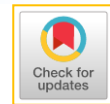


Justice for Child Offenders: A Humanistic Legal Approach



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ABSTRACT

This study examines the implementation of the juvenile criminal justice system, which prioritizes Restorative Justice and applies Diversion to resolve cases involving juvenile offenders. This approach emphasizes restoring social cohesion and relationships rather than imposing financial compensation. However, the lack of clear provisions within the legal framework has resulted in Restorative Justice being neither distinctly nor effectively regulated, despite its critical importance. This study aims to evaluate juvenile justice implementation, identify legal gaps, and propose regulatory reconstruction to enhance Restorative Justice effectiveness. This research employs a constructivist paradigm with a socio-legal approach, using descriptive methods and secondary data, including primary, secondary, and tertiary legal sources. Data collection was conducted through literature review and qualitative analysis. The findings indicate that legal protection for children as perpetrators remains insufficient, as current regulations focus on the child's actions rather than the child as a subject of protection. Key weaknesses are identified in three aspects: legal substance, legal structure, and legal culture. There are no specific provisions for Restorative Justice, law enforcement agencies lack coordination, and public understanding of Restorative Justice remains limited. The study recommends reconstructing regulations to align legal protection with the principles of justice, ensuring that the rights, rehabilitation, and reintegration of child offenders are fully protected.



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1. Introduction

Indonesia asserts itself as a state based on the rule of law, as enshrined in the 1945 Constitution, which serves as the foundation of the national legal system. The preamble of the Constitution outlines the objectives of the state, including the protection of the entire nation, the advancement of public welfare, the intellectual development of the populace, and the promotion of world peace.¹ Human rights protection is explicitly regulated in Chapter XA, Articles 28A–28J, which guarantees the fundamental rights of citizens. Children and adolescents, as legal subjects, possess universal rights and require special protection. In response to Article 28B, the state enacted Law Number 4 of 1979 concerning Child Welfare,

¹ Joy Lynn E Shelton and others, 'Child Torture as a Form of Child Abuse: An Exploratory Study of Investigative Aspects among 42 Offenders', *Child Abuse & Neglect*, 158 (2024), 107092 <https://doi.org/https://doi.org/10.1016/j.chiabu.2024.107092>

aimed at ensuring the growth, development, and participation of children in accordance with their dignity and human rights.²

The Indonesian government has promulgated various regulations concerning child protection. Law Number 3 of 1997 regarding the Juvenile Court was subsequently replaced by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, effective from 30 July 2012. This legislative update was necessary because the previous law no longer aligned with societal legal needs and failed to provide comprehensive protection for children in conflict with the law.³ Every child, as a human being with inherent dignity, is entitled to special protection, particularly within the justice system, to ensure respect for their rights.⁴ Furthermore, Law Number 39 of 1999 on Human Rights affirms the state's obligation to respect, uphold, and protect human rights, including children's rights. Article 52 guarantees that children are entitled to protection from parents, families, society, and the state, even from conception. Article 58 emphasizes protection from all forms of physical and mental violence, neglect, abuse, and sexual exploitation, with aggravated penalties for perpetrators in positions of care. Article 66 ensures children's rights to be free from exploitation, trafficking, abduction, and the misuse of narcotics or other addictive substances.⁵

The provisions within Indonesia's Human Rights legislation are anchored in key international instruments, including the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, and the United Nations Convention on the Rights of the Child. These regulations explicitly recognize the role of society in the enforcement of human rights, particularly emphasizing the special protection of women and children. Consequently, the state, regional governments, society, families, and parents bear collective responsibility to ensure that children's rights are fulfilled in accordance with their respective duties and obligations. Nevertheless, the implementation of child protection policies continues to encounter significant challenges, necessitating that governmental policies adhere

² Angela W Eke and others, 'Comparing the Static-99R and the Child Pornography Offender Risk Tool (CPORT) in Two Canadian Samples Adjudicated of Child Sexual Exploitation Material Offenses', *Journal of Criminal Justice*, 95 (2024), 102303 <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2024.102303>

³ Alasdair Henry, Katie Wright and Anthony Moran, 'Justice for Institutional Child Abuse: Comparing Views from Survivor and Non-Survivor Led Advocacy Groups', *Child Protection and Practice*, 3 (2024), 100058 <https://doi.org/https://doi.org/10.1016/j.chipro.2024.100058>

⁴ Deni Setiyawan, Ana Fauzia, and others, 'Online Gambling : Cross-Border Aspects and Potential Risk of Divorce', *Jurnal Hukum Novelty*, 16.2 (2025), 368–89 <https://doi.org/https://doi.org/10.26555/jhn.v16i2.29186>

⁵ Florence Mueni Muema and Anna Kawalek, 'Therapeutic and Non-Therapeutic Practices in the Child Justice System in Kenya: A Therapeutic Jurisprudence Perspective', *International Journal of Law and Psychiatry*, 95 (2024), 101993 <https://doi.org/https://doi.org/10.1016/j.ijlp.2024.101993>

rigorously to human rights principles encompassing respect, fulfillment, and comprehensive protection of children's rights.⁶

The Indonesian government has demonstrated its commitment to safeguarding human rights, particularly for women and children, through the enactment of various statutory regulations. Law Number 23 of 2002 concerning Child Protection, subsequently amended by Law Number 35 of 2014, serves as a fundamental legal basis for guaranteeing children's rights. This regulatory framework implements the ratification of the Convention on the Rights of the Child through Presidential Decree Number 36 of 1990, thereby obligating Indonesia to meet international standards for child protection established by the United Nations.⁷

The Child Protection Law affirms that every child has the right to life, growth, development, and optimal participation in accordance with their inherent dignity. These rights encompass protection from discrimination, violence, exploitation, neglect, and abuse in political, armed conflict, and sexual contexts, as stipulated in Articles 4, 13, 15, and 18. Prior to ratifying the Convention on the Rights of the Child, Indonesia enacted Law Number 4 of 1979 on Child Welfare, which emphasized the fulfillment of children's physical, spiritual, and social needs, with parents designated as primary responsible parties. Child protection was further reinforced by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which incorporates restorative justice and diversion measures to prevent stigmatization and support the social reintegration of children in conflict with the law.⁸

Law Number 23 of 2002, as amended by Law Number 35 of 2014, underscores the collective responsibility of the state, governments, society, and parents or guardians in ensuring child protection, as stipulated in Article 20. This demonstrates that child protection constitutes a collective obligation within the national legal system. Children are recognized as sacred trust and gifts from God, possessing inherent dignity, strategic roles as future generations, and the right to optimal physical, mental, social, and moral development. Accordingly, children must be provided with opportunities to grow and develop fully, without

⁶ Siti Balqis Mohd Azam and others, 'A Case Study on Academic and Vocational Training for Child Offenders Undergoing a Multisystemic Therapy-Based Rehabilitation Order in Malaysia', *Children and Youth Services Review*, 122 (2021), 105911
<https://doi.org/https://doi.org/10.1016/j.childyouth.2020.105911>

⁷ Zalik Nuryana, Atqo Darmawan Aji and Herdian Herdian, 'Navigating LMICs Challenges through Educational and Legal Reforms to Strengthen Adolescent Mental Health in Indonesia', *Asian Journal of Psychiatry*, 111 (2025), 104614
<https://doi.org/https://doi.org/10.1016/j.ajp.2025.104614>

⁸ Im Halimatusa'diyah and Windy Triana, 'Sexism and Women's Access to Justice: Feminist Judging in Indonesian Islamic Judiciary', *Women's Studies International Forum*, 103 (2024), 102883
<https://doi.org/https://doi.org/10.1016/j.wsif.2024.102883>

discrimination, through the fulfillment of their fundamental rights, supported by a conducive legal, familial, social, and educational environment.⁹

