

The Perception of Justice in Juvenile Criminal Proceedings: An Ethical and Moral Review

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Abstract

The phenomenon of justice in the juvenile criminal justice system is a complex issue that requires a balance between law enforcement and protection of children's rights, where approaches that focus on rehabilitation and recovery must be prioritized considering that children are individuals who are still in the process of forming identity and morals. This research aims to analyze the perception of justice in the handling of juvenile criminal cases from the perspective of ethics and morality in Indonesia and identify factors that influence the realization of justice in the juvenile criminal justice system. This research uses a normative legal research method with a conceptual approach that analyzes primary, secondary, and tertiary legal materials through literature studies, and uses qualitative descriptive analysis to examine perceptions of justice in the juvenile criminal justice system from an ethical and moral perspective. The results showed that the perception of justice in the handling of juvenile criminal cases in Indonesia is in a tug of war between restorative justice approaches (which are regulated in the SPPA Law) and retributive (which are still strong in society), where the realization of justice is influenced by six main factors, namely the application of the principles of restorative justice, the socio-environmental conditions of children, the role of law enforcement officials in the implementation of diversion, gaps in policy and practice in the field, public perceptions of children in conflict with the law, and ethical-moral considerations related to the stage of development and the best interests of children.

I. Introduction

The phenomenon of justice in the context of juvenile crime has always been a complex issue, considering that underage offenders cannot be equated with adult offenders. Children, as part of a vulnerable group, are in a period of mental, psychological, and moral development that is different from adults.(Lewoleba & Mulyadi, 2023) Therefore, in dealing with violations of the law committed by children, the state, society and the criminal justice system are faced with a major dilemma between applying penalties in accordance with positive legal provisions or considering a more gentle approach based on ethics and morals.

In the legal system in many countries, including Indonesia, there are efforts to provide special protection to children in conflict with the law through the application of lighter and rehabilitative punishment. This is reflected in Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA), which prioritizes the principle of restorative justice and aims to provide protection for children's rights. This principle also emphasizes the importance of mediation, restoring the balance of social relations, and avoiding repressive detention or punishment.(Ghoni & Pujiyono, 2020)

However, along with the times and changing values of society, the question of justice in the application of juvenile justice is increasingly relevant. Is justice only limited to the application of punishment in accordance with the applicable law, or are there other aspects that need to be considered such as ethics, morality, and the best interests of the child? On the other hand, many argue that even though children commit crimes, they should still be held accountable before the law as part of moral learning.(Chandra, 2023) This raises ethical questions about the limits of moral and legal responsibility for children in conflict with the law.

In the context of juvenile criminal justice, public and law enforcement actors' perception of justice is an important component. Perceptions of justice, in a broad sense, include the feelings and beliefs of individuals or groups regarding what is considered fair or unfair in a particular context. This perception is influenced by values, norms, moral beliefs, and the socio-cultural context that develops in society. On the other hand, perceptions of justice are also closely related to the legal decision-making process by law enforcement officials, such as judges, prosecutors and police.(Ali, 2007)

Within an ethical and moral framework, the approach to children in conflict with the law requires an in-depth review. The views of philosophers such as Immanuel Kant who emphasized the importance of moral autonomy and individual responsibility are often considered too heavy to be applied to children. Instead, utilitarian approaches that focus on general welfare and the reduction of suffering may be more relevant in this context, especially if we prioritize rehabilitation and recovery over punishment.(Duras, 2023)

However, in reality, not all children in conflict with the law come from the same background. Socio-economic conditions, family environment, and level of education often influence a child's behavior and decision to break the law. This adds to the complexity of understanding the justice that should be applied.(Yusuf, 2024) For example, a child from a poor family may have limited access to education and good moral guidance, so his actions are seen as the result of unfavorable environmental influences.

