework, where victims' rights must not be subordinated for the sake of offender rehabilitation, even when the offender is a child, but must be positioned equally as an integral part of restorative justice. A victim-oriented approach offers an alternative perspective that emphasizes the restoration of victims' material and immaterial losses and their active participation in diversion decision-making, which can be reflected in the assault case by motorcycle-riding juveniles in Tasikmalaya, demonstrating the importance of comprehensive recovery for victims without neglecting the best interests of child offenders within the framework of rehabilitation and social reintegration. Research also confirms that victim satisfaction with the restorative process heavily depends on the extent to which they are given substantial participatory space and resolution that truly restores the losses experienced, making the reformulation of diversion efforts that emphasize victimological dimensions crucial so that restorative justice can achieve fair and comprehensive recovery for all parties affected by criminal acts.

Based on this background, this research aims to comprehensively analyze the existence of victims in the implementation of diversion in resolving criminal acts committed by children, with a case study at the Tasikmalaya City Prosecutor's Office, focusing on three main problem formulations: first, how to restore the victim's position in the diversion process for assault crimes committed by children; second, what factors influence the course of diversion, particularly in the mediation process; and third, how diversion efforts are implemented in assault cases at the Tasikmalaya City District Prosecutor's Office. A critical analysis of the balance between offender-oriented and victim-oriented approaches in diversion efforts serves as the foundation for formulating recommendations to improve diversion policies and practices that are more equitable for all parties involved, especially victims. The implications of this research are not only relevant for law enforcement officials but also for other stakeholders involved in the child protection system and the juvenile criminal justice system in Indonesia. The theoretical contribution of this research is the development of a conceptual framework regarding victim orientation in Indonesia's juvenile criminal justice system, which is expected to enrich academic discourse on restorative justice and diversion, while its practical contribution consists of concrete recommendations for improving policies and implementing diversion that better considers victims' rights and interests without neglecting rehabilitative goals for children as

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<sup>11</sup> Juwita Agustin Br Tobing, "Diversion Program Implementation Under the Juvenile Justice System Act in Indonesia."

perpetrators.<sup>12</sup> In the long term, this research is expected to contribute to a paradigmatic transformation in Indonesia's juvenile criminal justice system toward more comprehensive and balanced restorative justice.

## METHODS OF THE RESEARCH

The research methodology employed in this study is a qualitative juridical-empirical approach, which aims to examine in depth the dynamics of diversion implementation and the victim's position within the restorative justice framework in assault cases committed by juvenile motorcyclists in Tasikmalaya. The juridical-empirical approach was chosen to bridge the gap between applicable legal norms and field practice realities, thereby providing a comprehensive overview of the effectiveness and challenges in diversion implementation. Primary data were obtained through semi-structured interviews with public prosecutors who directly handled these cases, in order to gain authoritative perspectives regarding legal considerations, obstacles, and the implementation of restorative justice in diversion efforts. Meanwhile, secondary data were collected from various legal documents, prosecution records, and relevant diversion effort archives to strengthen the analysis and ensure the validity of research findings. All data were analyzed using descriptive qualitative methods, so that the research results not only explain the application of theory in practice but also identify factors that influence the success or failure of restorative justice-based diversion implementation at the prosecution level.<sup>13</sup>

## RESULTS AND DISCUSSION

### A. Restoration of Victim Status in Diversion Efforts for Assault Crimes Committed by Children

The restoration of victim status in Indonesia's diversion system remains a complex challenge despite Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (Law SPPA) mandating a restorative justice approach. Based on Article 6 of the Law SPPA, diversion aims to achieve reconciliation between victims and children, resolve children's cases outside the judicial process, prevent children from deprivation of liberty, encourage community participation, and instill a sense of responsibility in children. However, field implementation is often dominated by an offender-oriented paradigm, where the primary focus is directed toward the rehabilitation of child perpetrators, while victim restoration merely becomes a formal requirement as an effort to avoid criminal sanctions.

In its mechanism, victim involvement in diversion efforts is normatively guaranteed through Article 8 paragraph (3) of the Law SPPA, which places victim interests first in the obligation of diversion efforts, before the welfare and responsibility of children. Furthermore, diversion efforts should ideally involve victims through deliberation with prosecutors as facilitators, together with perpetrators and/or their families, as well as community leaders as stipulated in Article 10 of the aforementioned law. This is solely done with the hope of actively involving victims in diversion efforts.

An analysis of the Diversion Minutes in the assault case by seven juvenile motorcyclists in Tasikmalaya City (December 2023) revealed that the adult victim was not accompanied

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<sup>12</sup> Cahya Wulandari, "Dinamika Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia," *Jurnal Jurisprudence* 10, no. 2 (March 23, 2021): 233–49, <https://doi.org/10.23917/jurisprudence.v10i2.12233>.

<sup>13</sup> Gunardi, *Buku Ajar Metode Penelitian Hukum*, 1st ed., vol. 1 (Jakarta Selatan: Damara Press, 2022).

by a psychologist or social worker during the process, despite suffering severe physical injuries (40 stitches to the head) and psychological trauma. An interview with Prosecutor Mr. Arly at the Tasikmalaya City District Prosecutor's Office confirmed that time pressure for case resolution was the primary factor for minimal victim participation.<sup>14</sup>

In practice, this shows that victims are often positioned as "parties who are pressured by time and indirectly pushed to agree" to agreements that have been formulated. Victims are faced with a pragmatic choice between accepting limited compensation or facing the risk of lengthy litigation that may not necessarily benefit them. Moreover, this demonstrates structural disparity in victim assistance based on age. For child victims, the Law SPPA mandates assistance by Social Workers (Peksos) from the investigation stage, including psychological impact assessment. Article 65 of the aforementioned law even states that law enforcement officials must consider the Community Research Report from Community Supervisors for child perpetrators. This report reveals the background of the child's criminal act, analysis of factors that caused the child to commit the crime, and the relationship between the child and their family environment and social environment. The Community Research Report is holistic data that can be used as consideration by law enforcement officials in determining sanctions to be given to children.<sup>15</sup> However, this differs for adult victims who only receive "suggestions" for psychological consultation without structured mechanisms. Additionally, in other assault cases, victims often are not given access to psychological assistance during diversion efforts, despite experiencing severe trauma.

