

Optimizing the Imposition of Conditional Sentences for Children Through the Role of Community Research Reports

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Abstract: *Punishment of children in conflict with the law requires an approach that is not only repressive but also considers the rights and future of children. A conditional sentence is a form of alternative punishment that can maintain children in a proper social environment without serving a criminal period in a correctional institution. This article examines the urgency of applying conditional punishment in juvenile cases and highlights the strategic role of community research reports in influencing judges' decisions. This research uses a qualitative method with an empirical juridical approach through field observations, literature studies, and interviews. The results show that the quality of recommendations is the primary key to successful conditional sentences in court. Data-based recommendations that address the dimensions of supervision, environmental support, and the effectiveness of non-agency coaching tend to be more accepted by judges. The optimization of conditional punishment requires increasing the capacity of community supervisors, national standardization of reports, and evaluation and feedback mechanisms from law enforcement officials to ensure the quality of recommendations submitted.*

Keywords: *Conditional Sentence, Children, Community Research, Restorative Justice*

Abstrak: Pidana terhadap anak yang berkonflik dengan hukum memerlukan pendekatan yang tidak hanya represif, tetapi juga mempertimbangkan hak dan masa depan anak. Pidana bersyarat merupakan bentuk pidana alternatif yang mampu mempertahankan anak dalam lingkungan sosial yang semestinya tanpa harus menjalani masa pidana di Lembaga Pemasyarakatan. Artikel ini mengkaji urgensi penerapan pidana bersyarat dalam perkara anak serta menyoroti peran strategis laporan hasil penelitian kemasyarakatan dalam mempengaruhi putusan hakim. Penelitian ini menggunakan metode kualitatif dengan pendekatan yuridis empiris melalui observasi lapangan, studi kepustakaan, dan wawancara. Hasilnya menunjukkan bahwa kualitas rekomendasi menjadi kunci utama keberhasilan pidana bersyarat di pengadilan. Rekomendasi yang berbasis data, menjawab dimensi pengawasan, dukungan lingkungan, serta efektivitas pembinaan non-lembaga, cenderung lebih diterima oleh hakim. Optimalisasi pidana bersyarat menuntut peningkatan kapasitas pembimbing kemasyarakatan, standarisasi nasional laporan, serta mekanisme evaluasi dan umpan balik dari aparat penegak hukum untuk menjamin kualitas rekomendasi yang diajukan.

Kata Kunci: Pidana Bersyarat, Anak, Penelitian Kemasyarakatan, Keadilan Restoratif

A. Introduction

Children are a blessing as well as a mandate from God. In a child, the dignity of a complete human being is attached.¹ Law No. 11/2012 defines children in the criminal justice system as having several categories based on their involvement in a legal case.² Article 1 point 2 states that "Children in Conflict with the Law" includes children in conflict with the law, children who are victims of criminal acts, and children who act as witnesses in criminal acts. Furthermore, Article 1, point 3 explains that "Children in Conflict with the Law" are children aged between 12 and 18 years and are suspected of committing a criminal offense.

The punishment of children in conflict with the law is a complex issue that requires a different approach from the adult punishment system. Children as individuals who are still in the stage of physical, psychological, and social development have special needs that must be considered in every judicial process.³ The juvenile criminal justice system in Indonesia should not only be oriented towards punishment, but also towards protection and recovery.⁴ Although normatively it has been regulated in Law No. 11/2012 on Juvenile Criminal Justice System that the restorative justice approach is the main principle, the reality of implementation in the field still shows the dominance of the retributive approach. Many children still have to serve a criminal period in correctional institutions, even though other alternatives to punishment are more directed towards the best interests of the child.⁵

Children placed in the correctional system are at risk of mental disorders, social stigma, and loss of access to education and family support. In addition, association with adult prisoners and an environment that does not support the rehabilitation process also increases the opportunity for children to re-offend. Considering the complexity of the problem, the Correctional Center, as a correctional technical implementation institution, has an essential role in supporting a humanist juvenile criminal justice system. One of its strategic roles lies in community supervisors conducting Community Research on adult and child clients undergoing legal proceedings.⁶ This Community Research aims to explore the social, psychological, and environmental background to develop recommendations that will be taken into consideration by the judge in making a decision.

¹Aziz Rosyid, "Kajian Kriminologi Atas Kasus Anak Sebagai Pelaku Tindak Pidana Pencurian (Studi di Wilayah Sukoharjo, Jawa Tengah, Indonesia)," *Law Research Review Quarterly* 5, no. 2 (2019).

²Ollcyalliztacyra Baktinadi and Hudi Jusuf, "Korelasi Antara Faktor Eksternal dan Tindak Kriminologi pada Anak-Anak: Pendekatan Kriminologis," *Jicn: Jurnal Intelek Dan Cendekiawan Nusantara* 1, no. 2 (2024).