This difference in social background creates an additional dilemma in the application of punishment for children. On the one hand, there is a need to enforce the law and provide moral lessons so that children who break the law can realize their mistakes. On the other hand, imposing punishment that is too severe without taking into account the psychological and social conditions of the child can cause long-term impacts that are detrimental to the child's moral and mental development.(Shalihah, 2017)

In the international context, views on juvenile criminal justice have also undergone significant changes. Many countries have begun to adopt a more humanist approach, emphasizing the importance of rehabilitation over punishment. The Convention on the Rights of the Child adopted by the United Nations (UN) in 1989 emphasizes that children who break the law should be treated in a manner consistent with their dignity as developing individuals. This principle is also reinforced in other international policies that emphasize the protection of children's rights and the prevention of excessive punishment.(Eleanora et al., 2021)

However, while many countries have adopted restorative justice principles, the challenges in implementation are not simple. Legal systems are often trapped in a retributive paradigm that focuses on retribution for violations of the law. Meanwhile, in practice, there is a gap between the ideals promoted by child protection policies and the reality on the ground. Children in conflict with the law often face discrimination, injustice and harsh treatment from

law enforcement officials.(Santoso, 2023)

In addition, the media also plays an important role in shaping public perceptions of children in conflict with the law. Sensational and dramatic news coverage often exacerbates the stigma against juvenile offenders, which in turn affects public attitudes towards the concept of rehabilitation and recovery.(Manullang, 2024) In certain cases, society may demand harsher penalties for juvenile offenders without considering other factors underlying their actions, such as environmental pressure, neglect, or violence at home.

From an ethical perspective, this issue is deeply debated. Most ethical approaches to juvenile justice revolve around two main poles: deontology and consequentialism. The deontological approach, which emphasizes obligations and rules, may support the application of punishment as a form of moral responsibility for the child's actions. However, this approach often ignores aspects of the child's psychological development and the social context in which the crime occurred. In contrast, the consequentialist approach, which focuses on the outcome of actions, would be more likely to support a rehabilitative approach as the ultimate goal is to improve the child's behavior and minimize the likelihood of reoffending in the future.(Lum, 2022)

In Indonesia, the implementation of restorative justice through the Juvenile Justice System has gained momentum in recent years. However, underlying issues such as a lack of understanding of the concept by law enforcement, a lack of adequate rehabilitation facilities, and limited social support often hamper its effectiveness. Many children continue to be detained in repressive prisons or special institutions for children, which are not always in line with the principles of rehabilitation.(Karjono et al., 2024)

By understanding perceptions of justice from various perspectives, this research is expected to make a significant contribution to the reform of the juvenile criminal justice system in Indonesia. This research is also expected to provide greater insight into how ethical and moral values can be better integrated into legal policies and practices relating to children, so that justice is not only formal, but also substantial.(Chandra, 2023)

Ultimately, an approach that focuses on rehabilitation and recovery should be prioritized in the juvenile criminal justice system, as children are not miniature adults, but rather individuals in the process of identity and moral formation. The wrong approach to

punishing children can lead to long-term adverse consequences not only for the children themselves, but also for society at large.(Nugroho et al., 2024) Therefore, true justice must consider the best interests of the child, in accordance with the ethical and moral principles underlying the formation of a civilized society.

Based on the background explanation above, the author is interested in conducting research entitled "Perception of Justice in Juvenile Criminalization: An Ethical and Moral Review". The problem formulation in this research is:

1. How is the perception of justice in the handling of juvenile criminal cases from the perspective of ethics and morality in Indonesia?
2. What are the factors that influence the realization of justice in the juvenile criminal justice system based on ethical and moral review?

II. Research Method

This research uses the normative legal research method as its main approach. This method is often known as a doctrinal legal research method, which focuses on the study of applicable written legal norms. In this research, the main focus is to analyze the legal rules governing juvenile justice, such as Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA), as well as various restorative justice principles regulated in legislation and international legal instruments. This research also seeks to identify how these principles of justice are viewed from an ethical and moral perspective.

In the conceptual approach, this research explores key concepts such as justice, juvenile justice, restorative justice, as well as ethical and moral reviews related to children's responsibility in criminal law. This approach aims to understand the theoretical and philosophical underpinnings behind legal policies applied to children in conflict with the law. The conceptual approach is used to outline the notion of justice in the context of juvenile justice, including how the concept interacts with moral and ethical norms that develop in society. This research also considers various theories of justice, such as the theory of distributive justice, retributive justice, and restorative justice, as well as philosophical views that are relevant in the moral review of juvenile justice.