Furthermore, forms of compensation in diversion are dominated by financial compensation such as reimbursement of medical costs or compensation equivalent to property damage. However, Article 6 paragraph (1) of Law Number 31 of 2014 concerning Protection of Witnesses and Victims guarantees victims' rights to holistic recovery, including medical assistance, psychosocial and psychological rehabilitation.<sup>16</sup> Additionally, the severity of victim injuries becomes a tactical consideration in determining diversion agreements, although this is not explicitly regulated by law. Informal classifications of "minor injuries" (not interfering with daily activities) and "serious injuries" (organ function impairment for more than 7 days) are used as the basis for compensation negotiations.<sup>17</sup> Nevertheless, in some cases involving permanent injuries, victims often feel conflicted about accepting minimal compensation on the grounds that the perpetrator is still a child, a practice that contradicts the principle of proportionality in restorative justice.

Victim responses to diversion demonstrate significant complexity in the implementation of Indonesia's juvenile criminal justice system.<sup>18</sup> Interview results with law enforcement officials revealed that most victims of serious assault reject diversion, especially when perpetrators do not show genuine remorse. This aligns with Setyowati's findings that emphasize the importance of a humanistic approach in law enforcement. This rejection phenomenon is not merely influenced by economic factors or feelings of revenge, but is

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<sup>14</sup> Based on interview results with Mr. Arly Sumanto, S.H. as Prosecutor at the Tasikmalaya City District Prosecutor's Office, on April 14, 2025.

<sup>15</sup> Claudia Narasindhi and Iskandar Wibawa, "Pelaksanaan Penelitian Kemasyarakatan (Litmas) Dalam Perkara Anak Berkonflik Dengan Hukum Di Bapas Pati," *UNES Law Review* 6, no. 1 (2023), <https://doi.org/10.31933/unesrev.v6i1>.

<sup>16</sup> Sabrina Hidayat and Oheo Kaimuddin Haris, "Ganti Kerugian Terhadap Anak yang Menjadi Korban Penganiayaan Melalui Diversi" 5, no. 3 (2023).

<sup>17</sup> Based on interview results with Mrs. Yuris Setia Ningsih Abduh, S.H., M.H. as Prosecutor at the Tasikmalaya City District Prosecutor's Office, on April 15, 2025.

<sup>18</sup> Sulis Setyowati, "Problematisasi Penerapan Diversi Dalam Penyelesaian Perkara Tindak Pidana Anak Dalam Mewujudkan Keadilan Restoratif," *UNES Law Review* 6, no. 4 (2024), <https://doi.org/10.31933/unesrev.v6i4>.

more complex, involving relational dynamics built by prosecutors as facilitators between victims and perpetrators through personal and persuasive approaches.<sup>19</sup> Nevertheless, victim rejection of case resolution through diversion also frequently occurs. This is reinforced by empirical findings in Malang showing that victim consent can become a major obstacle in diversion implementation, even when law enforcement officials have adopted child-friendly and restorative approaches.<sup>20</sup>

Often, the diversion deliberation process is brief (1-2 meetings lasting 2-3 hours) and tends to be formalistic, so that substantial negotiation space for victims is very limited, compounded by pressure to quickly resolve cases that can sacrifice the principle of free and informed consent. This reflects structural problems in restorative justice implementation, where most cases are resolved within 30 days without providing more space to pursue a more adequate balance between child perpetrator rehabilitation and victim recovery. Diversion agreement documents also frequently fail to include post-rehabilitation monitoring clauses, making victims vulnerable to secondary victimization, such as threats of retaliation or neglect of compensation. Even in certain cases, despite achieving formal reconciliation, differing perceptions about justice and compensation can create conflicts and new violations of diversion agreements.<sup>21</sup>

These findings underscore the importance of structural reform, both through revision of legislation such as Law Number 11 of 2012 and Supreme Court Regulation Number 4 of 2014, so that diversion mechanisms are truly oriented toward victim recovery and do not merely become administrative formalities. The implementation of victim impact statements and the involvement of psychological and social domains in diversion efforts are highly recommended to strengthen the victim's position and ensure balanced restorative justice. Only through an inclusive and collaborative approach, along with capacity building for facilitators and law enforcement officials, can diversion achieve the goals of child protection and holistic victim recovery.

## **B. Factors Influencing the Course of Diversion Efforts**

Based on the analysis of victim status restoration in diversion efforts discussed previously, it becomes clear that there are various complex factors that influence the course of diversion efforts in the juvenile criminal justice system. These factors are not only related to procedural and juridical aspects but also involve psychological, sociological, and structural dimensions that interact with each other to form the dynamics of diversion success or failure. A deep understanding of these factors becomes crucial for optimizing the implementation of restorative justice that truly considers the existence of victims as legal subjects who have fundamental rights.<sup>22</sup> The complexity of these factors reflects systemic challenges in balancing the interests of child perpetrator rehabilitation with comprehensive victim recovery, which requires a holistic and multidimensional approach in its implementation.

### **1) Internal Factors**

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<sup>19</sup> Based on interview results with Mr. Duddy Sudiharto, S.H. as prosecutor at the Tasikmalaya City District Prosecutor's Office, on April 17, 2025.

<sup>20</sup> Febrianika Maharani, "Challenges in Implementing Diversion for Child Offenders: A Case Study of the Malang Police Department," *Jurnal Legalitas* 18, no. 1 (April 9, 2025): 53–64, <https://doi.org/10.33756/jelta.v18i1.27692>.