Children, as national assets, constitute an integral component of developing high-quality human resources. The low quality of human resources in Indonesia, influenced by limited access to education and economic constraints, often contributes to higher rates of unemployment and criminal behavior. Therefore, child protection must be integrated with human resource development strategies to foster a generation that is both competitive and morally upright.¹⁰ Recent trends indicate a significant increase in the involvement of children in criminal acts, both in terms of frequency and severity.¹¹ According to the National Criminal Information Center (*Pusiknas*) under the Indonesian National Police, as of January 2024, a total of 40,079 children were recorded as being in conflict with the law, either as reported individuals, suspects, or offenders. At the local level, West Jakarta reported 424 cases of juvenile offenders between 2022 and 2023, of which 134 cases were resolved through diversion mechanisms. Similar patterns were observed in Pontianak, where 60 cases were documented from January to August 2024, and in Batu City, with 36 juvenile offenders reported over the past three years. Furthermore, cases of child abuse have escalated alarmingly.¹²

The Ministry of Women's Empowerment and Child Protection (*KemenPPPA*) recorded 28,831 cases of child violence throughout 2024, while the National Commission for Child Protection (*Komnas Anak*) registered 4,388 complaints from 2024 to early 2025, reflecting a 34% increase compared to the previous year, with sexual violence accounting for 56% of cases. These data underscore the critical importance of implementing the Juvenile Criminal Justice System Law, which emphasizes restorative justice and diversion approaches.¹³ Through these mechanisms, objectives such as resocialization, rehabilitation, and protection of children's rights are pursued alongside law enforcement, aiming to reduce juvenile crime while ensuring sustainable social welfare. Children are increasingly involved in serious and often violent criminal acts, highlighting the failure of

⁹ Martitah Martitah and others, 'Insufficient Criminal Justice System Response to the Severity of Domestic Violence during the Pandemic in Indonesia', *Heliyon*, 10.14 (2024), e33719 <https://doi.org/https://doi.org/10.1016/j.heliyon.2024.e33719>

¹⁰ Halimatusa'diyah and Triana.

¹¹ Anis Mashdurohatun and others, 'Combating Digital Defamation: Regulations, Challenges and Protecting Reputation', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.3 (2025), 486–514 <https://doi.org/10.53955/jsderi.v3i3.147>

¹² Muhammad Azam and others, 'Harmonizing Contemporary International Commercial Law with Sharia-Based National Legal Systems: A Comparative Study of Pakistan, Turkey, Indonesia, Malaysia, and Saudi Arabia', *MILRev: Metro Islamic Law Review*, 4.2 (2025), 1074–96 <https://doi.org/10.32332/milrev.v4i2.11334>

¹³ Anis Mashdurohatun, I Made Dwi Jayantara, and others, 'Delayed Justice in Protecting Emergency Medical Workers', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.2 (2025), 347–71 <https://doi.org/10.53955/jsderi.v3i2.116>

social institutions to provide adequate guidance and protection.¹⁴ Consequently, children who are inherently adept at imitation tend to internalize negative behaviors from their environment, leading to serious social and psychological developmental disturbances.¹⁵

While children who commit criminal acts remain subject to applicable legal provisions, their treatment must adhere to the principle of *lex specialis*, ensuring specialized procedures under the Juvenile Criminal Justice System. This system governs all stages of legal processing, from investigation to post-sentencing guidance, involving police, prosecutors, and juvenile courts. The primary objective is not merely deterrence but also resocialization, rehabilitation, and social reintegration. Within this framework, restorative justice and diversion function as essential instruments: restorative justice focuses on repairing relationships among offenders, victims, and the community, while diversion allows cases to be redirected from formal judicial processes to alternative, child-centered resolutions that prioritize the best interests of the child.¹⁶

Children in conflict with the law, particularly as perpetrators of criminal acts, must be treated differently from adult offenders. The primary principle in handling such cases is the prioritization of restorative justice and the application of diversion, which entails resolving cases outside the formal judicial process.¹⁷ Diversion aims to achieve reconciliation between the offender and the victim, prevent deprivation of the child's liberty, foster a sense of responsibility, and encourage community participation in the recovery process. Accordingly, every stage of examination must involve legal and social support, including parents, legal representatives, or social workers, to ensure that the rights of the child are fully protected.¹⁸

Comparative analysis of juvenile justice systems across countries reveals significant differences. In Indonesia, children aged 12–18 years may be held

¹⁴ Anis Mashdurohatun, Deny Arly Asmara, and others, 'The Independence of Civil Servant Investigators in Indonesian Immigration: A Fiqh Siyasah Perspective', *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan*, 12.1 (2025), 345 <https://doi.org/10.29300/mzn.v12i1.5120>

¹⁵ Tzu-Ying Lo, Yu-Hsuan Liu and Amy Adamczyk, 'Understanding Violence in Juvenile Correctional Facilities: A National Study of Victim-Offender Overlap in the United States', *Journal of Criminal Justice*, 98 (2025), 102424 <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2025.102424>

¹⁶ Yanyu Xin and Tianji Cai, 'Cooperative Guardian Offenders and Sentencing Outcomes: Evidence from Criminal Sentencing Documents of Child Trafficking Crime in China', *Child Abuse & Neglect*, 124 (2022), 105449 <https://doi.org/https://doi.org/10.1016/j.chiabu.2021.105449>

¹⁷ Andri Winjaya Laksana and others, 'The Sufism Healing as an Alternative Rehabilitation for Drug Addicts and Abusers', *QIJIS (Qudus International Journal of Islamic Studies)*, 11.1 (2023), 149 <https://doi.org/10.21043/qijis.v11i1.15025>

¹⁸ Wasiu Olorunlambe and Sherifat Adeniyi, 'Child Maltreatment and Suicidal Ideation among Justice-and Welfare-Involved Adolescents in Nigeria: Investigating the Mediating Role of Social Support and Emotion Regulation', *International Journal of Law and Psychiatry*, 98 (2025), 102040 <https://doi.org/https://doi.org/10.1016/j.ijlp.2024.102040>

criminally responsible on an individual basis. In contrast, the Philippines, under Republic Act No. 9344/2006, exempts children under 15 from criminal liability, applying the concept of vicarious liability, which assigns parental responsibility. This approach is believed to reduce juvenile delinquency by promoting active parental involvement in supervision and education. The Netherlands demonstrates consistent implementation of restorative justice, supported by integrated legal mechanisms involving law enforcement, the judiciary, and the community.¹⁹

In Indonesia, the enactment of the Juvenile Criminal Justice System Law (SPPA) marked a significant reform in criminal law by formally recognizing the roles of restorative justice and diversion. The legislation provides opportunities for community participation in child protection, from prevention to social reintegration.²⁰ Consequently, law enforcement must extend beyond punitive measures to encompass the psychological and social rehabilitation of the child. Nevertheless, substantial weaknesses remain within the SPPA, particularly due to its predominant focus on custodial and punitive aspects rather than preventive strategies. Non-penal approaches, including social prevention, education, and strengthening family institutions, are fundamental in reducing juvenile criminality. Therefore, a legal reconstruction is necessary to emphasize the preventive dimension while upholding child protection as a constitutional mandate and human rights obligation.²¹

Several studies have examined the application of Restorative Justice and Diversion in juvenile criminal justice systems. Selen Goksal emphasizes the importance of restorative approaches in reducing stigma for child offenders and supporting their rehabilitation, although implementation is often hindered by limited understanding and institutional support.²² Liu et al.,²³ highlight the role of school-based diversion programs, noting the need for early intervention and staff

¹⁹ Anne-Marie Day, 'Disabling and Criminalising Systems? Understanding the Experiences and Challenges Facing Incarcerated, Neurodivergent Children in the Education and Youth Justice Systems in England', *Forensic Science International: Mind and Law*, 3 (2022), 100102 <https://doi.org/https://doi.org/10.1016/j.fsimpl.2022.100102>

²⁰ Deni Setiyawan, Sri Endah Wahyuningsih, and others, 'Exploring Abhakalan Culture (Early Marriage) in Madura: A Dialogue of Customary Law, Religion, and The State', *AHKAM: Jurnal Ilmu Syariah*, 24.2 (2024), 345–64 <https://doi.org/10.15408/ajis.v24i2.36070>

²¹ Anna Johnson and Myrna Dawson, 'Child Homicide in Ontario, Canada: Comparing Criminal Justice Outcomes', *International Journal of Law, Crime and Justice*, 75 (2023), 100625 <https://doi.org/https://doi.org/10.1016/j.ijlcj.2023.100625>