The sources of legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include applicable laws and regulations, such

as Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA), the Criminal Code (KUHP), and various international instruments such as the United Nations Convention on the Rights of the Child (UNCRC). Secondary legal materials are in the form of literature, books, scientific journals, articles, and the results of previous research relevant to the topic of justice in juvenile justice and ethical and moral reviews in the application of criminal penalties. Tertiary legal materials include legal dictionaries, encyclopedias, and legal indexes that assist in providing understanding and explanation of the legal terms used.

Data collection techniques in this normative legal research are carried out by library research. Literature study involves the collection of legal materials from relevant sources, both in the form of laws and regulations, international legal documents, and related legal literature. This research does not involve the collection of empirical data through interviews or observations, but rather focuses on the study of existing legal texts and literature. This technique allows the researcher to analyze the legal rules and concepts already written, as well as how the concept of justice in juvenile justice is developed and applied in various contexts.

In terms of data analysis techniques, this research uses a qualitative descriptive analysis method. The collected data, in the form of primary, secondary, and tertiary legal materials, are systematically analyzed by identifying, classifying, and interpreting the existing legal rules as well as ethical and moral views. This analysis aims to provide an in-depth understanding of how the concept of justice is applied in juvenile justice, as well as how ethical and moral views can enrich the application of justice. This analysis technique also helps to formulate clear conclusions regarding the ideal application of justice in juvenile justice, both from a positive legal perspective and from a moral and ethical perspective.

By using normative legal research methods, conceptual approaches, and comprehensive data collection and analysis techniques, this research is expected to make a significant contribution to the development of the theory and practice of justice in the context of juvenile justice in Indonesia. The results of this study are also expected to be able to answer ethical dilemmas that often arise in the handling of children in conflict with the law, as well as provide useful recommendations for policy makers and legal practitioners involved in the juvenile criminal justice system.

III. Results and Discussion

Perception of Justice in the Handling of Juvenile Criminal Cases from the Perspective of Ethics and Morality in Indonesia

The perception of justice in the handling of juvenile criminal cases in Indonesia is a complex topic and requires an in-depth understanding of the concepts of justice, ethics and morality. The juvenile criminal justice system in Indonesia has been regulated through various legal instruments, including Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA). This legislation emphasizes that children in conflict with the law must be treated with special protection, taking into account their psychological needs and mental development. The main principle promoted by the SPPA Law is restorative justice, which seeks to reconcile and restore rather than impose repressive punishment.(Dewi et al., 2021)

However, in practice, the application of justice in juvenile justice is often influenced by the perception of society and law enforcement officials regarding justice itself. Society, which has certain ethical and moral values, can have diverse perceptions of how children who violate the law should be treated. On the one hand, there are those who argue that children should still be held legally accountable for their actions to uphold social and moral norms. On the other hand, there are those who believe that a more gentle and rehabilitative approach is more appropriate, given the age and mental maturity of children who are still in development.(Amrani, 2019)

From the perspective of ethics and morality, justice in juvenile justice can be seen through several ethical principles, such as deontological ethics and teleological ethics. Deontological ethics, pioneered by Immanuel Kant, emphasizes that people, including children, should act in accordance with moral obligations, regardless of consequences. According to this view, children who break the law still have moral responsibility for their actions, even though they have not reached the age of majority.(Al-Huda et al., 2024) Therefore, justice in this perspective will demand accountability from the child, although the form of punishment may differ from that of an adult.

However, this deontological view has limitations when applied to children. Children, psychologically and morally, do not yet have the same ability as adults to understand the consequences of their actions. They are in a stage of moral development referred to by

Lawrence Kohlberg as the pre-conventional stage, where they tend to act based on punishments and rewards, rather than a mature understanding of right and wrong.(DeTienne et al., 2021) Therefore, imposing the same legal liability as adults may be considered unethical.