³Imaduddin Hamzah, *Psikologi Klinis dalam Konteks Pemasyarakatan* (Solok: Insan Cendekia Mandiri, 2020).

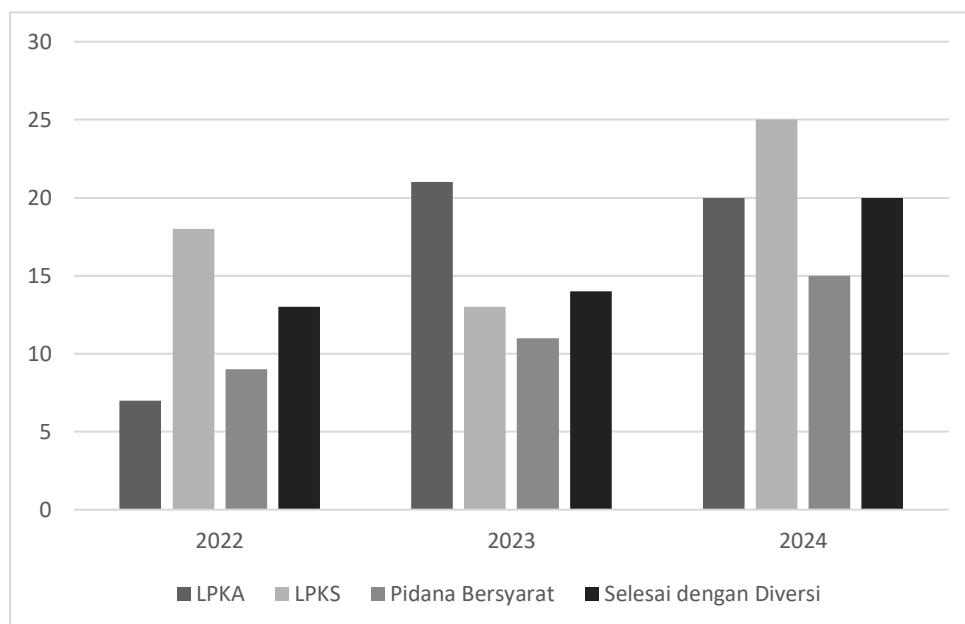
⁴Wahyono, *Tinjauan Tentang Peradilan Anak di Indonesia* (Jakarta: Sinar Grafika, 1993).

⁵Yuarini Wahyu Pertiwi and Ika Dewi Sartika Saimima, "Peranan Kontrol Sosial dan Optimalisasi Kebijakan Keadilan Restoratif pada Anak Pelaku Tindak Pidana," *Jurnal Hukum dan Peradilan* 11, no. 1 (2022): 109-133.

⁶S Wulandari, "Reintegrasi Sosial dalam Sistem Pemasyarakatan Sebagai Visi Pemidanaan dalam Hukum Nasional," *In Seminar Nasional Teknologi dan Multidisiplin Ilmu (Semnastekmu)* 3, no. 2 (2023): 26-36.

The results of community research can contribute to selecting forms of punishment that are more appropriate to the needs of children, while avoiding forms of punishment that can damage their future. Unfortunately, this is not the case in reality. Data from the Semarang Class I Correctional Center states that in the past three years, there has been an increase in the recommendation of other forms of punishment besides diversion, such as conditional punishment.⁷ However, the number is still unable to compete with clients in the Child Special Development Institution (LPKA) and the Social Welfare Provider Institution (LKPS). If this continues to happen, the impact is that overpopulation is increasingly inevitable.

Diagram 1:
The Distribution of Sentencing Recommendations for Juvenile Clients at The Semarang Class I Correctional Center From 2022 to 2024



Source: Balai Pemasyarakatan Kelas I Semarang

Selecting the correct form of punishment for children is still a serious challenge in judicial practice, especially in presenting justice that punishes and restores. Several previous studies have contributed to the understanding of the importance of conditional punishment as a more humanist alternative to punishment, focusing on judges' considerations, the impact of punishment on children, and the use of Community Research reports. However, these studies have not highlighted in depth how the process of preparing community research reports is carried out, and how the role of these recommendations impacts the judge's decision. Research by M. Affan Rizky entitled *Dasar Pertimbangan Hakim dalam Menjatuhkan Pidana Bersyarat Berupa Pelayanan Masyarakat terhadap Anak Pelaku Pencurian (Studi Putusan Nomor:*

⁷Bapas Semarang, "Data Klien Anak 2022-2024" (Semarang, 2024).