²² Selen Goksal and Filiz Kunuroglu, 'The Moderating Role of the Ethnic Background of Offenders in the Relationship between Political Orientations and Penal Attitudes: An Investigation in Türkiye', *Personality and Individual Differences*, 247 (2025), 113446 <https://doi.org/https://doi.org/10.1016/j.paid.2025.113446>

²³ Lo, Liu and Adamczyk.

training to prevent juvenile involvement in the justice system. Pérez-Jorge²⁴ demonstrates that restorative models, such as victim-offender mediation and restorative conferences, improve social relationships and reduce recidivism among youth offenders. Community reparative boards, as discussed in other studies, involve trained community members facilitating dialogue with offenders to determine appropriate sanctions, thereby promoting personal accountability and community engagement. Additionally, Reale, et al., illustrates the significance of justice and reciprocity from the victims' perspective, showing that dialogue between offenders and victims is crucial for achieving fair and sustainable restitution. Collectively, these studies underline that effective juvenile justice requires a humanistic legal approach emphasizing rehabilitation, social reintegration, and restorative practices, while highlighting gaps in coordination, legal clarity, and public understanding.²⁵

This study aims to critically examine the implementation of the juvenile criminal justice system, focusing on the application of Restorative Justice and Diversion in handling juvenile offenders. It seeks to identify gaps in the legal framework, evaluate the effectiveness of current regulations in protecting children as subjects of justice, and analyze weaknesses across legal substance, legal structure, and legal culture. The research further aims to provide recommendations for reconstructing regulations to enhance legal protection, ensure consistent application of Restorative Justice, and promote the rehabilitation and reintegration of juvenile offenders in accordance with principles of justice and social welfare.

2. Research Method

This study adopts a socio-legal research approach, conceptualizing law as an empirical phenomenon embedded within social contexts. The research data were collected through a combination of library research and field investigations. Library research was conducted to compile secondary data, encompassing primary legal materials such as the 1945 Constitution, the Basic Agrarian Law, and related regulations concerning child protection and restorative justice; secondary legal materials, including scholarly articles, journals, and prior research findings; and tertiary materials, such as dictionaries, encyclopedias, and academic writing guides.²⁶ Field investigations involved direct observation and in-depth interviews

²⁴ Yu Du and Megan Kurlychek, 'The Sentencing of Emerging Adult Offenders: The Impact of Youthfulness on Sentence Departures', *Journal of Criminal Justice*, 98 (2025), 102435 <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2025.102435>

²⁵ Kylie S Reale and others, 'Manifestations of Sexual Sadism in Child Sexual Assault and the Associated Victim, Offender, and Offense Characteristics: A Latent Class Analysis', *Child Abuse & Neglect*, 132 (2022), 105814 <https://doi.org/https://doi.org/10.1016/j.chiabu.2022.105814>

²⁶ Jonathan Piamenta and Tali Gal, "'They Told Me I Was Not a Party in This Case': Children's and Young People's Experiences of Participation and Exclusion in the Criminal Justice Process

with informants who possess direct relevance to the research subject. The research is classified as descriptive-analytical legal research, wherein secondary data are systematically described and subsequently correlated with primary data obtained from the field for comprehensive analysis.²⁷ The analytical process was conducted qualitatively using a descriptive model, which involves a comparative assessment of empirical facts and legal doctrines as documented in the literature. By employing this methodology, the study aims to assess the effectiveness of the implementation of regulations governing legal protection for juvenile offenders. Furthermore, it evaluates the extent to which the legal system operates in alignment with principles of education, justice, and the safeguarding of children's rights. The integration of empirical observation with doctrinal analysis allows for a nuanced understanding of the practical functioning of legal norms, providing insights into both the strengths and potential gaps within the regulatory framework. Ultimately, this approach contributes to evidence-based recommendations for enhancing the protective and restorative functions of juvenile justice policies.

3. Results and Discussion

Indonesian Legal Framework Addressing Child Offender Issues in Contemporary Juvenile Justice

Indonesia, as a State Party to the Convention on the Rights of the Child (CRC), demonstrates its commitment to child protection by ratifying the Convention through Presidential Decree No. 36 of 1990. The country strengthens this commitment through Law No. 23 of 2002 on Child Protection, amended by Law No. 35 of 2014, which guarantees children's rights, including the rights to life, identity, education, health, freedom of religion, expression, play, creativity, social security, and protection from discrimination and violence. Article 1(2) of Law No. 35 of 2014 emphasizes that child protection aims to ensure children's optimal growth and development according to human dignity. Article 2 further defines the principles of child protection, prohibiting discrimination, prioritizing the best interests of the child, safeguarding the right to life, and recognizing the child's opinions. Article 20 establishes that parents, families, communities, local governments, and the state collectively bear responsibility for child protection.²⁸

Children who commit criminal acts often exhibit behavioral deviations influenced by inadequate parental supervision and immature cognitive

Following Their Sexual Maltreatment', *Child Abuse & Neglect*, 162 (2025), 107078 <https://doi.org/https://doi.org/10.1016/j.chiabu.2024.107078>

²⁷ Anis Mashdurohatun, Deni Setiawan, and others, 'Legal Attitudes Toward Cohabitation: A Review Of Liberal And Islamic States', *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH*, 10.1 (2025) <https://doi.org/10.22373/petita.v10i1.376>

²⁸ Francis Fortin, Julien Chopin and Sarah Paquette, 'Exploring Behavioral Patterns of Child-Focused Online Sexual Solicitation: Findings from a Canadian Sample', *Child Abuse & Neglect*, 2025, 107656 <https://doi.org/https://doi.org/10.1016/j.chiabu.2025.107656>

development. Psychologically, children make decisions differently from adults; therefore, the law may treat children who commit offenses as both perpetrators and victims due to their limited rational judgment. Handling children in conflict with the law requires a specialized approach that differs from the adult criminal justice system. Law No. 11 of 2012 on the Juvenile Justice System (SPPA) directs authorities to prioritize restorative justice and diversion in all cases involving children. Article 21 empowers investigators and social guidance officers to return children under twelve to their parents or involve them in social rehabilitation programs under Government Regulation No. 65 of 2015. For children aged twelve to under eighteen, authorities submit cases to juvenile courts, while individuals aged eighteen to twenty-one remain subject to juvenile justice mechanisms under Article 20. Article 7 stipulates that diversion allows authorities to resolve cases through non-litigation mechanisms if the potential sentence is under seven years and the offense is non-repetitive.²⁹

Article 7 of Law No. 11 of 2012 on the Juvenile Justice System (SPPA) stipulates that diversion may only occur when a child's offense carries a maximum sentence of less than seven years and is not a repeated crime. The provision receives further reinforcement under Article 3 of Government Regulation No. 65 of 2015, which obliges investigators, public prosecutors, and judges to pursue diversion as long as the conditions regarding the sentence threshold and nonrecidivism are met. However, Supreme Court Regulation No. 4 of 2014 expands the scope of diversion by allowing juvenile judges to consider it even for cases with sentences exceeding seven years, provided that the charges are presented in subsidiary, alternative, qualitative, or combined forms. This regulatory divergence creates a normative disharmony, as the regulation, which ranks hierarchically below legislation, should not conflict with the SPPA in accordance with the principle of *lex superior derogat legi inferiori*.³⁰

In addition, the Attorney General's Office regulates diversion based on restorative justice during prosecution through Regulation No. 15 of 2020 and Regulation No. Per-006/A/J.A/04/2015, while the National Police addresses restorative justice approaches in handling offenses through Police Regulation No. 8 of 2021, albeit limited to minor crimes. These differences between the SPPA, government regulations, Supreme Court regulation, Attorney General regulations, and Police regulations indicate regulatory misalignment, potentially generating

²⁹ Neşe Kavruk Erdim and Gamze Baş, 'Juvenile Parricide in Turkey: Forensic Psychiatric Perspectives on Child Abuse, Family Violence, and Fatal Outcomes', *Child Abuse & Neglect*, 169 (2025), 107639 <https://doi.org/https://doi.org/10.1016/j.chiabu.2025.107639>