Teleological ethics, on the other hand, focuses on the consequences of actions. In the context of juvenile crime, this approach is more relevant as it considers the long-term outcomes of the punishment given to the child. This principle is in line with the concept of restorative justice embraced by the SPPA Law, which emphasizes social restoration and rehabilitation of children, rather than repressive punishment. This approach promotes the best interests of the child, which is also one of the key principles in the Convention on the Rights of the Child (UNCRC), an international instrument ratified by Indonesia through Presidential Decree No. 36 of 1990.(Syauket et al., 2024)

The principle of restorative justice in juvenile justice teaches that violations of the law committed by children should be viewed as an opportunity to restore disrupted social relationships, both between the perpetrator, victim, and community. Restorative justice focuses on the responsibility of the child to repair the damage caused by their actions, but in a way that takes into account their age and provides an opportunity to repent and improve themselves.(Syahrin, 2018) This is different from the retributive approach which emphasizes punishment as a form of revenge for violations of the law.

In practice, the SPPA Law provides room for a restorative approach through diversion, which is the process of transferring the settlement of children's cases from the criminal justice process to outside the justice system, under certain conditions. This diversion can be carried out if the criminal offense committed by the child is punishable by imprisonment of less than 7 years and is not a repeated criminal offense. Diversion allows children not to undergo a long and punitive legal process, but is directed to restore the situation through mediation or peace with the victim.(Tetelepta et al., 2024) This is in accordance with the principle of restorative justice which seeks to minimize the negative impact of punishment on children's development.

From the perspective of morality, the application of juvenile punishment must also consider the moral values embraced by society. In Indonesia, morality is often influenced by

religion, customs, and strong social norms. In many cases, the community expects a punishment process that can provide a deterrent effect to children who violate the law. However, at the same time, there is also a growing awareness of the importance of a more humane and rehabilitative approach, especially for juvenile offenders.(Amriyanto, 2017)

Morality rooted in religious teachings, for example, often emphasizes the importance of forgiveness and rehabilitation. Islam, for example, recognizes the concept of repentance, which teaches that every individual, including children, should be given the opportunity to correct themselves after making mistakes. Likewise, in other religions, there are teachings that emphasize the importance of restoration and giving second chances.(Hasan, 2021) Therefore, from the perspective of morality, justice for children in conflict with the law is not just giving punishment, but providing space for them to make amends and contribute back to society.

However, on the other hand, there are also people who still uphold the concept of retributive justice, where children who break the law must be punished to teach them and others a lesson not to do the same. This perception is based on the belief that every bad act should be followed by a punishment. This retributive approach often dominates public perceptions, especially when criminal offenses committed by children are considered detrimental or threatening to public order.(Kenedi, 2017)

The different views between restorative and retributive approaches reflect the dynamic perception of justice in Indonesia, which is influenced by moral values, ethics, and social context. At the formal legal level, the SPPA Law clearly directs the application of restorative justice, but its implementation often encounters challenges in the field. Law enforcement officials such as police, prosecutors, and judges, who have an important role in determining whether diversion can be implemented, are often trapped in a retributive mindset.(Lubis & Siregar, 2020) This may be due to a lack of understanding or training on the concept of restorative justice, or due to pressure from the community that demands strict punishment for law violations.

Another factor that influences perceptions of justice in juvenile justice is the socio-economic background of children in conflict with the law. Children who come from poor families or troubled neighborhoods are often victims of circumstances, where they are

involved in crime not because of malicious intent, but because of economic pressure or environmental influences. In such cases, restorative justice and rehabilitative approaches are crucial to give these children a chance to improve their futures, rather than simply imposing punishments that will further worsen their circumstances.(Mahardika et al., 2024)

One example of the application of restorative justice can be seen in cases of minor crimes committed by children, such as petty theft or fights between children. In these cases, diversion and mediation with the victim is often more effective than bringing the child to court and formally punishing them. This not only reduces the psychological burden on the child, but also avoids social stigma that could negatively impact their future development. However, in more serious criminal cases, such as violent or sexual offenses, the application of restorative justice is often more complicated. Communities, especially victims and their families, may feel that a lenient sentence or an overly lenient approach will not provide sufficient justice. In these situations, the principles of restorative justice must be carefully considered, while taking into account the rights of the victim and the best interests of the child offender.

Overall, perceptions of justice in the handling of juvenile criminal cases in Indonesia are strongly influenced by ethical and moral values that exist in society. Although the law has directed towards a more rehabilitative restorative justice approach, the perception of the community and legal apparatus is still often centered on retributive justice. Therefore, further efforts are needed to improve the understanding and application of the concept of restorative justice, both among law enforcement and the general public, so that the juvenile criminal justice system in Indonesia can truly reflect humanist ethical and moral principles.