10/Pid.Sus-Anak/2019/PN.Kbu) (University of Lampung, 2021) shows that the judge's decision is more influenced by the child's attitude and the level of loss, rather than the strength of the argumentation of recommendations in community research.⁸

Another research was also conducted by Nuansa Falsafia Taufik in her thesis entitled *Analisis Penggunaan Laporan Penelitian Kemasyarakatan Dalam Penjatuhannya Sanksi Pidana Anak Yang Berhadapan Dengan Hukum Di Pengadilan Negeri Sleman Tahun 2020* (UIN Sunan Kalijaga Yogyakarta, 2022), focusing on the formal aspects of the use of community research reports in juvenile trials.⁹ Jersy Setiawan, in his research entitled *Penerapan Pidana Bersyarat terhadap Anak Pelaku Tindak Pidana Kekerasan di Desa Kota Agung Kecamatan Seginim Kabupaten Bengkulu Selatan* (Universitas Muhammadiyah Bengkulu, 2023), discusses the judge's decision in a juvenile case, but focuses more on the legal consequences and the form of conditional punishment imposed, without exploring the community research report.¹⁰

Based on previous studies, it is clear that the focus of the research is still centered on the judge's consideration during the trial. Other aspects beyond that have not been discussed, such as the reason for choosing the type of conditional criminal punishment in juvenile cases which was motivated by the operation of a report from the correctional center. So, this research will try to fill this void by raising two main issues, How is the urgency of choosing the form of conditional criminal punishment in juvenile cases, and What is the role of community research results in optimizing the imposition of conditional punishment for children.

The approach used in this research is a Qualitative Approach. According to Soerjono Soekanto, qualitative research emphasizes the meaning and process rather than the quantity of data that can be measured statistically.¹¹ This research uses non-doctrinal legal methods, or Empirical Legal Research, which sees law as real behavior in society, not just norms written in laws and regulations.¹² Data collection techniques include interviews, literature studies, and participatory observation. The research was conducted at the Correctional Center Class I Semarang, with the main subject of the research being the Community Supervisor, and the objective was the process of preparing the community research report document, the formation of conditional criminal recommendations, and the role of the report in the juvenile trial. Data were analyzed using an interactive model through the stages of data reduction, data presentation, and the conclusion process. This research is not only important from an

⁸Affan Rizky, "Dasar Pertimbangan Hakim dalam Menjatuhkan Pidana Berupa Pelayanan Masyarakat Anak Pelaku Pencurian (Studi Putusan Nomor: 10/Pid.Sus-Anak/2019/Pn.Kbu)", Lampung, 2021.

⁹Nuansa Falsafia Taufik, "Analisis Penggunaan Laporan Penelitian Kemasyarakatan Penjatuhannya Sanksi Pidana Anak yang Berhadapan dengan Hukum di Pengadilan Negeri Sleman Tahun 2020," *Jurnal Restorasi Hukum: Jurnal Pusat Studi dan Konsultasi Hukum* 5, no. 2 (2022).

¹⁰Jersy Setiawan, *Penerapan Pidana Bersyarat Terhadap Anak Pelaku Tindak Pidana Kekerasan di Desa Kota Agung Kecamatan Seginim Kabupaten Bengkulu Selatan* (Bengkulu: Universitas Muhammadiyah, 2023).

¹¹Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1984).

¹²Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005).

academic perspective, but is also expected to have a practical contribution to efforts to reform the juvenile sentencing system in Indonesia.

B. The Urgency of The Selection of Conditional Sentencing in Juvenile Cases

Soedarto defines punishment as coming from the root word “law”, which means to determine or decide on the sentence.¹³ Law No. 11/2012 defines children in the criminal justice system as having several categories based on their involvement in a legal case.¹⁴ Article 1 po. Punishment as a legal action against the perpetrator of a crime focuses on the corrective aspect, where the main objective is not only to avenge the crime that has been committed, but also to prevent the perpetrator from repeating his actions and to provide a deterrent effect to the broader community.¹⁵ The juvenile sentencing system in Indonesia is regulated in Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA). Article 69 paragraph (1) emphasizes that children can only be sentenced to punishment or action based on the provisions in this law. Meanwhile, Article 69 paragraph (2) emphasizes that children who are not yet 14 years old can only be subject to action. The punishment that can be imposed on children in conflict with the law consists of main and additional punishment.

Child delinquency is often referred to as juvenile delinquency, which generally means the behavior of children who are contrary to the applicable laws.¹⁶ Romli Atmasasmita explains that juvenile delinquency is an act or deed committed by a child that is considered unlawful and reprehensible by society.¹⁷ Every act committed by a child and considered a violation of the law is, in principle, a criminal offense that has sanctions or penalties according to applicable regulations.