³⁰ Stephen Case and Neal Hazel, 'Child First, Offender Second – A Progressive Model for Education in Custody', *International Journal of Educational Development*, 77 (2020), 102244 <https://doi.org/https://doi.org/10.1016/j.ijedudev.2020.102244>

legal uncertainty.³¹ The limitations of Law No. 11 of 2012 lie in its minimal provisions regarding preventive measures to prevent children from engaging in criminal behavior, thereby reducing the effectiveness of the juvenile justice system in curbing child delinquency. By contrast, Law No. 35 of 2014 on Child Protection provides a more comprehensive normative foundation for preventive protection. Several articles assign responsibilities to multiple stakeholders including the state, central and local governments, communities, families, and parents.³²

For example, Article 20 establishes collective responsibility for ensuring child protection, Article 23(1) guarantees state oversight of child welfare while considering parental rights and duties, Article 25 encourages community participation through organizations and academics, and Article 26 mandates parental prevention of child marriage and the provision of character education. Article 33 further allows the appointment of guardians when parents or family members fail to fulfill their obligations. Consequently, the Child Protection Law complements gaps in the SPPA by emphasizing prevention and collective responsibility, thereby offering more comprehensive protection for children.³³ Preventive protection of children, as mandated by Law No. 35 of 2014 on Child Protection, has not yet been fully and effectively implemented by the government. Weak coordination among ministries and relevant agencies, coupled with dominant sectoral policies that lack continuity in child protection, contributes to this shortfall. As a result, many cases of offenses committed by children continue to occur, indirectly indicating that children's rights have not been optimally fulfilled due to negligence and indifference from parents, society, and the state. Child protection constitutes a fundamental human right and thus represents a shared obligation and responsibility of the state, government, society, families, and parents or guardians.³⁴

In the context of children in conflict with the law, Article 1(3) of Law No. 11 of 2012 on the Juvenile Justice System (SPPA) defines such children as those aged twelve to eighteen years who are suspected of committing offenses. The SPPA explicitly prioritizes a restorative justice approach, as stated in Article 5(1), and mandates the use of diversion at every stage of examination, as emphasized in

³¹ Maria I Livanou, Vivek Furtado and Swaran P Singh, 'Mentally Disordered Young Offenders in Transition from Child and Adolescent to Adult Mental Health Services across England and Wales', *Journal of Forensic Practice*, 19.4 (2017), 301–8 <https://doi.org/https://doi.org/10.1108/JFP-01-2017-0002>

³² Malin Joleby and others, 'Offender Strategies for Engaging Children in Online Sexual Activity', *Child Abuse & Neglect*, 120 (2021), 105214 <https://doi.org/https://doi.org/10.1016/j.chiabu.2021.105214>

³³ Janina Neutze and others, 'Undetected and Detected Child Sexual Abuse and Child Pornography Offenders', *International Journal of Law and Psychiatry*, 35.3 (2012), 168–75 <https://doi.org/https://doi.org/10.1016/j.ijlp.2012.02.004>

³⁴ Roman A Koposov and others, 'Psychotic-like Experiences in Young Offenders: Prevalence, Psychiatric Comorbidity and Personality Traits', *Psychiatry Research*, 352 (2025), 116686 <https://doi.org/https://doi.org/10.1016/j.psychres.2025.116686>

Article 5(3).³⁵ Diversion, under Article 6, aims to achieve reconciliation between the child offender and the victim, resolve cases outside the court system, prevent deprivation of liberty, encourage community participation, and instill responsibility in the child. The concept of diversion also appears in Article 64 of the Child Protection Law, which obliges the government, local authorities, and other state institutions to provide special protection for children in conflict with the law.³⁶ This protection includes humane treatment according to developmental needs, separation from adult detainees, access to legal assistance, education, health services, and protection from practices that undermine the child's dignity. Moreover, the law prohibits capital punishment and life imprisonment, guarantees closed hearings, restricts publication of the child's identity, and provides social advocacy, constituting comprehensive legal safeguards.³⁷

Law No. 39 of 1999 on Human Rights affirms fundamental principles for treating children who commit offenses. First, children have the right not to be separated from their parents, except for lawful reasons in the child's best interest. Second, children have the right to maintain personal contact and meet their parents. Third, children have the right to protection from abuse, torture, or inhumane treatment. Fourth, the law explicitly forbids imposing the death penalty or life imprisonment on children. Fifth, arrest, detention, or imprisonment may only occur as a last resort and in accordance with applicable law. Sixth, every child deprived of liberty has the right to humane treatment considering developmental needs and must be separated from adult detainees unless separation conflicts with the child's best interest.³⁸

In practice, Indonesia's juvenile penal system continues to be heavily influenced by the retributive justice paradigm. This approach emphasizes imposing proportionate punishment for offenses, aiming to redress the suffering of victims and deter offenders. Although retributive justice is considered capable of satisfying victims' sense of justice through sentencing, the approach remains limited because it focuses on retribution rather than prevention or rehabilitation. In the context of children as offenders, this paradigm often attracts criticism for

³⁵ Anna Kahlmeter and Olof Bäckman, 'Justice by Privilege? Social Inequality in Waivers of Prosecution among Youth.', *Journal of Criminal Justice*, 101 (2025), 102497 <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2025.102497>

³⁶ Hanna-Mari Lahtinen and others, 'Investigating the Disparities among Child Sexual Abuse Material Users: Anonymous Self-Reports from Both Charged and Uncharged Individuals', *Child Abuse & Neglect*, 161 (2025), 107299 <https://doi.org/https://doi.org/10.1016/j.chiabu.2025.107299>

³⁷ Barry Goldson and John Muncie, 'Juvenile Justice: International Law and Children's Rights', in *International Encyclopedia of the Social & Behavioral Sciences (Second Edition)*, ed. by James D Wright, Second Edi (Oxford: Elsevier, 2015), pp. 956–62 <https://doi.org/https://doi.org/10.1016/B978-0-08-097086-8.86045-6>

³⁸ Michael F Sandella, Gavin N Rackoff and Michelle G Newman, 'Prospective Relationships Among Depression and Perceived Opportunity in Juvenile Offenders', *Behavior Therapy*, 56.1 (2025), 177–91 <https://doi.org/https://doi.org/10.1016/j.beth.2024.07.006>

potentially producing negative effects that hinder the social reintegration of children.³⁹

As an alternative, the restorative justice paradigm has emerged, emphasizing case resolution through the active participation of victims, offenders, families, and communities. This approach seeks to restore disrupted social relationships and return conditions to their original state. Restorative justice considers not only direct victims but also indirect victims, such as families and affected communities. Within this perspective, child offenders are encouraged to recognize their mistakes, understand the consequences of their actions, and take responsibility for the harm caused. For children, imprisonment is not the primary solution; rather, prevention through positive activities, guidance, and recognition offers a more effective approach for character development, directing identity formation toward productive outcomes, and preventing recidivism.⁴⁰

The implementation of restorative justice in Indonesia's juvenile justice system faces fundamental challenges due to the lack of uniform legal instruments across institutions. Although the Police, the Attorney General's Office, and the Supreme Court have issued internal regulations, such as Police Regulation No. 8 of 2021, Attorney General Regulation No. 15 of 2020, and Supreme Court Regulation No. 1 of 2024, their approaches remain exclusive and fragmented. This situation produces disparities in understanding and practicing restorative justice, resulting in suboptimal diversion for children in conflict with the law.⁴¹ Normatively, the new Criminal Code (Law No. 1 of 2023) accommodates restorative justice principles in Article 54 and alternative penalties such as supervision, community service, and restitution. However, without an integrated legal framework binding all law enforcement institutions, implementation risks inconsistency and reduces the effectiveness of legal protection for children. Therefore, harmonization of regulations across institutions and the establishment of uniform procedural standards are essential to ensure that the best interests of the child are fully realized in juvenile criminal proceedings.⁴²

³⁹ Jenny Magram and others, 'Systematic Review: Intervention Strategies for Treating Relational Aggression in Female Juvenile Offenders and At-Risk Female Youth', *JAACAP Open*, 3.1 (2025), 56–72 <https://doi.org/https://doi.org/10.1016/j.jaacop.2024.04.003>