Factors Affecting the Realization of Justice in the Juvenile Justice System Based on Ethical and Moral Review

Justice in the juvenile criminal justice system is a complex and multidimensional concept, involving various legal, social, cultural, and ethical and moral elements. On the one hand, justice must be based on the provisions of the applicable positive law, but on the other hand, its application must also consider moral and ethical values, especially when it comes to children in conflict with the law.(Chandra, 2023) There are several important factors that influence the realization of justice in the juvenile criminal justice system, from legal, moral,

and ethical aspects.

Restorative Justice Principles in Juvenile Justice

One of the important factors affecting justice in juvenile justice is the application of restorative justice, which is an approach that emphasizes the restoration of harm caused by violations of the law, rather than solely on retaliation or punishment. Restorative justice emphasizes dialogue, mediation, and conflict resolution efforts between offenders, victims, and the community in a way that can restore social balance. In Indonesia, the principle of restorative justice is regulated in Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA). In the SPPA Law, it is explained that every child in conflict with the law must be treated in a way that is in accordance with the best interests of the child, prioritizing the avoidance of repressive punishment.(Sakti, 2024)

Article 5 of the SPPA Law explicitly states that the juvenile criminal justice system is based on several key principles, one of which is respect for children's rights and restorative justice. Restorative justice, in the context of juvenile justice, seeks to restore the situation that has been disrupted by crime without imprisoning the child. This approach allows children who commit crimes to learn from their mistakes without being isolated from their social and family environment. From a moral and ethical point of view, restorative justice is considered more humane because it takes into account the psychological and moral development of children who are different from adults.(Mahmud et al., 2019)

However, although the principle of restorative justice has been recognized in legislation, its application is still influenced by various factors, such as the understanding of law enforcement officials and community attitudes. Law enforcers who do not fully understand the concept of restorative justice often prefer formal criminal channels that lead to detention, even though there are other alternatives that are more in line with the principle of the best interests of the child. On the other hand, a society that tends to expect severe punishment for criminals, including children, can also be a barrier to the realization of restorative justice.(Afiff Senen, 2021)

Social and Environmental Factors

The social and environmental conditions in which children grow up are significant factors that influence the realization of justice in the juvenile criminal justice system. Children

who come from poor family backgrounds, unsupportive environments, and limited access to education tend to be more vulnerable to being involved in criminal acts. This condition affects the perception of justice in juvenile justice, both from a legal and moral perspective.(Tabriah et al., 2021)

Social factors such as poverty, social injustice and family disintegration often cause children to become involved in criminal acts. In an ethical and moral context, the treatment of children who come from a less supportive environment should be different from children who grow up in a more stable environment. These children may commit offenses not because of malicious intent, but because of encouragement from a non-conducive environment.(Syauket et al., 2024) Therefore, a fair approach in the juvenile justice system should take into account the child's social background and provide appropriate treatment, for example through appropriate rehabilitation and guidance.

Article 6 of the SPPA Law emphasizes that in handling children in conflict with the law, law enforcement officials must consider the social, economic and family conditions of children. This is the basis for the realization of substantive justice which is not only based on the rigid rule of law, but also considers the social context behind the child's actions.(Susanti, 2019)

Role of Law Enforcement Officials

Another factor affecting the realization of justice in juvenile justice is the role of law enforcement officials, including police, prosecutors and judges, in interpreting and applying existing laws. Law enforcement officials play an important role in determining whether a child will be processed through formal criminal channels or through alternative mechanisms such as diversion.(Pratiwi et al., 2019) In this context, the apparatus' understanding of the principles of restorative justice is crucial.