Sudarto, in Sutatiek's book, explains that punishment is suffering that is deliberately imposed by the state on people who have committed criminal acts and aims to make the perpetrators feel the consequences of their actions.¹⁸ Punishment is given to perpetrators who have been legally proven guilty of violating the law. On the other hand, action has a different meaning. The action does not focus on punishment, but rather on guidance, protection, education, and assistance for children in order to improve their behavior in the future. The juvenile criminal system is a working mechanism for handling crimes that applies a systems approach in the judicial process. This system reflects the close relationship between legislation, administrative

¹³Muladi and Barda Narawi Arief, *Teori-Teori dan Kebijakan Pidana* (Bandung: Alumni, 1984).

¹⁴Sinta Melani, “Pertanggungjawaban Pidana Anak Pelaku Tindak Pidana Lintas yang Menyebabkan Luka Berat (Studi Putusan Nomor: 2/Pid.Sus-Anak/2022/Pn.Plg)” Palembang, 2023.

¹⁵Moeljatno, *Asas-Asas Hukum Pidana* (Jakarta: Rineka Cipta, 2002).

¹⁶Indah Sri Utari, “Prevention of Child Delinquency with Social Control: Criminology Study of Deviant Child Behavior Trends in The Community,” *Kne Social Sciences*, July 3, (2019).

¹⁷Romli Atmasasmita, *Problem Kenakalan Anak-Anak Remaja (Yuridis, Sosio, Kriminologi)* (Bandung: Armico, 1985).

¹⁸Sutatiek, *Rekonstruksi Sistem Sanksi dalam Pidana Anak di Indonesia* (Yogyakarta: Aswaja Presindo, 2013).

practices, and the perspectives and behavior of law enforcement officials.¹⁹ The juvenile criminal justice system's primary goal is to ensure children's welfare and best interests by providing opportunities for children to improve themselves, get an education, and return to society in a better way.²⁰

A variety of punishment policies that do not lead to imprisonment have begun to be implemented today, but still require increased effectiveness in order to achieve their ideal goals. The application of the Restorative Justice approach as mandated in Law No. 11/2012 on the Juvenile Criminal Justice System opens up space for the settlement of juvenile criminal cases outside the formal justice process.²¹ Through this approach, children in conflict with the law have the opportunity not to be subject to imprisonment but rather to be resolved through mechanisms that are more educational and take into account the best interests of the child.

C. The Phenomenon of Overpopulation in Juvenile Prisons

The Correctional Statistics Data for Quarter I of 2022 from the Directorate General of Corrections shows that overpopulation conditions in the Special Development Institution for Children (LPKA) nationally are still a serious concern. For example, LPKA Class II Bengkulu experienced the highest level of overcapacity at 158%, followed by LPKA Maros at 56%, and LPKA Muara Bulian at 34%.²² Specifically, in Central Java Province, data shows that several Correctional Technical Implementation Units experience significant overcapacity. The Kutoarjo Class I Lembaga Pembinaan Khusus Anak (LPKA) in Central Java has an ideal capacity of 65 children per year, but currently accommodates 137 children, which means an excess of 72 children.²³ This overpopulation phenomenon hurts the effectiveness of development programs and the protection of children's rights within the LPKA. This is contrary to the objectives of the juvenile justice system, which should be rehabilitative.

In line with the Grand Design of Overcrowded Handling at State Detention Centers and Correctional Institutions, a strategy has been formulated to reduce the overcrowding of prisoners, one of which is through limiting the placement of prisoners in correctional institutions.²⁴ This effort is realized by intensifying the use of non-prison types of punishment.²⁵

¹⁹Rasdi Rasdi et.al., "Reformulation of the Criminal Justice System for Children in Conflict Based on Pancasila Justice," *Lex Scientia Law Review* 6, no. 2 (2022): 479–518.

²⁰Cahya Wulandari, "Dinamika Restorative Justice dalam Sistem Peradilan Pidana di Indonesia," *Jurnal Jurisprudence* 10, no. 2 (2021): 233–49.

²¹Daud Silaban and Stephanus Pelor, "Penerapan Restorative Justice Terhadap Anak yang Menjalani Proses Hukum Dalam Lingkup Pengadilan," *Yure Humano* 6, No. 2 (2022).

²²Direktorat Jenderal Pemasyarakatan, "Data Statistik Pemasyarakatan Triwulan I Tahun 2022," SDP Publik, 2022, <https://Sdppublik.Ditjenpas.go.id/Artikel/Data-Statistik-Pemasyarakatan-Triwulan-I-Tahun-2022>.

²³Direktorat Jenderal Pemasyarakatan, "Informasi Data Pemasyarakatan," SDP Publik, 2024, <https://Sdppublik.Ditjenpas.go.id/>.

²⁴Calvin Cameron and Muhammad Azil Maskur, "Modification of Prison Sanctions as an Effort to Overcome Over Capacity in Prisons in Indonesia Modifikasi Sanksi Pidana Penjara Sebagai Upaya Mengatasi Overkapasitas dalam Lapas di Indonesia," *Annual Review of Legal Studies* 1, no. 3 (2024).