⁴⁰ Nicholas Scurich and Jennifer Gongola, 'Prevalence of Polymorphism ("Crossover") among Sexual Offenders', *Journal of Criminal Justice*, 77 (2021), 101853 <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2021.101853>

⁴¹ Yamileth Ortiz-Gómez and others, 'Assessment of Psychosocial Factors in Juvenile Offenders: Developing a Context-Specific Instrument for Latin America', *Social Sciences & Humanities Open*, 11 (2025), 101528 <https://doi.org/https://doi.org/10.1016/j.ssaho.2025.101528>

⁴² Kathryn C Seigfried-Spellar and others, 'Chat Analysis Triage Tool: Differentiating Contact-Driven vs. Fantasy-Driven Child Sex Offenders', *Forensic Science International*, 297 (2019), e8–10 <https://doi.org/https://doi.org/10.1016/j.forsciint.2019.02.028>

The juvenile justice system in Indonesia explicitly provides specific regulations for law enforcement officials handling cases involving children. Juvenile investigators are appointed by the National Police and are tasked with conducting investigations in a sympathetic manner, fostering a family-like atmosphere to prevent children from feeling intimidated. Investigators may also consult experts such as psychologists, psychiatrists, professional social workers, or religious figures to ensure that examinations uphold the best interests of the child. The Correctional Guidance Center plays a significant role by submitting social investigation reports within a short period to inform judicial decision-making.⁴³ The law stipulates that arrest, detention, or sentencing of children may only occur as a last resort. This principle reinforces diversion and restorative justice as the primary mechanisms for resolving juvenile cases. Diversion applies to offenses that are non-recidivist and carry relatively low penalties, with resolution options including restitution, rehabilitation, education, or community service.⁴⁴

In practice, the police serve as a strategic entry point for juvenile cases due to their extensive network and sufficient personnel. Their discretionary authority positions them as key actors in preventing children from entering the formal justice system. Consequently, strengthening the capacity and integrity of police officers is essential for optimizing restorative justice in juvenile cases.⁴⁵ Discretionary authority represents a crucial instrument in juvenile justice. Police discretion allows officers to act based on their judgment in the public interest, considering benefits, risks, and societal impact. Experts distinguish between free discretion, which does not rely on written regulations, and related discretion, which remains within the framework of alternative legal choices.⁴⁶ In practice, investigators interpret discretion variably, based on insufficient evidence, withdrawn complaints, or restorative justice considerations, creating challenges for legal certainty. Customary law and social norms, recognized as unwritten foundational law, also influence the application of discretion, particularly in family-based resolution.⁴⁷

⁴³ Zheng Li and Xifen Lin, 'Re-Employment Barriers: An Empirical Study on Employment Opportunities for Chinese Ex-Offenders', *International Journal of Law, Crime and Justice*, 82 (2025), 100772 <https://doi.org/https://doi.org/10.1016/j.ijlcj.2025.100772>

⁴⁴ Tatjana Hörnle, Carina Tetel and Gunda Wössner, 'Reoffending after Convictions Related to Child Sexual Exploitation Material: Data from the German Federal Central Criminal Register', *Child Abuse & Neglect*, 153 (2024), 106806 <https://doi.org/https://doi.org/10.1016/j.chiabu.2024.106806>

⁴⁵ J Shelton and others, 'Online Child Sexual Exploitation: An Investigative Analysis of Offender Characteristics and Offending Behavior', *Aggression and Violent Behavior*, 30 (2016), 15–23 <https://doi.org/https://doi.org/10.1016/j.avb.2016.07.002>

⁴⁶ André Tärnhäll and others, 'Development of Serious Mental Illness in Young Adult Violent Offenders: Early-Life Risk Factors and Long-Term Adverse Outcomes', *Psychiatry Research*, 346 (2025), 116384 <https://doi.org/https://doi.org/10.1016/j.psychres.2025.116384>

⁴⁷ Adeela ahmed Shafi and Tristan Middleton, 'Educational Development in Secure Juvenile Justice Settings: The Benefits, the Challenges and Power Dynamics in International Research

Prosecutors exercise discretion to terminate cases in the public interest, ensuring benefits for individuals, society, or the state. Judges also hold discretion in determining coercive measures, evidence evaluation, sentencing, and the handling of case materials, even if it requires bypassing statutory rigidity to achieve substantive justice. Nevertheless, diversion and restorative justice mechanisms have not yet achieved optimal inter-agency synergy, as each institution often acts independently, hindering coordinated diversion efforts.⁴⁸ Legal protection for children in conflict with the law emphasizes treating them differently from adults due to their psychological and social developmental stages. Children are viewed as vulnerable individuals and national assets, requiring protection for the continuity of future generations. Handling juvenile cases cannot rely solely on formal punitive paradigms, as conventional criminal justice approaches risk negative outcomes, including stigmatization, social exclusion, and psychological trauma, which may further impede healthy development.⁴⁹

One of the key innovations introduced by the Juvenile Justice System Act is the implementation of restorative justice through the diversion mechanism. Diversion seeks to resolve juvenile offenses outside formal judicial processes by actively involving the offender, victim, families, social workers, probation officers, and the community. This approach emphasizes humanistic principles by focusing on repairing harm to victims and restoring social relationships, rather than merely administering punishment. Philosophically, it aligns with the principle of the best interest of the child, as enshrined in the 1989 Convention on the Rights of the Child, ratified by Indonesia through presidential decree. Thus, diversion functions not only as a legal instrument but also as a reflection of the state's responsibility to ensure child protection as legal subjects.⁵⁰

However, recent data indicate that the implementation of restorative justice has not reached its full potential. According to the Indonesian Child Protection Commission, 1,875 cases involving children in conflict with the law were recorded in 2024, with 68 percent of these involving offenses such as theft, physical violence, and drug abuse. Although this represents a decline from 2,507 cases in

Collaborations', *International Journal of Educational Development*, 117 (2025), 103346
<https://doi.org/https://doi.org/10.1016/j.ijedudev.2025.103346>

⁴⁸ Darren Woodward, 'The Impact of Stigmatisation on People with Child Sex Offences Living in the Community', *Journal of Criminal Psychology*, 15.4 (2024), 480–94
<https://doi.org/https://doi.org/10.1108/JCP-10-2024-0099>

⁴⁹ Megan Rothwell, Dean Fido and Nadja Heym, 'Perceptions around Adult and Child Sex Offenders and Their Rehabilitation as a Function of Education in Forensic Psychology Independent of Traditionalism and Perpetrator Sex', *Forensic Science International: Mind and Law*, 2 (2021), 100039
<https://doi.org/https://doi.org/10.1016/j.fsml.2020.100039>

⁵⁰ Yannick van den Brink and Caroline Lanskey, 'Inequality, Cumulative Disadvantage and Youth Justice: Towards an Analytical Framework for Understanding and Addressing Inequalities in Youth Justice Decision-Making', *International Journal of Law, Crime and Justice*, 80 (2025), 100725
<https://doi.org/https://doi.org/10.1016/j.ijlcj.2025.100725>

2020, the incidence remains consistently high. The Ministry of Women's Empowerment and Child Protection reports that diversion has only succeeded in 62 percent of cases, meaning that nearly four out of ten cases still proceed through formal litigation. This gap highlights the disparity between progressive regulation and practical reality.⁵¹

Several factors hinder effective diversion. First, the absence of clear technical guidelines generates inconsistent interpretations among law enforcement officers. Second, limited supporting infrastructure, including probation centers and social workers, reduces the effectiveness of diversion. Third, societal stigma against juvenile offenders often obstructs social reintegration, with some victims' families rejecting diversion. For example, a 2023 case in Bekasi involving a violent offense failed to undergo diversion due to the victim's family refusing participation, leading to formal prosecution.⁵²