<sup>21</sup> Merlin Theodor Handayani Samosir and R. Rahaditya, "The Fulfillment of Diversion in Cases of Participation in Assault Resulting in Death by Children," *Journal of Law, Politic and Humanities* 5, no. 2 (December 21, 2024): 711–16, <https://doi.org/10.38035/jlph.v5i2.1022>.

<sup>22</sup> Sahat Maruli Tua Situmeang and Diah Pudjiastuti, "Perlindungan Korban Kejahatan Dalam Perspektif Restorative Justice Dan Politik Hukum Indonesia," *Journal Justiciabelen (JJ)* 2, no. 2 (July 23, 2022): 153, <https://doi.org/10.35194/jj.v2i2.2047>.



The psychological condition of victims following victimization becomes a primary determinant in their willingness to participate in diversion efforts. Victims who experience severe primary victimization, such as serious physical injuries or deep psychological trauma, tend to have greater needs for validation of their suffering and formal recognition of the losses they have experienced. Research shows that victims with severe trauma have high resistance to diversion due to their need for validation of suffering and recognition of the losses they have experienced.<sup>23</sup> Conversely, victims with adequate psychosocial support and good understanding of the restorative process show a greater tendency to accept diversion as an alternative case resolution.<sup>24</sup> The level of victim trust in the justice system and their perception of justice, which is influenced by previous experiences and expectations regarding desired outcomes, also shapes their attitude toward diversion efforts.

The motivation of victim families constitutes an internal factor that cannot be ignored in diversion efforts. Victim families often have different expectations of justice, ranging from desires for retributive revenge to orientation toward recovery and prevention.<sup>25</sup> Family dynamics, values held, and previous experiences with the justice system become internal variables that influence their attitude toward case resolution through diversion. Families with restorative value orientation and good understanding of child development tend to be more open to diversion.<sup>26</sup> Conversely, families with strong retributive orientation or negative experiences with the justice system often reject diversion because they view it as a form of impunity or an attempt to escape punishment. This motivational factor is also influenced by victim families' perception of the sincerity of perpetrator remorse and the adequacy of compensation offered in diversion efforts.

Factors originating from the child perpetrator side have unique characteristics related to their cognitive, emotional, and moral development stages. The level of psychological maturity of child perpetrators becomes a determining factor in their ability to understand the consequences of their actions, show genuine remorse, and commit to the recovery process. Children in certain developmental phases may not yet have adequate cognitive capacity to fully understand the impact of their actions on victims, thus requiring different approaches in diversion efforts. The moral development factor of children also influences their ability to develop empathy toward victims and intrinsic motivation to correct mistakes. Children with higher levels of moral development tend to be more responsive to restorative processes and show more positive behavioral changes post-diversion.<sup>27</sup>

The social and family background of child perpetrators becomes a significant factor influencing diversion efforts. Dysfunctional family conditions, history of domestic violence, or lack of parental supervision can be contributing factors to deviant behaviors or actions that violate social and legal norms, committed by juvenile delinquents. In the context of diversion, strong family support and parental commitment to actively participate in the

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<sup>23</sup> Siti Shalima Safitri, Mohammad Didi Ardiansah, and Andrian Prasetyo, "Quo Vadis Keadilan Restoratif Pada Perkara Tindak Pidana Kekerasan Seksual Pasca Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual (Studi Terhadap Pasal 23 UU TPKS)," *Jurnal Hukum Dan HAM Wara Sains* 2, no. 01 (January 30, 2023): 29–44, <https://doi.org/10.58812/jhhws.v2i01.173>.

<sup>24</sup> Setyowati, "Problematika Penerapan Diversi Dalam Penyelesaian Perkara Tindak Pidana Anak Dalam Mewujudkan Keadilan Restoratif."

<sup>25</sup> Siti Komariah and Kayus Kayowuan Lewoleba, "Penerapan Konsep Diversi Bagi Anak Penyandang Disabilitas Pelaku Tindak Pidana Kekerasan," *Jurnal Usm Law Review* 4, no. 2 (November 6, 2021): 586–603, <https://doi.org/10.26623/julr.v4i2.4058>.

<sup>26</sup> Juanrico Alfaromona Sumarezs Titahelu, "Penerapan Diversi Terhadap Anak Sebagai Pelaku Tindak Pidana Di Bidang Lalu Lintas," *Jurnal Masohi* 1, no. 1 (July 1, 2020): 26, <https://doi.org/10.36339/jmas.v1i1.288>.

<sup>27</sup> Atra Aldeka Putra, Suryadi, and Siti Zuliyah, "Perspektif Sosiologis Perlindungan Anak Pelaku Tindak Pidana Berbasis Restorative Justice," *Journal Equitable* 8, no. 2 (June 30, 2023): 198–207, <https://doi.org/10.37859/jeq.v8i2.4603>.

child's recovery process become crucial supporting factors. Conversely, family resistance or indifference to diversion efforts can become serious obstacles to program success. The socio-economic factors of families also influence their ability to fulfill compensation obligations or participate in rehabilitation programs that may be required. Social stigma experienced by child perpetrators and their families can affect their motivation to participate genuinely in diversion efforts and their commitment to positive social reintegration.<sup>28</sup>

The institutional capacity of the juvenile criminal justice system becomes a fundamental factor determining the quality and effectiveness of diversion implementation. The competence of law enforcement officials in understanding and applying restorative justice principles becomes a prerequisite for diversion success.<sup>29</sup> Limited knowledge and skills of legal practitioners in mediation techniques, lack of empathetic communication, and inadequate management of psychosocial dynamics can result in suboptimal or even counterproductive diversion efforts. Consistency in applying diversion standards and procedures requires uniform understanding among practitioners regarding criteria, stages, and expected outcomes of diversion. Variations in interpretation and implementation of diversion between regions or among practitioners can create legal uncertainty and reduce public trust in this system.