²⁵Efendi, *Hukum Pidana dalam Perspektif Pembaharuan* (Yogyakarta: Graha Ilmu, 2011).

D. Conditional Sentence as an Alternative to Juvenile Punishment

Conditional punishment is also known as conditional sentencing. Some countries have similar regulations, where the judge can suspend the execution of a prison sentence by setting certain conditions that the convict must obey. For example, since 1990, the application of conditional punishment in Finland has shown its dominant existence in the punishment system. Data recorded that two out of three criminal offenses were sentenced to conditional punishment, showing how this instrument became the leading choice in dealing with criminals.²⁶ This is reflected in Finland's success in significantly reducing its prison population, from 11,538 inmates in 1992 to only 7,102 in 2007. The same thing can be seen in Germany, where the existence of conditional punishment is no less critical. The country managed to reduce the number of imprisonments from 136,519 in 1969 to 36,874 in 1996.²⁷ This fact shows that conditional punishment is not only an alternative but also plays a crucial role in balancing the purpose of guidance with the need to reduce overpopulation in prisons.

Conditional punishment in the juvenile criminal justice system is part of the main punishment, which aims to provide more humane sanctions and support the rehabilitation of children in conflict with the law.²⁸ Based on Law No. 11/2012 on the Juvenile Criminal Justice System (UU SPPA), conditional punishment consists of three primary forms: coaching outside the institution, community service, and supervision. The following is an explanation of each type of conditional punishment.²⁹

1. Non-institutionalization

Non-institutionalization is a conditional punishment in which the juvenile remains in the community, but is required to undergo specific coaching as determined by the judge. This coaching can be in the form of educational programs, skills training, or other social activities that aim to improve the character and skills of children so that they can reintegrate into society.

2. Community Service

Community service is a form of conditional punishment where the juvenile is required to perform unpaid social work as a form of responsibility for their actions. This form of service can be in the form of social work, such as cleaning public facilities, helping in social institutions, or participating in environmental rehabilitation programs.

²⁶Eyreine Tirza Priska Doodoh, "Kajian Terhadap Penjatuhan Pidana Bersyarat dan Pengawasan Menurut Kitab Undang-Undang Hukum Pidana," *Lex Et Societatis* 1, no. 2 (2020).

²⁷Rully Novian, et.al., *Strategi Menangani Overcrowding di Indonesia: Penyebab, Dampak dan Penyelesaiannya* (Jakarta: ICJR, 2018).

²⁸N Sambas, *Pembaharuan Sistem Pemidanaan Anak di Indonesia* (Bandung: Refika Aditama, 2010).

²⁹Rahmithasari Marwahputri, et.al., "Penerapan Pidana Pembinaan di Luar Lembaga Terhadap Anak Sebagai Bentuk Pidana dengan Syarat," *Jurnal Living Law* 15, no. 1 (2023).

3. Supervision

Supervision is a form of conditional punishment in which the child remains in his/her social environment but with strict supervision from the Community Supervisor and other authorities. The child must comply with various stipulated conditions, such as mandatory periodic reporting, participating in coaching activities, not interacting with certain groups, or undergoing special guidance due to rehabilitation needs. If the child violates the provisions during the supervision period, a more severe punishment can be imposed.

As the name implies, conditional punishment has conditions set by the judge, namely:

1. General Conditions: The convicted person is required not to commit a new criminal offense during the probation period. If this condition is violated, the suspended sentence will be executed.
2. Special Conditions: In addition to the general conditions, the judge may set additional conditions that the convicted person must comply with, such as:
 - a. Reporting periodically to the community counselor or other relevant agencies.
 - b. Participate in rehabilitation or counseling programs, such as drug rehabilitation or job skills training.
 - c. Not approaching or contacting the victim or certain parties related to the case.

Conditional punishment has the primary objective of providing an opportunity for criminal offenders, especially those who commit minor or first-time offenses, to improve themselves without having to serve a prison sentence, which can hurt their lives. This approach is based on the premise that prison sentences, especially for minor offenses, are often ineffective in preventing reoffending and can hinder the social reintegration of convicted offenders.

The emergence of the idea of restorative justice has shifted the view of child punishment, which pays attention to the individual needs of the perpetrator, including children who are still in the social and psychological development phase. Criminalization that only focuses on retaliation and punishment, such as imprisonment, can harm children and worsen their future. Children in the process of growth and development are greatly influenced by their environment, and the environment formed in correctional institutions often actually worsens their behavior, because they are exposed to risks that can reinforce criminal behavior, not rehabilitation. Therefore, conditional punishment becomes very relevant in the face of restorative justice, focusing on rehabilitating children into society.