These conditions demonstrate that protecting children in conflict with the law requires more than legislation; it also necessitates cultural support and institutional synergy. Reforms should focus on harmonizing technical regulations to clarify diversion procedures, enhancing the capacity of law enforcement to understand restorative justice principles, and strengthening child rehabilitation institutions. Public education and awareness campaigns are also essential to shift societal perceptions from punitive attitudes toward supportive reintegration. Implementing restorative justice in the juvenile justice system represents a progressive approach that safeguards children's futures. Optimizing diversion can strategically prevent the adverse effects of punishment, restore balance among offenders, victims, and society, and foster a humanistic, responsive, and equitable juvenile justice system.⁵³

Humanistic Legal Approach to Justice for Child Offenders

Indonesia and the Netherlands share a common legal tradition derived from the Continental European system. This similarity originates from historical circumstances, as Indonesia was once under Dutch colonial rule, leading to the direct adoption of many legal instruments, including the Criminal Code, from the *Dutch Wetboek van Strafrecht*. Despite this shared legal heritage, Indonesia's criminal law development has not progressed as significantly as in the Netherlands. The reform of Indonesia's Criminal Code has been protracted for

⁵¹ Rosemary Ricciardelli, Dale Spencer and Micheal P Taylor, 'Canadian Correctional Program Officers Facilitating Programming for Sex Offenders: The Stickiness of Stigma', *Forensic Science International: Synergy*, 11 (2025), 100639 <https://doi.org/10.1016/j.fsisyn.2025.100639>

⁵² Joanne Savage and Casey Windsor, 'Sex Offender Residence Restrictions and Sex Crimes against Children: A Comprehensive Review', *Aggression and Violent Behavior*, 43 (2018), 13–25 <https://doi.org/10.1016/j.avb.2018.08.002>

⁵³ Belinda Astridge and others, 'A Systematic Review and Meta-Analysis on Adverse Childhood Experiences: Prevalence in Youth Offenders and Their Effects on Youth Recidivism', *Child Abuse & Neglect*, 140 (2023), 106055 <https://doi.org/10.1016/j.chiabu.2023.106055>

more than three decades, influenced by competing political and legislative interests, whereas the Dutch Criminal Code has undergone hundreds of revisions, demonstrating adaptability and responsiveness to modern societal dynamics. The Netherlands achieved significant legal progress as early as the 1940s. Its legal system is grounded in influences from French civil law, Roman law, and Dutch customary law, later reinforced by principles from the *German Bürgerliches Gesetzbuch*. The 1992 civil law reforms illustrate the flexibility of the Dutch legal system in responding to social developments. Additionally, contributions from legal scholars and philosophers have shaped globally influential legal doctrines, positioning the Netherlands as a central hub in European legal scholarship.⁵⁴

A notable reform in Dutch criminal law concerns the age of criminal responsibility for juveniles. Amendments to the Dutch Criminal Code in 2014 extended the category of youth eligible for special sanctions up to age 23, while allowing judges to treat 16- and 17-year-olds as adults in specific cases. This policy reflects a scientific approach, informed by neurobiological and psychological research indicating that maturation continues until around age 25. Consequently, Dutch juvenile criminal law demonstrates flexibility, a humanistic orientation, and evidence-based policymaking.⁵⁵

The Netherlands also prioritizes diversion and restorative justice in juvenile case resolution. Provisions in the Criminal Code specifically regulate case diversion, including agreements with the police through institutions such as *Het Alternatief* (HALT). Diversion enables juvenile offenders to avoid formal trials by engaging in social obligations, restitution, or training programs. The Reclassering serves as an independent agency overseeing supervision, penal mediation, and community-based rehabilitation. This model has significantly reduced juvenile crime and led to the closure of multiple prisons due to declining inmate populations.⁵⁶

Comparatively, Indonesia and the Philippines adopt different approaches to juvenile criminal responsibility. The Philippines, under the Republic Act No. 9344 revised by Republic Act No. 10630, sets the minimum age of criminal responsibility at 15 years, emphasizing parental or representative accountability. Indonesia, in contrast, establishes individual accountability beginning at age 12,

⁵⁴ Helen Ruth Hodges, 'Maximising Existing Assets: The Potential of Bayesian Hierarchical Approaches to Improve the Risk Assessment Process in Youth Justice', *Children and Youth Services Review*, 177 (2025), 108502 <https://doi.org/10.1016/j.chidyouth.2025.108502>

⁵⁵ Richard Wortley and others, 'Accessing Child Sexual Abuse Material: Pathways to Offending and Online Behaviour', *Child Abuse & Neglect*, 154 (2024), 106936 <https://doi.org/10.1016/j.chiabu.2024.106936>

⁵⁶ Telma Catarina Almeida and Tatiana Gonzaga Redondo, 'Understanding the Influence of Early Life Challenges on Alexithymia: A Comparative Study of Offenders and a Community Sample', *Journal of Affective Disorders*, 380 (2025), 413–20 <https://doi.org/10.1016/j.jad.2025.03.156>

focusing on personal sanctions. These differences indicate that the Netherlands employs a more scientific and flexible approach, the Philippines prioritizes family responsibility, and Indonesia still adheres primarily to individual accountability. This comparison underscores the need for Indonesia to pursue substantive reform in juvenile criminal law by adopting international best practices that balance justice, child protection, and societal interests.⁵⁷

The historical development of juvenile justice in Japan demonstrates a long and continuous evolution, beginning as early as the seventh century. In 645 CE, Japan established that children under the age of seven could not be held criminally responsible, reflecting early recognition of children's limited capacity to comprehend legal consequences. In the modern era, regulations regarding children as offenders were incorporated into the Criminal Code of 1880, which followed the French legal model. Under this framework, children aged 12 to 15 who committed offenses but lacked the ability to distinguish right from wrong were exempted from criminal sanctions and could instead be placed in disciplinary institutions. This provision marked Japan's transition toward a more structured juvenile legal system distinct from the adult criminal law framework.⁵⁸

Subsequent reforms further strengthened child protection through the Child Welfare Law, which defined juvenile offenders as individuals aged 14 to 20, while children under 14 were categorized as child offenders. This approach emphasized rehabilitation and preventive intervention, assigning the police not only as law enforcers but also as agents of prevention. The police were granted broad authority to engage in preventive measures, including patrolling high-risk areas, interacting directly with families, and providing guidance and supervision. This policy orientation prioritized prevention and protection, making formal punishment a secondary consideration.⁵⁹

The establishment of family courts in 1949 represented a pivotal milestone in Japan's juvenile justice system. These courts were designed specifically to handle cases involving children in closed proceedings to protect their identities. The adjudication process emphasized non-punitive measures such as probation, referral to training schools, or placement in facilities supporting independent development. The primary objective of family courts was to safeguard child development, prevent social stigma, and ensure that children could continue their

⁵⁷ Roxanne Heffernan and Tony Ward, 'The Conceptualization of Dynamic Risk Factors in Child Sex Offenders: An Agency Model', *Aggression and Violent Behavior*, 24 (2015), 250–60 <https://doi.org/https://doi.org/10.1016/j.avb.2015.07.001>

⁵⁸ Michael C Seto and others, 'The Puzzle of Intrafamilial Child Sexual Abuse: A Meta-Analysis Comparing Intrafamilial and Extrafamilial Offenders with Child Victims', *Clinical Psychology Review*, 39 (2015), 42–57 <https://doi.org/https://doi.org/10.1016/j.cpr.2015.04.001>

⁵⁹ Wilson Lukmanjaya and others, 'Population Characteristics in Justice Health Research Based on PubMed Abstracts From 1963 to 2023: Text Mining Study', *JMIR Formative Research*, 8 (2024) <https://doi.org/https://doi.org/10.2196/60878>

growth without disruption, highlighting Japan's emphasis on child welfare over punitive approaches. Furthermore, the Child Law of 1948 classified children into three categories: juvenile offenders, children offenders, and pre-delinquent juveniles. This classification reflects differentiated accountability based on age and criminal capacity. Children under 14 were deemed incapable of criminal responsibility, while adolescents over 14 could be held accountable to a limited extent. This principle aligns with the 1907 Japanese Criminal Code, which explicitly considered children under 14 as lacking criminal capacity. Consequently, the principle of capacity forms the foundational basis for handling juvenile cases in Japan.⁶⁰