Effective communication and mediation factors become key to diversion success from an internal system perspective. The facilitator's ability to build empathetic and humanistic communication, create safe dialogue spaces, and manage emotional dynamics of the parties greatly determines diversion outcomes.<sup>30</sup> Facilitators who have competence in restorative mediation techniques, deep understanding of victim and perpetrator psychology, and sensitivity to cultural contexts can create conditions conducive to reaching agreements. Minimal socialization and public education about diversion by law enforcement officials causes the community to lack adequate references for making informed decisions. Negative perceptions of diversion effectiveness, which is often considered not providing sufficient deterrent effects, becomes a significant psychological barrier to public acceptance of this mechanism.

Infrastructure and supporting resources become crucial system factors in diversion implementation. The availability of adequate facilities for diversion implementation, such as conducive mediation rooms, supporting technology, and accessibility for the parties, influences process quality and participant satisfaction. Structural barriers in the justice system create suboptimal conditions for quality diversion implementation, including limitations of human resources competent in restorative mediation, minimal adequate facilities, and high workloads for law enforcement officials.<sup>31</sup> Weak coordination between various related institutions often results in overlapping authorities or even gaps in responsibility in certain aspects of diversion efforts. Bureaucratic barriers, such as complicated procedures and limited time, also become practical obstacles that reduce diversion effectiveness. Institutional support and conducive policy factors play important

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<sup>28</sup> Meliana Kartika Herningsih and R. Rahaditya, "Stigmatisasi Pada Anak Nakal Dan Bermasalah Dengan Hukum," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 3 (January 31, 2025): 2041–48, <https://doi.org/10.38035/jihhp.v5i3.3856>.

<sup>29</sup> Louisa Yesami Krisnalita, "Diversi Pada Tindak Pidana yang Dilakukan Oleh Anak," *Binamulia Hukum* 8, no. 1 (2020): 93–106, <https://doi.org/10.37893/jbh.v8i1.41>.

<sup>30</sup> Sheila Kusuma Wardani Amnesti and M. Aunul Hakim, "Penerapan Diversi Pada Anak Berhadapan Hukum Ditinjau Dari Perspektif Masalah Mursalah," *Egalita Jurnal Kesetaraan Dan Keadilan Gender* 16, no. 2 (December 27, 2021), <https://doi.org/10.18860/egalita.v16i2.14167>.

<sup>31</sup> Rida, "Penerapan Konsep Diversi Terhadap Anak Yang Berhadapan Dengan Hukum (Studi Kasus Di Pengadilan Negeri Palopo)" (Palopo, Institut Agama Islam Negeri Iain Palopo, 2020), <http://repository.iainpalopo.ac.id/id/eprint/2644>.

roles in supporting diversion success, including availability of adequate resources, good coordination between various related institutions, clear standard operating procedures, and availability of post-diversion support services that ensure sustainability of diversion results in the long term.

## 2) External Factors

Social environmental conditions and community support create an atmosphere that determines diversion success. Social environments conducive to restorative values and reconciliation support diversion efforts, while communities with strong retributive culture or high stigmatization toward criminal perpetrators can become significant barriers.<sup>32</sup> Support from community leaders, religious leaders, and local authority figures becomes highly influential external factors in shaping the perceptions and attitudes of the parties toward diversion. The involvement of informal mediators from the community, such as traditional leaders or religious leaders, often becomes key to diversion success because they have moral legitimacy and high persuasive ability in the eyes of the parties. Cultural context influences understanding of concepts of justice, forgiveness, and reconciliation that form the philosophical foundation of diversion.

Limited understanding and awareness of the community about the concepts and goals of restorative justice becomes a serious external barrier. Low legal literacy of the community, particularly regarding the juvenile criminal justice system and diversion, creates resistance and skepticism toward non-formal resolution mechanisms.<sup>33</sup> Victims and their families often have unrealistic expectations about diversion or understand it as a form of "escape" for perpetrators from legal responsibility. The perception that imprisonment is the only effective way to provide deterrent effects to perpetrators becomes a challenge in changing the community paradigm toward restorative justice. The lack of community understanding regarding the concept of diversion often causes difficulty in reaching agreements between victim and perpetrator parties in the diversion process.

Transparency factors and active participation of the parties in diversion efforts become crucial supporting elements in the external context. When victims and perpetrators have equal opportunities to convey their perspectives, express feelings, and participate in formulating solutions, this increases legitimacy and satisfaction with diversion results. Transparent and inclusive processes create a sense of ownership over the agreements reached, thereby increasing the likelihood of compliance with diversion outcomes. Active community participation in supporting the diversion process also provides social context that supports perpetrator reintegration and victim recovery.

Secondary victimization that occurs due to non-victim-oriented treatment from the justice system or social stigmatization can worsen victims' psychological conditions and increase their resistance to diversion.<sup>34</sup> The complexity of reporting to law enforcement, lengthy investigation processes and procedures, and the extended time required to resolve losses or suffering experienced by victims become factors that trigger secondary

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<sup>32</sup> Bakhtiar et al., "Menuju Pemulihan Dan Rekonsiliasi: Menjelajahi Prinsip Dan Manfaat Keadilan Restoratif Towards Recovery and Reconciliation: Exploring the Principles and Benefits of Restorative Justice," *Technium Social Sciences Journal* 50 (November 1, 2023): 167–73, <https://doi.org/10.47577/tssj.v50i1.9885>.

<sup>33</sup> Based on interview results with Mr. Arly Sumanto, S.H. as Prosecutor at the Tasikmalaya City District Prosecutor's Office, on April 14, 2025.

<sup>34</sup> Hilda Andita Wulandari and Riska, "Urgensi Perlindungan Hukum Terhadap Anak Sebagai Korban Pencabulan Yang Mengalami Viktimisasi Sekunder (Secondary Victimization) Dalam Sistem Peradilan Pidana," *Jurnal Nalar Keadilan* 3, no. 2 (December 30, 2023): 53–67.

victimization. Victims who experience secondary victimization tend to lose trust in the system and become more resistant to alternative resolutions such as diversion.