Diversion is a mechanism regulated in Article 7 of the SPPA Law, which allows the settlement of juvenile criminal cases without going through the judicial process. Diversion aims to prevent children from the judicial process which can have a negative impact on children's mental and emotional development. However, not all law enforcement officials have a deep understanding of the importance of diversion and how to implement it effectively. Inaccuracies in the application of diversion can lead to unfair treatment of

children, where they are processed through formal criminal channels even though the case can be resolved in a more restorative manner.(Abadiyah & Wibawa, 2024)

In an ethical review, law enforcement officials are expected to not only focus on the technical application of the law, but also pay attention to moral and human values in dealing with children in conflict with the law. Rigid and repressive application of the law against children can contradict the principle of the best interests of the child, which is one of the main moral values in the juvenile criminal law system.(Putri Edytya & Satya Prawira, 2019)

Policy and Legal Implementation Factors

Although normatively the Indonesian juvenile criminal law has accommodated the principles of restorative justice, its implementation often faces challenges in practice. Policy and implementation factors play a major role in the realization of justice for children in conflict with the law. Inconsistent or uneven judicial policies across Indonesia can lead to injustice in the application of juvenile justice.(Chandra, 2023)

In practice, there is a gap between existing legal policies and their implementation in the field. For example, although diversion is mandatory for juvenile cases facing a sentence of less than seven years, not all juvenile criminal cases are processed through this mechanism. There are regions in Indonesia that still tend to prioritize detention and imprisonment, compared to alternative solutions that are more rehabilitative.(Herniati et al., 2022) In addition, the lack of facilities and resources that support the implementation of restorative justice is another obstacle in realizing justice. Facilities such as rehabilitation centers, counseling services, and special education programs for juvenile offenders are often unavailable or inadequate. This results in many children ending up serving sentences in correctional institutions that are not suited to their developmental needs.

Community Perceptions of Children in Conflict with the Law

Public perception also plays an important role in the realization of justice for children in the criminal justice system. Social stigma towards children who commit criminal offenses can affect how the community, including law enforcement officials, treat these children. Many people consider children who commit criminal offenses to be the same as adult offenders, thus demanding appropriate punishment without considering the age and maturity level of the child.(Kurniawan et al., 2024)

These negative perceptions often lead to pressure for law enforcement officials to impose harsher punishments on children, even though this is not always legally and morally appropriate. In fact, from a moral and ethical perspective, children in conflict with the law should be treated as individuals who are in the process of moral formation, so that their treatment should focus on rehabilitation, not punishment.(Harahap, 2016) Article 3 of the SPPA Law states that every child has the right to be treated fairly and with dignity, and has the right to protection from negative stigma. This principle requires all parties, including the community, to view children in conflict with the law not as perpetrators of crimes that must be severely punished, but as individuals who need guidance and rehabilitation.

Ethical and Moral Aspects of Child Punishment

Ethical and moral aspects are an important foundation in considering justice for children in the penal system. From an ethical perspective, there is a fundamental difference between punishing children and punishing adults. Children are still in a stage of emotional, psychological and moral development, so the criminal acts they commit are often not based on a mature understanding of the consequences of their actions.(Alin, 2017) This makes their treatment morally different compared to adults who commit similar acts. In a moral context, the punishment of children must always take into account the principle of the best interests of the child. This principle requires any legal action against children to prioritize what is best for the child's development and future, rather than simply punishing to enforce formal justice.

4. Conclusion

Perceptions of justice in the handling of juvenile criminal cases in Indonesia reflect the complexity between restorative and retributive justice approaches that are influenced by the ethical and moral values of society. Through the SPPA Law, the Indonesian legal system embraces the principle of restorative justice that emphasizes the recovery and rehabilitation of children through diversion mechanisms, in line with teleological ethics that consider long-term consequences. However, in practice there is still a push and pull with community perceptions that tend to be retributive and influenced by religious values, customs, and social norms, where some people still demand strict punishment as a deterrent effect, while others are starting to understand the importance of a more humanist and rehabilitative approach, especially considering the psychological conditions and mental development of children who

are still in the pre-conventional stage.

There are six main factors that influence the realization of justice in the juvenile criminal justice system from an ethical and moral perspective: First, the application of restorative justice principles that emphasize restoration of harm and dialogue rather than punishment, in accordance with the SPPA Law; Second, social and environmental factors where children grow up, including economic conditions and access to education; Third, the role of law enforcement officials in interpreting and applying the rule of law, especially in the application of diversion mechanisms; Fourth, legal policy and implementation factors that often face gaps between norms and practices in the field; Fifth, community perceptions of children in conflict with the law that can affect their treatment; and Sixth, ethical and moral aspects in punishing children who must consider their developmental stage and the principle of the best interests of the child.

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