The juvenile justice system in Japan prioritizes child protection above all. Judges exercise broad authority in determining appropriate measures, ranging from taking no action, referring the child to educational institutions or training facilities, to returning the case to the public prosecutor for further processing in the general criminal court. In cases of serious offenses, children over sixteen may indeed face trial in adult courts; however, the type and severity of sanctions are adjusted according to provisions specific to children. This system demonstrates a balance between protection, rehabilitation, and legal certainty, positioning Japan as a country with a relatively advanced, consistent, and child-centered juvenile justice system.⁶¹

Key lessons from the juvenile justice practices of the Netherlands, the Philippines, and Japan highlight the necessity of grounding regulations in the principle of the best interest of the child. The Netherlands emphasizes flexibility in the age of criminal responsibility to reflect child maturity, the Philippines sets a relatively high minimum age while involving family in accountability, and Japan prioritizes a rehabilitative approach through family courts that focus on protection and guidance. These models collectively demonstrate that juvenile justice should not be punitive but should recognize children as legal subjects entitled to protection, guidance, and opportunities for self-improvement. Indonesia, therefore, must strengthen its regulations by integrating the best interest principle and clarifying age thresholds for criminal responsibility based on scientific evidence regarding children's psychological and social development.⁶²

⁶⁰ Elise Finelle and others, 'Sociodemographic and Psychopathological Profiles of Criminal Offenders Following Psychiatric Assessment', *L'Encéphale*, 2025 <https://doi.org/https://doi.org/10.1016/j.encep.2025.01.013>

⁶¹ Lauren Ashley Morgan, "'Dual Jurisdiction? It Doesn't Work like That:' Practitioner Decision-Making at the Juvenile Justice and Child Welfare Nexus', *Children and Youth Services Review*, 143 (2022), 106702 <https://doi.org/https://doi.org/10.1016/j.childyouth.2022.106702>

⁶² Linda Gröning and Slavka Dimitrova, 'Special Criminal Sanctions for Offenders with Mental Disorders: Tendencies and Challenges in Bulgaria and Norway', *International Journal of Law and Psychiatry*, 97 (2024), 102037 <https://doi.org/https://doi.org/10.1016/j.ijlp.2024.102037>

Beyond normative principles, these countries underscore the importance of clear and effective diversion mechanisms. The Netherlands implements HALT and Reclassering models emphasizing social restoration and reintegration, Japan employs preventive police interventions and family court-based handling, and the Philippines stresses parental and community responsibility in diversion. These practices indicate that diversion is not merely case termination but a restorative justice mechanism. Indonesia needs technical regulations that clarify the roles of law enforcement, social workers, victims, and measurable follow-up actions.⁶³ Institutional design further supports effectiveness. The Netherlands demonstrates Reclassering's independence and rehabilitation focus, Japan emphasizes closed family courts to prevent stigma and protect identities, and the Philippines reinforces family and community as primary support pillars. Indonesia can enhance the role of juvenile rehabilitation centers, establish multi-disciplinary networks including psychologists, social workers, and educators, and ensure legal processes prioritize social, psychological, and educational recovery alongside accountability.⁶⁴

Preventive, community-based interventions in Japan provide additional lessons. Police patrols, family engagement, and public campaigns effectively reduce juvenile delinquency. The Netherlands emphasizes skill training and vocational programs, while the Philippines strengthens child protection within family and community settings. Indonesia can adopt an integrated prevention program involving schools, communities, and local governments, while ensuring access to education and vocational training. Such measures align with the protective objective of juvenile justice, which emphasizes rehabilitation and reintegration rather than punishment.⁶⁵

Three countries highlight the importance of transparency, monitoring, and victim protection in juvenile legal processes. The Netherlands and Japan have developed integrated data systems to evaluate policy effectiveness, while the Philippines emphasizes victim protection and social recovery. Indonesia should develop a national information system to track diversion cases, recidivism rates, and rehabilitation outcomes while ensuring voluntary victim participation in restorative justice. By learning from these international models, Indonesia can

⁶³ Matthew C Aalsma and others, 'Mortality of Youth Offenders Along a Continuum of Justice System Involvement', *American Journal of Preventive Medicine*, 50.3 (2016), 303–10 <https://doi.org/https://doi.org/10.1016/j.amepre.2015.08.030>

⁶⁴ Craig John Robert Collie and Karen Shalev Greene, 'Examining Offender, Victim and Offence Characteristics in Cases of Stranger Child Abduction: An Exploratory Comparison of Attempted and Completed Cases Using Publicly Available Data from the UK', *Aggression and Violent Behavior*, 35 (2017), 73–82 <https://doi.org/https://doi.org/10.1016/j.avb.2017.06.005>

⁶⁵ Catia G Malvaso, Paul H Delfabbro and Andrew Day, 'The Child Protection and Juvenile Justice Nexus in Australia: A Longitudinal Examination of the Relationship between Maltreatment and Offending', *Child Abuse & Neglect*, 64 (2017), 32–46 <https://doi.org/https://doi.org/10.1016/j.chiabu.2016.11.028>

reform its juvenile justice regulations to uphold fairness, prioritize the best interest of the child, and achieve a balance between protection, rehabilitation, and legal accountability.⁶⁶

Values and norms constitute two fundamental concepts that are closely intertwined within societal systems. They guide social behavior and play a critical role in steering individuals to act in accordance with established rules. Values are abstract, oriented toward worldviews and beliefs regarding what is good or bad, whereas norms are concrete manifestations expressed through binding rules, commands, or prohibitions. Norms are explicit, clear, and enforceable, grounded in social consensus and accompanied by sanctions for violations. They serve as essential prerequisites for maintaining social order and harmonious relationships among individuals. Through norm enforcement, societies can achieve sustained security, order, tranquility, and peace. Additionally, norms possess adaptive qualities, allowing them to evolve with changing times and remain relevant to the dynamic social environment.⁶⁷

Theoretically, norms can be classified into four primary categories. First, religious norms regulate individual behavior based on the teachings of the religion adhered to by each person and operate autonomously according to personal belief. Second, ethical norms derive from conscience and humanistic values, guiding daily conduct within society, with violations potentially resulting in moral, social, or legal sanctions. Third, legal norms consist of rules established by authorized state institutions and are coercive in nature, such as constitutional provisions and statutory regulations, whereby breaches incur explicit legal consequences. Fourth, social norms originate from customary practices or societal traditions, including etiquette and politeness in interaction, which serve to maintain communal harmony. These four types of norms complement one another in regulating both individual and collective behavior, thereby fostering social order and balance.⁶⁸

The reconstruction of norms becomes a critical necessity to ensure coherence and consistency across hierarchical levels of regulation. Norm reconstruction involves reorganizing legal provisions by adding new clauses, amending existing articles, or drafting supplementary sections to maintain contextual relevance and responsiveness to societal developments. This principle is particularly pertinent to

⁶⁶ Neslihan Lok and others, 'The Impact of Sports-Based Aggression Replacement Training of Juvenile Offenders: A Randomized Controlled Study', *Children and Youth Services Review*, 163 (2024), 107812 <https://doi.org/https://doi.org/10.1016/j.childyouth.2024.107812>

⁶⁷ J Shelton, M Hiltz and M MacKizer, 'An Exploratory Study of Residential Child Abduction: An Examination of Offender, Victim and Offense Characteristics', *Aggression and Violent Behavior*, 30 (2016), 24–31 <https://doi.org/https://doi.org/10.1016/j.avb.2016.06.009>

⁶⁸ Giuseppe Maglione, 'Imaging Victims, Offenders and Communities. An Investigation into the Representations of the Crime Stakeholders within Restorative Justice and Their Cultural Context', *International Journal of Law, Crime and Justice*, 50 (2017), 22–33 <https://doi.org/https://doi.org/10.1016/j.ijlcrj.2017.02.004>

regulations governing the legal protection of children as offenders. Existing laws, including child protection legislation and juvenile justice regulations, require systematic review and adjustment to guarantee optimal protection for children. The primary objective is to ensure that every child can grow and develop in accordance with inherent dignity and humanity while securing their fundamental rights.⁶⁹