The time dimension becomes an external factor that is often overlooked but highly influential on diversion success. The timing of diversion implementation, both in the context of proximity to the incident and the psychological readiness of the parties, can determine the level of acceptance and results achieved.<sup>35</sup> Diversion conducted too quickly after an incident may not provide sufficient time for victims to process trauma and make mature decisions, while diversion that is too delayed can result in lost momentum and increased resistance from the parties. Seasonal factors and social context can also influence diversion efforts, such as school examination periods, major religious holidays, or certain socio-political situations that can affect community mood and priorities. The duration of diversion efforts also becomes an important consideration, where processes that are too short may not provide adequate space for in-depth dialogue, while processes that are too long can result in fatigue and decreased commitment from the parties.

Geographic and demographic contexts significantly influence diversion dynamics in external aspects. Differences in urban and rural community characteristics, education levels, ethnic composition, and social structures create variations in understanding and acceptance of diversion. Communities with traditions of customary or communal conflict resolution may more easily accept the concept of diversion, while communities with individualistic and legalistic orientations may require different approaches.<sup>36</sup> Geographic accessibility factors also influence party participation in diversion efforts, especially in remote areas or those with limited transportation infrastructure. Time zone differences and distance can become practical barriers in coordination and diversion implementation, especially when involving parties located far apart.

Socio-economic conditions of the community become significant external factors in diversion efforts. Communities with low welfare levels often have different priorities in conflict resolution, where financial compensation aspects become the main consideration. This can create complex dynamics in diversion negotiations, where agreements are more based on economic needs rather than restorative principles. Conversely, communities with high education and welfare levels tend to pay more attention to procedural and substantive justice aspects in diversion. These external factors also include accessibility to supporting services such as psychological counseling, professional mediation, and legal assistance that can facilitate more effective and equitable diversion efforts.

Critical analysis of factors influencing diversion reveals systematic structural inequalities in restorative justice implementation. The system's tendency toward an offender-oriented approach creates bias that disadvantages victim interests and neglects the equality principle that forms the foundation of restorative justice. This inequality is reflected in the allocation of resources, attention, and support that is greater for perpetrator rehabilitation compared to victim recovery. Power structures in diversion efforts are also often unbalanced, where victims are in weaker positions to negotiate their interests, especially when facing perpetrators from higher socio-economic backgrounds. Gender, age, and social status

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<sup>35</sup> Ni Ketut Ayu Suwandewi and Ni Nengah Adiyaryani, "Diversi Sebagai Bentuk Perlindungan Anak Dalam Sistem Peradilan Di Indonesia," *Kertha Patrika* 42, no. 3 (December 31, 2020): 275, <https://doi.org/10.24843/KP.2020.v42.i03.p04>.

<sup>36</sup> Based on interview results with Mr. Arly Sumanto, S.H. as Prosecutor at the Tasikmalaya City District Prosecutor's Office, on April 14, 2025.



inequalities can also influence power dynamics in diversion efforts, creating conditions where structurally weaker parties become marginalized in decision-making.

Criticism of diversion implementation also highlights the commodification of justice, where restorative processes are reduced to mechanisms that transform justice – which is fundamentally a moral, social value, or basic humanitarian principle – into something with economic value that often prioritizes administrative efficiency over substantive recovery.<sup>37</sup> Pressure to achieve statistical targets for diversion success can result in compromises to process quality and party satisfaction. Additionally, unequal access to legal and supporting resources creates disparities in the quality of representation and advocacy for the parties, which can unfairly influence diversion outcomes. This phenomenon demonstrates the need for more fundamental structural reform in the juvenile criminal justice system to ensure that diversion truly realizes balanced and inclusive restorative justice for all parties involved.

### C. Diversion Efforts in Assault Cases at the Tasikmalaya City State Prosecutor's Office

The assault case involving seven teenage motorcyclists against two adult victims in Tasikmalaya on December 17, 2023, represents a complex manifestation of group dynamics, motorcycle gang influence, and the failure of social control systems to prevent conflict escalation. Based on a comprehensive analysis of Police Investigation Report (BAP) documents, interview transcripts with public prosecutors, and victims' medical records, this case reveals significant challenges in implementing diversion when confronting serious criminal acts involving children as perpetrators and adult victims who experienced profound trauma.

#### 1) Case Description

The assault incident occurred on Sunday, December 17, 2023, at approximately 3:30 AM WIB on Jalan M. Sl. Tobing, Sambongpari Village, Mangkubumi District, Tasikmalaya City. Based on thorough investigation findings, the criminal motive was rooted in collective revenge that had been building for two weeks prior to the incident, when the perpetrators, who were members of various local motorcycle gangs such as BSC (Bogart Shark Classic), XTC (Exalt To Creativity), B2R (Black Baron), and M2R (Moonraker), experienced unpleasant treatment from residents around the incident location. Their previous motorcycle gang convoy had disturbed the peace of residents, both due to disorderly behavior and loud exhaust noise, triggering a spontaneous reaction from residents who threw stones at their group.

This stone-throwing incident created a sense of collective revenge and anger that accumulated within the group, establishing an "us versus them" narrative that subsequently became the psychological justification for retaliatory action. The chronology of events began on the night of December 16-17, 2023, when the perpetrators gathered at Perum Batara around 9:00 PM WIB to consume alcoholic beverages in the form of ginseng wine, which impaired their judgment and self-control abilities. The influence of alcohol served as a catalyst that strengthened their resolve to carry out revenge, while strong group dynamics created conformity pressure that made it difficult for group members to refuse or withdraw from the collectively agreed plan.

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<sup>37</sup> Habibul Umam Taquiuddin and Risdiana Risdiana, "Penerapan Keadilan Restoratif (Restorative Justice) Dalam Praktik Ketatanegaraan," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 6, no. 1 (January 30, 2022), <https://doi.org/10.58258/jisip.v6i1.2972>.

The seven perpetrators consisted of children aged 16-18 years who were high school and vocational school students in Tasikmalaya City. Based on the Community Research Report (Litmas) from Bapas, four of the seven perpetrators came from families with permissive parenting patterns and histories of domestic violence. Group dynamics showed the existence of an informal hierarchy, where some members served as initiators and leaders, while others followed due to group conformity pressure (peer pressure).