Junior Community Supervisor of Correctional Center Class I Semarang, Puguh Setyawan Jhody, in his interview, explained that the existence of conditional punishment selection for juvenile cases in community research recommendations is increasingly essential.

“Looking at the increasingly crowded LKPS and LKPA, the existence of the selection of conditional punishment for juvenile cases in community research

recommendations is increasingly important. Community Supervisors choose conditional punishment because children can remain in an environment that supports their development, such as family and school, without being isolated in correctional institutions, which can damage psychological and social development. In addition, conditional punishment allows children to improve themselves through guidance programs, without creating a negative stigma that can hinder their future.”

The existence of conditional punishment is considered appropriate for several vital reasons. First, this punishment protects the rights and best interests of children. Children in conflict with the law should still be able to grow and develop in a supportive social environment, such as family and school, without experiencing a break in social relations due to imprisonment. Second, conditional punishment avoids the negative impact of the correctional system, such as stigmatization, psychological disorders, and the possibility of a bad influence from fellow inmates. Third, this approach allows for a more effective rehabilitation and social reintegration process because children can still undergo daily activities under the supervision of Community Supervisors. Fourth, in the context of the overcapacity of correctional institutions, conditional punishment is an efficient solution. The implementation of conditional punishment is very urgent at present, mainly because the penitentiary system has not been able to guarantee an environment that genuinely supports the rehabilitation of children. In the current socio-economic conditions, children caught in the law need treatment that is not merely punitive, but also constructive.

E. The Role of Community Research Results in Optimizing the Imposition of Conditional Punishment for Children

Correctional Centers have a strategic role in the criminal justice system in Indonesia. One of the main functions of the Correctional Center is to carry out Community Research, which is the process of collecting data and information about the social, psychological, and environmental background of children in conflict with the law.³⁰ Community Supervisors conduct this Community Research. Article 1, paragraph (13) of Law No. 11 of 2012, explains that there are functional officials in correctional centers who, in this case, are law enforcers with the role of mentoring, guiding, supervising, and conducting community research on child clients. Law No. 22 of 2022 concerning Corrections also explains that community supervisors are those in charge of directing and conducting community research.

The legal basis for implementing Community Research for children is regulated in Government Regulation No. 58 of 2022 concerning Forms and Procedures for the Implementation of Crimes and Actions Against Children, Circular Letter No. PAS6.PK.01.05.02- 573 2014 concerning General Guidelines for the Preparation of

³⁰Rifayani Damanik, “Pengawasan Balai Pemasyarakatan Dalam Meminimalisir Residivis pada Masa Pembebasan Bersyarat (Penelitian Pada Balai Pemasyarakatan Kelas Ii Banda Aceh)” Banda Aceh, 2024.

Community Research Recommendations, and Law No. 22 of 2022 concerning Corrections.³¹

The procedure for conducting Community Research begins with a request from an investigator, public prosecutor, or judge to the Correctional Center to research children in conflict with the law.³² The Head of the Correctional Center then appoints a community supervisor. Furthermore, the community supervisor will conduct home visits and interviews with clients related to the case. This process must be carried out thoroughly and professionally, because the data obtained is an essential basis for preparing the report recommendations. After all documentation and interview results are collected, the report preparation process is continued with a review and verification by the supervisor, under the supervision of the Head of the Correctional Centre. Then, a Correctional Observation Team meeting is held to discuss the report's contents and recommendations for the best punishment for the child. This is important so that the report's contents are accurate and can be used as a reference for the case settlement process.

The most crucial part of the community research report is the recommendation given by the community supervisor, as this is the primary reference for the judge in assessing whether the child deserves conditional punishment.³³ The recommendation is not normative, but must be written based on the data found during the information gathering process.

F. Community Research Report as a Judicial Ratio Decidendi

The consideration of judges when punishing children is strongly influenced by the belief that the chosen form of punishment can encourage behavior change without damaging essential aspects of the child's life.³⁴ One form of consideration that increasingly appears in practice is the option of punishment not carried out through imprisonment. However, such conviction cannot be built solely on intuition. Judges need a legitimate and measurable basis for consideration, juridically known as Ratio Decidendi. This term refers to the main legal reason that forms the basis of a decision.³⁵

The Community Research report presents a complete picture of the child as an individual with a particular social, psychological, and environmental background as a

³¹Claodia Narasindhi and Iskandar Wibawa, "Pelaksanaan Penelitian Kemasyarakatan (Litmas) Dalam Perkara Anak Berkonflik Dengan Hukum di Bapas Pati," *Unes Law Review* 6, no. 1 (2023).

