

ABSTRAK
PENELITIAN HIBAH BERSAING



**PRINSIP VICARIOUS LIABILITY DALAM
PERTANGGUNGJAWABAN PIDANA TERHADAP ANAK
PELAKU TINDAK PIDANA YANG BERAKIBATKERUGIAN**

Tahun ke 2 dari rencana 2 Tahun

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ABSTRACT

Child as a part of the young generation is the successor to the ideals of the struggle of peoples and human resources for human development. In that such position, state, government, society, family and parents are obliged and responsible for the implementation of child protection (Article 20 of Law No. 35 of 2014 on the Amendment of Act No. 23 of 2002 on the Protection of Children).

As a form of protection for children who commit criminal acts, Act No. 11 of 2012 on the SPPA said that if the settlement strived to realize its juvenile restorative justice. In view of restorative justice, criminal responsibility of children was geared to the recovery of losses of victims by consensus of offender or family with the victim or family. Thus, the role of parents become very significant to support the child financially limited ability. Disputes settlement by restorative justice approach not become a reality without the role of parents. And the problem of the doctrine of criminal responsibility in Indonesia's Criminal Law Positive was individual.

The purpose of this study is to analyze the position of parents responsibility in the context of criminal liability of children, obstacles in the realization of restorative justice and provides an alternative model of it by the principle of vicarious liability approach.

The type of research, from the study of law is normative legal and socio-juridical researchs, as well as from the analysis of descriptive and prescriptive types.

The results of this study: First, the law of SPPA had not imprative the liability of parents explicitly in the overall process of the settlement of children cases (only in the process of non-formal), so it did not have the power of execution on its enforcement; Second, the main obstacle of dispute settlement of children through non-formal process faced by Supervisor of Community officers at the level of investigation and prosecution, and the absence of goverment regulations of size or amount or limit recovery that may be filed by victim for judges at the level of examination in court (in practice such as compensation, mourning, compensation money, drug money), so that was the subjective nature of the parties, there's no the forgiveness of the victim or family and also the offender or perpetrator's family did not take initiative to make a deal because that wasn't an obligation; Third, Burden Sharing Model of criminal responsibility between parents and children (Sharing the Burden of Responsibility) that need to be considered as an alternative model which can implement a restorative justice. This model, required parents to takes over criminal liability of children which financial in order to relizes loss recovery of victims, without reducing the essential of that is individual.

Keywords: Child, criminal responsibility, the principle of vicarious liability