The respective roles of each perpetrator in the assault can be categorized as follows: the first perpetrator (17 years old) served as the initiator who brought a machete and carried out the first attack with the sharp weapon; the second perpetrator (16 years old) used a bottle to strike the victim's head; the third perpetrator (17 years old) threw stones at the victim from approximately 3 meters away; the fourth perpetrator (16 years old) participated in beating the victim with bare hands; the fifth perpetrator (17 years old) served as the motorcycle rider who transported other perpetrators and participated in the chase; the sixth perpetrator (16 years old) used a file as a weapon; while the seventh perpetrator (18 years old) served as an observer who did not dismount from the motorcycle but remained involved in the group conspiracy.

The primary victim, Rian Andrian (36 years old), sustained a laceration on his head requiring 40 stitches and permanent damage to his left pinky finger that was nearly severed, requiring an additional 13 stitches. The second victim, Atang (32 years old), suffered a head laceration requiring 10 stitches. The Visum et Repertum from Az-Zahra Medika Clinic confirmed that the injuries were caused by sharp objects (machete) and blunt objects (stones/bottles), with a prognosis requiring a minimum recovery period of 21 days and referral to an orthopedic specialist to prevent permanent disability.

Victimological aspects reveal the complexity of trauma experienced by the victims, not only physically but also psychologically. The victims experienced random victimization without having any prior relationship or conflict with the perpetrators, which exacerbated the traumatic impact. Based on witness testimony, the victims attempted to flee but were chased by the motorcycle group for 1-2 minutes, creating an intense terror situation. The victims' final position of crouching face-to-face while pleading for mercy demonstrated the total helplessness they experienced, contributing to prolonged psychological trauma.

This case fulfills the elements of Article 170 of the Criminal Code (collective violence disturbing public order), Article 351 of the Criminal Code (assault), and Emergency Law Number 12/1951 (unauthorized use of sharp weapons). The combination of these articles reflects the complexity of the criminal acts committed, ranging from collective violence aspects, individual assault, to the use of sharp weapons that endanger public safety. Although the combined criminal penalties could exceed 7 years, the perpetrators' status as children opens opportunities for diversion efforts in accordance with the juvenile criminal justice system philosophy that prioritizes the best interests of the child.

Evidence seized included three motorcycles (black Honda ADV, silver-white Honda Vario, black Honda Beat), one machete, one stone, and glass bottle fragments. The seizure of this evidence not only functions as evidence but also as a form of prevention against reuse for similar criminal acts. The fact that the perpetrators brought sharp weapons and other dangerous objects indicates premeditation or elements of prior planning, not merely spontaneous action.

## 2) Diversion Efforts

The diversion process at the Tasikmalaya District Prosecutor's Office began with a comprehensive assessment involving various relevant parties. Community Guidance Officers (PK) from Bapas compiled Community Research Reports (Litmas) for each juvenile offender, identifying triggering factors for delinquency, including the influence of local motorcycle gangs, permissive family parenting patterns, and histories of domestic violence. These Litmas reports revealed that the majority of perpetrators came from families with minimal parental supervision and were exposed to negative environmental influences. The Indonesian Witness and Victim Protection Agency (LPSK) conducted limited assessments of adult victims, although without involving clinical psychologists as should be guaranteed under Article 6 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 on Witness and Victim Protection. This assessment identified physical impacts in the form of permanent injuries and psychological impacts in the form of Post-Traumatic Stress Disorder (PTSD) symptoms, including sleep disturbances, social anxiety, and communication difficulties. The limitation of victim assessment became one of the structural weaknesses in the diversion process, which was more oriented toward perpetrators than victims.<sup>38</sup>

The diversion efforts were conducted in the 2nd floor hall of the Tasikmalaya City District Prosecutor's Office on Wednesday, January 10, 2024. Mediation was carried out in two separate sessions involving perpetrators' families, victims, community leaders, and school representatives. The first session focused on explaining the concept of diversion and exploring possibilities for reconciliation, while the second session discussed details of compensation and rehabilitation programs. Prosecutor Arly Sumanto, as facilitator, used a "restorative bargaining" approach by offering a graduated compensation scheme: 50% to be paid when the agreement was reached and 50% after the perpetrators completed a six-month rehabilitation program.

The negotiation process faced significant challenges due to the disparity between actual losses experienced by victims and the financial capacity of the perpetrators' families. Total medical costs reached IDR 120 million, but after intensive negotiations, compensation of IDR 75 million was agreed upon (62.5% of total losses). This reduction was based on considerations of the perpetrators' age, families' economic capacity, and victims' willingness to forgive on the condition that perpetrators showed genuine remorse.

One of the main challenges in the diversion process was the limited participation of victims due to psychological trauma experienced. Victims only attended one of the two mediation sessions, citing severe anxiety when confronting the perpetrators' families. Although Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 on Witness and Victim Protection guarantees victims' rights to be accompanied by psychologists during legal processes, in practice adult victims did not receive such services, unlike child victims who must be accompanied by Social Workers (Peksos). Time pressure to resolve cases within 30 days according to juvenile detention periods also affected the quality of victim participation. An interview with Prosecutor Arly Sumanto revealed that "pressure to achieve case resolution targets often sacrifices substantive justice principles for victims." This condition created a situation where victims felt "rushed" to accept agreements that might not fully meet their recovery needs.

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<sup>38</sup> Based on interview results with Mr. Arly Sumanto, S.H. as Prosecutor at the Tasikmalaya City District Prosecutor's Office, on April 14, 2025..

The diversion agreement reached contained three main clauses reflecting efforts to balance the interests of perpetrator rehabilitation and victim recovery. First, compensation payment of IDR 75 million paid in installments, with 50% paid upon agreement signing and the remaining 50% after perpetrators completed the rehabilitation program. Second, perpetrators were required to participate in a six-month community guidance program under Bapas supervision, including psychological counseling, character education, and community social activities. Third, prohibition of direct contact between perpetrators and victims to prevent secondary victimization and provide recovery space for victims.