³²Dhara Ayu Tyas and Rodiyah, "The Handling of Criminal Act of Theft with Violence by Children of the Directorate of Criminal Investigation of the Central Java Regional Police," *Journal of Law and Legal Reform* 1, no. 2 (2020): 273–78.

³³Teguh Pratikno, Herman, and Handrawan, "Ratio Decidendi Putusan Hakim Yang Mengabaikan Laporan Kemasyarakatan Dalam Perkara Anak (Studi Putusan Nomor: 38/Pid.Sus-Anak/2019/Pn.Kdi)," *Halu Oleo Legal Research* 2, no. 3 (2020).

³⁴Cynthia Ardanentya, et al., "Essay Tematik Mahasiswa Hukum Pembaharuan Sistem Peradilan Pidana" Jakarta, 2023.

³⁵Fadilah Dewi Anggun Permatasari and Erny Herlin Setyorini, "Ratio Decidendi Putusan Nomor 30/Pid.SusAnak/2022/Pn.Tnn Tentang Anak yang Dijatuhi Pidana Dengan Syarat," *Court Review: Jurnal Penelitian Hukum* 4, no. 6 (2024).

tool in forming Ratio Decidendi.³⁶ The information contained in the document will strengthen or weaken the judge's belief in the possibility of the child being fostered outside the correctional institution.³⁷ For example, suppose the report shows that the child has strong family support, a positive social environment, and does not tend to reoffend. In that case, it provides a basis for the judge to consider alternative sentencing more seriously.

Article 60 paragraph (4) of the Law on Juvenile Criminal Justice System (UU SPPA) explains that if the judge does not consider the community research report in deciding the case, the legal consequence is that the decision is null and void.³⁸ This means that the decision is considered to have never existed in the first place and does not have binding legal force, even though no party has requested annulment.³⁹

There are still challenges faced in practice. Not all community research reports provide sufficiently comprehensive and substantiated information. In some cases, judges refused to impose conditional sentences because they considered that the recommendations lacked proper reasoning, the data collected was incomplete, or did not address the need to ensure that the child would not reoffend. In these circumstances, the judge's decision is more influenced by the precautionary principle and the protection of the public interest.⁴⁰ Regarding the significant discrepancy between the recommendations made through community research and the final court decision, the following is data from the Semarang Class I Correctional Center regarding comparing the number of conditional sentence recommendations suggested by community supervisors and the results of the judge's decision in the juvenile trial.⁴¹

Table 1:
The comparison of the number of conditional sentence recommendations suggested by community supervisors and the results of the judge's decision in the juvenile trial

Years	Number of child clients	The Conditional Punishment Recommendations	Number of Recommendations received	The reasons for accepting the recommendation	The reasons for rejecting the recommendation
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³⁶Ningsih Mardiaty, "Optimalisasi Peran Balai Pemasyarakatan (Bapas) Dalam Sistem Peradilan Pidana Anak (Studi Di Balai Pemasyarakatan (Bapas) Kelas I Semarang)," *Magistra Law Review* 3, no. 1 (2022).

³⁷Iqbal Rasyid Dharman, "Residivis Anak di LPKA Kelas I Medan: Studi Kasus Mengenai Faktor dan Solusi Terbaik," *Journal of Management, Manajemen Pemasyarakatan* 17, no. 1 (2024).

³⁸Rafif Nabil Maulana, "Telaah Kedudukan Laporan Penelitian Kemasyarakatan Anak yang Berkonflik Dengan Hukum dalam Perkara Senjata Tajam dan Pertimbangan Hakimnya (Studi Putusan Nomor: 1/Pid.Sus-Anak/2022/Pn Dpu)" Universitas Sebelas Maret, 2023.

³⁹Nasrul Alief Pratama and Bambang Santoso, "Pertimbangan Hukum Hakim (Ratio Decidendi) Terhadap Penjatuhan Pidana Anak Pelaku Pencabulan," *Verstek* 10, no. 4 (2023): 677.

⁴⁰Margono, *Asas Keadilan Kemanfaatan & Kepastian Hukum Dalam Putusan Hakim* (Jakarta: Sinar Grafika, 2019).

⁴¹BAPAS SEMARANG, "Data Klien Anak 2022-2024."

2022	47	9	1	The child is still actively attending school and is already in grade 3 of junior high school.	- Less convincing report of parents' willingness to guide children at home - The child has no desire to return to school
2023	59	11	2	- Child's mistakes are considered minor - Parents say they are ready to guide their children	The report was not convincing to the judge because the child's friendship circle was not supportive.
2024	80	15	9	- The neighborhood is ready to receive and supervise the child (detailed in the report) - There is coordination with the school	- The case was not a first-time criminal offense (lack of depth in the report) - Children have an essential role in criminal offenses

Source: Balai Pemasarakatan Kelas I Semarang

Considering these data, the optimization of conditional punishment for children is closely related to the ability of Community Supervisors to prepare high-quality Community Research. When the report from the correctional centre can act as credible consideration material, then conditional punishment is not only an alternative but also the leading choice in the effort of more sustainable child development. Based on an interview with one of the First Community Supervisors of the Correctional Center Class I Semarang, Deda Setioaji Yuwono explained that to achieve conditional punishment, at least the recommendation must answer the following three main questions:

1. Does the child have a supportive environment to return to the community?
2. Is adequate supervision and guidance guaranteed during the conditional sentence?
3. Can alternative forms of guidance be more effective than institutionalized punishment?