Empirical evidence indicates that children frequently experience violence, neglect, or emotional abuse within both family and community environments due to their relatively vulnerable social and legal positions. Preventive legal protection, therefore, assumes critical importance in safeguarding children's rights. Preventive measures provide opportunities for community participation in addressing legal issues, such as through public consultation mechanisms. In the context of children as offenders, a preventive approach emphasizes that criminal behavior should not be interpreted as inherent malice but as a social phenomenon necessitating attention, guidance, and care.⁷⁰

Furthermore, preventive legal protection must integrate with the restorative justice paradigm. Restorative justice focuses on repairing social relationships, avoiding stigmatization, and reducing the likelihood of reoffending. This approach actively involves all relevant parties, including victims, offenders, families, and the community, with the aim of restoring trust damaged by criminal conduct. Despite its significance, Indonesia currently lacks comprehensive legislation explicitly regulating restorative justice mechanisms, particularly for children. Consequently, enacting a restorative justice law is essential to provide legal certainty, strengthen diversion practices, and harmonize regulations across law enforcement institutions. This aligns with the principle that juvenile justice systems must prioritize restorative justice approaches, ensuring that norm reconstruction for the legal protection of child offenders functions not only as a legal framework but also as a social instrument oriented toward the child's best interest while reinforcing social order.⁷¹

The national legal framework on juvenile justice explicitly emphasizes the application of restorative justice principles in handling cases involving children. This framework mandates that the juvenile justice system prioritize restorative

⁶⁹ Jenny A B M Houtepen, Jelle J Sijtsema and Stefan Bogaerts, 'From Child Pornography Offending to Child Sexual Abuse: A Review of Child Pornography Offender Characteristics and Risks for Cross-Over', *Aggression and Violent Behavior*, 19.5 (2014), 466–73 <https://doi.org/https://doi.org/10.1016/j.avb.2014.07.011>

⁷⁰ Julien Grenet, Hans Grönqvist and Susan Niknami, 'The Effects of Electronic Monitoring on Offenders and Their Families', *Journal of Public Economics*, 230 (2024), 105051 <https://doi.org/https://doi.org/10.1016/j.jpubeco.2023.105051>

⁷¹ Edoardo Cocco, Yuji Z Hashimoto and Julien Chopin, 'Child Sexual Abuse in the Catholic Church: A Scoping Review of Characteristics, Prevalence, and Explanatory Factors', *Journal of Criminal Justice*, 101 (2025), 102499 <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2025.102499>

justice, focusing on restoring relationships between the offender, the victim, and the broader community, while promoting the rehabilitation of the child as a legal subject still in the developmental phase. Consequently, the system does not merely treat children as objects of legal enforcement but recognizes them as parties possessing specific rights and interests that must be safeguarded throughout the judicial process.⁷²

Despite these legal provisions, implementation has revealed a significant gap between written norms and practical execution. A major weakness lies in the absence of detailed regulations outlining the procedural application of restorative justice. For instance, there is no clear guidance regarding the roles, responsibilities, and authorities of law enforcement officers, including juvenile investigators, prosecutors, judges, and probation officers, in applying restorative approaches. This gap results in inconsistent practices that undermine legal certainty and, at times, fail to adequately consider the substantive needs of the child, the interests of the victim, and broader societal concerns.⁷³

To address these issues, regulatory reconstruction is necessary through the development of a dedicated chapter on Restorative Justice within the juvenile justice framework. This chapter should include comprehensive provisions covering the objectives of restorative justice, systematic procedures for its implementation, the roles of each law enforcement actor, and mechanisms for inter-institutional coordination. The establishment of clear, uniform operational guidelines is expected to reduce disparities in practice and provide legal certainty for all parties involved. Furthermore, outcomes of restorative justice processes should be formalized into binding legal instruments, ensuring that agreements and decisions possess enforceable legal effects, thereby protecting the rights of child offenders while ensuring justice for victims.⁷⁴

Additionally, regulatory reconstruction must integrate preventive legal protections. This approach ensures that restorative justice mechanisms are not solely reactive to offenses that have occurred but also capable of preventing children from potential reoffending. Preventive legal protection can be realized through strengthening the roles of families, communities, and educational institutions in fostering legal awareness among children, as well as implementing

⁷² Karina M Garbutt, Song-Lih Huang and Wen-Hsu Lin, 'Adverse Childhood Experiences (ACE) and Violent Offending among Belizean Male Offenders: The Mediating Role of Gang Affiliation', *Journal of Criminal Justice*, 100 (2025), 102495 <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2025.102495>

⁷³ Anaïs Henneguelle and Don Weatherburn, 'Does Diverting Minor Drug Offenders Reduce Recidivism? Cannabis Cautioning in Australia', *International Journal of Drug Policy*, 145 (2025), 105008 <https://doi.org/https://doi.org/10.1016/j.drugpo.2025.105008>

⁷⁴ Benoit Leclerc and Richard Wortley, 'Predictors of Victim Disclosure in Child Sexual Abuse: Additional Evidence from a Sample of Incarcerated Adult Sex Offenders', *Child Abuse & Neglect*, 43 (2015), 104–11 <https://doi.org/https://doi.org/10.1016/j.chiabu.2015.03.003>

proactive social rehabilitation and legal education programs. Through this approach, the juvenile justice system does not only enforce justice but also promotes the comprehensive social reintegration of children.⁷⁵

This approach aligns with the principle of the best interest of the child as mandated by the Convention on the Rights of the Child, which emphasizes comprehensive protection of children's rights. Regulatory reconstruction that integrates substantive restorative justice and preventive legal protection is expected to yield a juvenile justice system that is balanced, equitable, and humane, taking into account the interests of offenders, victims, and society, while enhancing the effectiveness of juvenile case resolution in Indonesia.⁷⁶

4. Conclusion

Based on the analysis of legal protections for children as perpetrators of criminal acts, several key conclusions can be drawn. First, the existing legal protection system has not yet fully achieved justice, as it remains predominantly oriented toward the actions of the child rather than the protection of the child as an individual. Legal approaches should be more sympathetic, effective, and objective, with the primary aim of safeguarding and nurturing children to ensure they can face their future, which still holds considerable potential. Second, there are fundamental weaknesses in the current regulatory framework concerning child protection based on restorative justice principles. Substantively, the law mandates that the juvenile justice system prioritize a restorative justice approach. However, in practice, the implementation of restorative justice remains incomplete due to the absence of specific regulations detailing the mechanisms and procedures for its application to children. Structurally, law enforcement personnel have not yet optimized their capacity to handle juvenile offenses. This is due to the lack of clear legal mandates, inadequate institutional coordination, and the fact that not all investigators, prosecutors, and judges possess certification or training in restorative justice. From a cultural perspective, public understanding and awareness of restorative justice are still limited. Society often perceives justice primarily as retribution or punitive sanctions, rather than as a process of restoration or repair. This is largely attributable to insufficient and fragmented socialization and education campaigns, which have left the concepts and benefits of restorative justice underappreciated. Third, regulatory reconstruction of legal protections for children as perpetrators, based on justice-oriented values, is urgently needed. Enhancing the normative framework can strengthen child protection by ensuring that restorative justice mechanisms are applied

⁷⁵ Kelly M Brown and Juliane A Kloess, 'The Motivations of Female Child Sexual Offenders: A Systematic Review of the Literature', *Aggression and Violent Behavior*, 50 (2020), 101361 <https://doi.org/https://doi.org/10.1016/j.avb.2019.101361>

⁷⁶ Virginia Soldino, Carlos López-Pinar and Enrique J Carbonell-Vayá, 'Contact Sex Offenders with Adult and Minor Victims: Psychopathological and Criminological Differences', *Child Abuse & Neglect*, 154 (2024), 106896 <https://doi.org/https://doi.org/10.1016/j.chiabu.2024.106896>

consistently, systematically, and in an integrated manner across all stages of the juvenile justice process. While the existing juvenile justice legislation has provided an initial framework for safeguarding child offenders, achieving a truly fair and humane system requires more comprehensive regulatory refinement. This refinement should encompass procedural, structural, and cultural dimensions of law, thereby ensuring that children receive balanced, rehabilitative legal protection in accordance with the principle of the best interest of the child.

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