In addition to these formal clauses, the agreement also included a "Second School" program through cooperation with the Education Department, where perpetrators participated in intensive character education while serving social sanctions. This program was designed to address the root causes of delinquent behavior through a holistic approach involving educational, psychological, and social aspects. However, the program's effectiveness was hampered by community resistance, with 68% of surrounding residents rejecting the presence of former perpetrators in their environment.

In implementation, diversion involved complex coordination among various related institutions. The Tasikmalaya District Prosecutor's Office collaborated with Bapas for community guidance programs, the Social Department to facilitate psychosocial rehabilitation for victims (although limited), the Education Department for the "Second School" program, and the Indonesian Witness and Victim Protection Agency (LPSK) for victim assistance. However, this coordination remained limited to administrative aspects without systematic monitoring and evaluation mechanisms.

Coordination challenges arose from differences in organizational culture, priorities, and work systems among institutions. For example, Bapas focused more on perpetrator rehabilitation, while LPSK should prioritize victim protection, but in practice LPSK resources were more allocated to child victims than adult victims. Budget limitations and human resource constraints also affected the quality of services provided to all parties involved.

The success of diversion in this case can be evaluated from various perspectives. From an administrative standpoint, diversion successfully resolved the case without formal trial proceedings, saving time and costs for the justice system. From the perpetrators' perspective, the rehabilitation program provided opportunities for self-improvement and return to society without the stigma of former inmates. However, from the victims' perspective, satisfaction levels remained low due to compensation that did not fully cover losses and minimal psychosocial support.

Post-diversion challenges emerged in the form of community resistance to perpetrator reintegration and risks of secondary victimization for victims. A 2024 survey by the Tasikmalaya City Social Department showed that despite completed diversion, latent conflicts still existed between victims' and perpetrators' families. Additionally, there was no long-term monitoring mechanism to ensure perpetrators did not repeat similar acts or that victims received sustainable recovery.

### 3) Legal Analysis Based on Statutory Provisions

The implementation of diversion in the assault case involving seven motorcycle-riding juveniles in Tasikmalaya reveals the complexity of applying normative provisions in the



practical reality of the juvenile criminal justice system. Based on Article 7 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), diversion must be pursued at the investigation, prosecution, and examination stages of juvenile cases in district courts for criminal acts punishable by imprisonment under 7 years and not constituting repeat offenses. In the Tasikmalaya case, although the criminal acts committed involved assault using sharp weapons (machetes) that could be categorized as serious crimes, they formally met the diversion requirements because the penalty threat under Article 351 of the Criminal Code in conjunction with Article 170 of the Criminal Code remained under 7 years and the perpetrators were not recidivists. This demonstrates that the formal provisions of the SPPA Law were fulfilled, but implementation faced substantial challenges regarding the balance between protecting juvenile offenders and victim recovery.

The provisions of Article 8 paragraph (3) of the SPPA Law, which mandate considering victim interests as the first priority in diversion efforts, experienced significant implementation distortion in the field. Based on the Diversion Minutes dated January 10, 2024, the diversion deliberation process was conducted involving victims, but victim participation was limited and tended to be passive. Victim Rian Andrian, who suffered head lacerations requiring 40 stitches and permanent damage to his pinky finger, did not receive psychological accompaniment during the diversion process despite experiencing significant psychological trauma. This condition contradicts the spirit of Article 8 paragraph (3) of the SPPA Law, which should place victim interests as the primary priority. An interview with Chief Prosecutor Yuris Setia Ningsih confirmed the existence of a system orientation more focused on perpetrators: "victims sometimes do not receive the benefits they should receive because our orientation is only on juvenile defendants in conflict with the law". This acknowledgment reveals a significant gap between normative provisions and field implementation practices.

Analysis of the composition of diversion deliberation participants based on the Diversion Minutes shows non-compliance with the provisions of Article 10 of the SPPA Law, which mandates the involvement of "children and their parents/guardians, victims and/or their parents/guardians, community guidance officers, and professional social workers based on a restorative justice approach". In practice, the diversion deliberation was only attended by: juvenile perpetrators, parents/guardians of juvenile perpetrators, victims (Rian Andrian and Atang), parents/guardians of victims (Diky Herdiansyah, S.H.), community leaders (Muhammad Guntur and Dedi Carmedi), community guidance officers (Herry Mukti Irwanda), and prosecutor facilitator (Arly Sumanto, S.H.). A crucial concern requiring attention is the absence of professional social workers as mandated in Article 10 of the SPPA Law, whereas the presence of professional social workers is a mandatory requirement to ensure a comprehensive restorative justice approach. The absence of professional social workers reflects structural weaknesses in diversion implementation that can reduce the quality of psychosocial assessment for all parties involved, especially victims experiencing severe trauma.

The aspect of inter-agency coordination in diversion implementation reveals serious structural weaknesses in the juvenile criminal justice system. Although Article 10 of the SPPA Law mandates the involvement of various parties in diversion deliberations, coordination between the Tasikmalaya District Prosecutor's Office and related institutions such as Bapas, LPSK, and the Social Department remains fragmentary and administrative.

The Community Research Report (Litmas) compiled by Bapas Community Guidance Officers for juvenile perpetrators shows comprehensive assessment of perpetrators' social and psychological backgrounds, but no similar mechanism is applied for adult victims. This limitation reflects treatment disparity that contradicts equality principles in restorative justice, where adult victims do not receive adequate psychosocial assessment as guaranteed in Article 6 of Law No. 31 of 2014 concerning Witness and Victim Protection. Furthermore, the absence of professional social workers in diversion deliberations indicates suboptimal coordination between the prosecutor's office and the Social Department, whereas professional social workers have special competencies in managing psychosocial dynamics and facilitating holistic recovery processes.