When the content of the recommendation can answer at least these three questions convincingly and evidence-based, then the potential for conditional punishment to be granted by the judge becomes much greater. The success of a

community research in convincing judges is primarily determined by the quality of the recommendation argumentation, not just the length of the document, but also by how sharp the analysis is in portraying the risks and opportunities for changes in children's behavior.

G. Efforts to Improve the Quality of Community Research Reports

To ensure that judges take the recommendation for conditional punishment for children seriously, the quality of community research must be improved.⁴² After conducting interviews and observing the preparation of community research reports with several First, Junior, and Middle Community Supervisors at the Class I Semarang Correctional Center, the following are some strategic solutions that can be taken to improve the quality of community research:

1. Strengthening the analytical capacity of community supervisors through evaluation at the TPP

The Correctional Observation Team Session is held to discuss the report's contents and recommendations for the best punishment for children. In this session, the community supervisors will present the results of their observations of the client and the reasons for providing recommendations to be decided by the section head (structural official). Unfortunately, the large number of clients means that TPP hearings are only conducted as formalities. Therefore, the mechanism for handling the number of clients and the workload of community supervisors must be addressed first. Thus, the TPP hearing will enable an in-depth discussion and help community supervisors improve the quality of their analysis.

2. National Standardization of Structure and Language

One of the challenges in preparing community research reports is the difference in quality and consistency between one community advisor and another. Standardization in report preparation will ensure that each recommendation submitted is uniform in terms of structure, content, and depth of analysis.

3. Improving the Quality of Primary Data and Field Observations

The quality of recommendation writing depends on the data collected during the research process. This data collection is quantitative and qualitative, covering the child's psychological condition, family background, and social dynamics that influence the child's behavior. In addition, it is essential to cross-verify the information the child or family provides by confirming it through other sources, such as teachers, neighbors, or other relevant parties.

4. Evaluation and Feedback from Judges

This may include regular meetings, informal discussions, or court reports explaining why a conditional sentence recommendation has been accepted or rejected. This information will be very useful in improving the preparation of future

⁴²Mardiati, "Optimalisasi Peran Balai Pemasyarakatan (Bapas) Dalam Sistem Peradilan Pidana Anak (Studi di Balai Pemasyarakatan (Bapas) Kelas I Semarang)."

community research reports and ensuring that each recommendation meets the criteria the court expects.

5. Utilization of Information Technology

Information technology is a strategic step in improving the quality of the preparation and presentation of community research results, especially in strengthening the recommendation section. Data visualization can help judges see quickly and systematically a comprehensive picture of the child's condition, social environment support, risk of recidivism, and readiness for reintegration.⁴³

Through these steps, the quality of community research reports produced will be much higher, reliable, and able to increase the likelihood of conditional sentence recommendations being accepted by judges. By doing so, the juvenile criminal justice system is expected to focus more on rehabilitation and social reintegration, which is more humane, while providing opportunities for children to improve themselves without being trapped in the negative stigma and trauma caused by imprisonment.

D. Conclusion

Based on the studies and research that have been conducted, it can be concluded that the selection of conditional criminal punishment in juvenile cases is a more appropriate choice, because it prioritizes the principles of protection and development of children, as well as avoiding them from the negative impact of correctional institutions and being a solution to the problem of overcapacity of correctional institutions. On the other hand, the Community Research report plays a strategic role in influencing the judge's decision, as it can present a comprehensive picture of the child's condition and potential to be fostered outside the institution. However, the success of this report is highly dependent on the quality of analysis and recommendations prepared by the Community Supervisor. Therefore, the optimization of conditional sentence for children must be accompanied by strengthening the quality of community research reports through standardization of structure and language, increasing the capacity of supervisor analysis, deepening field observations, and active involvement of judges through evaluation and feedback, so that conditional sentence can genuinely become a fair, effective, and restorative justice-oriented punishment instrument.

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⁴³Metal Angga Pertapan, "Digitalisasi Registrasi Penelitian Kemasyarakatan (Litmas) Klien Dewasa Di Balai Pemasyarakatan Kelas Ii Lahat," *Jurnal Pendidikan Teknologi Informasi (Jukanti)*, 2022.

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