Coordination challenges become more complex when involving post-diversion monitoring and social reintegration aspects. The SPPA Law does not explicitly regulate post-diversion follow-up mechanisms, creating a legal vacuum that impacts the long-term effectiveness of diversion programs. In the Tasikmalaya case, the diversion agreement contained clauses for gradual compensation payment of IDR 75 million and the perpetrators' obligation to participate in a six-month community guidance program, but there was no systematic monitoring mechanism to ensure compliance with the agreement. This condition indicates the need for SPPA Law revision to include provisions on post-diversion monitoring mechanisms and structured social reintegration programs.

The success of diversion in the Tasikmalaya case from an administrative perspective demonstrates system effectiveness in resolving cases without formal trial proceedings, in accordance with diversion objectives as regulated in Article 6 letter b of the SPPA Law, namely "resolving juvenile cases outside the judicial process". The diversion process was successfully completed within 30 days according to juvenile detention time limits, saving judicial system resources and providing opportunities for perpetrators to improve themselves without the stigma of former inmates. The achieved agreement also included a "Second School" program through cooperation with the Education Department, which aligns with diversion objectives in Article 6 letter e of the SPPA Law, namely "instilling a sense of responsibility in children". However, this administrative success was not balanced with substantial success in victim recovery, where the agreed compensation only covered 62.5% of actual losses experienced by victims. The absence of professional social workers in diversion deliberations also reduced the quality of the restorative process, as there was no professional assessment of psychosocial impacts experienced by victims and required recovery needs.

Post-diversion challenges reveal fundamental weaknesses in the existing legal framework, particularly regarding mechanisms for preventing secondary victimization and ongoing support for victims. Although Article 6 of Law Number 31 of 2014 guarantees victims' rights to psychosocial and psychological rehabilitation, its implementation in the diversion context remains very limited, especially for adult victims. Victims in the Tasikmalaya case did not receive adequate psychological counseling services post-diversion, despite experiencing PTSD symptoms including sleep disturbances and social anxiety. Protection disparity between child victims and adult victims creates inequality that contradicts non-discrimination principles in victim protection. The absence of professional social workers in the diversion process exacerbated this condition, as there was no professional mechanism to identify long-term recovery needs for victims and design appropriate support programs.

Analysis of legal gaps in diversion implementation indicates the need for comprehensive regulatory reform to strengthen victim positions in the juvenile criminal justice system. Revision of Law Number 11 of 2012 becomes a primary priority to include mandatory victim impact assessment conducted by independent psychologists, special budget allocation for adult victim rehabilitation, structured post-diversion monitoring mechanisms, and strict sanctions for the absence of professional social workers in diversion deliberations. Development of more detailed Supreme Court Regulations on diversion standard operating procedures is also needed to ensure implementation consistency throughout Indonesia, including provisions on mandatory composition of diversion deliberation participants and replacement mechanisms if parties are unable to attend. Additionally, strengthening inter-agency coordination through the formation of binding cooperation protocols between prosecutor's offices, Correctional Centers (Bapas), the Indonesian Witness and Victim Protection Agency (LPSK), Social Departments, and other related institutions will help overcome fragmentation in case handling and ensure holistic approaches in restorative justice implementation. Only through comprehensive structural reform can diversion become a restorative justice instrument that truly restores and heals all parties involved, not merely resolving cases formally.

## CONCLUSION

Based on in-depth analysis of the assault case involving seven motorcycle-riding juveniles in Tasikmalaya and interviews with legal practitioners at the Tasikmalaya City District Prosecutor's Office, it can be concluded that although the legal framework has provided a foundation for victim protection, practical implementation still faces significant challenges in realizing balanced restorative justice. 1) Regarding the restoration of victim status in the diversion process for assault crimes committed by children, the research reveals a significant gap between normative guarantees in Law No. 31 of 2014 concerning Witness and Victim Protection and practical implementation in the field. From a victimological perspective, this case demonstrates the phenomenon of secondary victimization experienced by victims through diversion processes that are not sensitive to their recovery needs. Victims not only experienced physical injuries and psychological trauma from the assault but also experienced secondary victimization through legal processes that did not provide meaningful participation space and holistic recovery. Although Article 6 of the aforementioned law guarantees psychosocial and psychological rehabilitation for victims, in practice adult victims did not receive adequate assistance services during the diversion process, creating protection disparities that contradict equality principles in restorative justice; 2) Regarding factors influencing the course of diversion, particularly in the mediation process, findings indicate that these factors can be categorized into three main groups: structural-institutional factors, socio-cultural factors, and psychological-participatory factors. Structural factors include limited institutional capacity, disparities in law enforcement training, and regulatory disharmony. Socio-cultural factors encompass community resistance to perpetrator reintegration, low understanding of diversion, and the influence of group dynamics in motorcycle gang cases. Meanwhile, psychological-participatory factors involve victim trauma, knowledge imbalances, and perpetrator reintegration readiness. Critical analysis reveals several structural weaknesses in restorative justice implementation, including system orientation that still tends to be offender-oriented, the absence of comprehensive victim impact assessment mechanisms, and institutional pressure to achieve case resolution targets that sacrifices the quality of restorative processes;

3) Regarding diversion efforts in assault cases at the Tasikmalaya City District Prosecutor's Office, the assault case demonstrates how collective revenge motives triggered by conflicts two weeks prior can result in violence escalation involving seven juvenile perpetrators with various roles in the assault. Although diversion was successfully implemented with a compensation agreement of IDR 75 million from total medical costs of IDR 120 million, this process revealed imbalances in restorative justice approaches that still focus on perpetrator rehabilitation rather than holistic victim recovery. This research confirms the hypothesis about offender-oriented tendencies in Indonesia's juvenile criminal justice system, as acknowledged by Mrs. Yuris Setia Ningsih as Prosecutor that "victims sometimes do not receive the benefits they should receive because our orientation is only on juvenile defendants in conflict with the law," demonstrating awareness of systemic imbalances that need immediate attention.

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