

# Trends in Juvenile Crime: Assessing the Justice System and the Shift Toward Restorative Solutions

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Article	Abstract
<p><b>How to cite:</b> Fella Rezza Silviana &amp; Nabila Luthvita Rahma, 'Trends in Juvenile Crime: Assessing the Justice System and the Shift Toward Restorative Solutions' ((2025) Vol. 6 No. 3 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p><b>DOI:</b> 10.35719/rch.v6i3.384</p> <p><b>Article History:</b> Submitted: 10/11/2025 Reviewed: 18/11/2025 Revised: 25/11/2025 Accepted: 02/12/2025</p> <p><b>ISSN:</b> <b>2723-0406 (printed)</b> <b>E-ISSN:</b> <b>2775-5304 (online)</b></p>	<p>Diversion is an out-of-court solution for children in conflict with the law, or children as perpetrators of crimes. The increasing number of crimes committed by children has become an evaluation of the diversion system currently used in the juvenile criminal justice system as stipulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This study aims to evaluate and provide solutions for the juvenile criminal justice system by combining restorative justice and integral policies. This study is library research with primary legal materials in the form of the SPPA Law, the Criminal Code, and secondary legal materials in the form of scientific articles, books, and news related to the research topic. Data were analyzed using statutory, case, and conceptual approaches, and using grammatical legal interpretation. The results of the study indicate that the evaluation of the diversion system includes a lack of adequate resources, a lack of training and awareness of law enforcement officers, especially regarding child psychology, delays in the judicial process, and the existence of social stigma that influences victims' reluctance to report to the authorities. Recommendations for improving the diversion system need to be implemented through penal mediation between victims and perpetrators through a restorative justice approach, as well as integral efforts starting from the role of the family, school, and the environment.</p> <p><b>Keywords:</b> <i>Diversion, Restorative Justice, Integral Policy.</i></p> <p><b>Abstrak</b></p> <p>Diversi merupakan penyelesaian di luar pengadilan terhadap anak yang berhadapan dengan hukum, atau anak sebagai pelaku tindak pidana. Maraknya tindak pidana yang dilakukan oleh anak, menjadi evaluasi bagi sistem diversi yang selama ini digunakan dalam sistem peradilan pidana anak sebagaimana dalam UU Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak. Penelitian ini bertujuan untuk mengevaluasi dan memberikan solusi bagi sistem peradilan pidana anak dengan menggabungkan keadilan restoratif dan kebijakan integral. Penelitian ini adalah penelitian kepustakaan dengan bahan hukum primer berupa UU SPPA, KUHPidana, serta bahan hukum sekunder berupa artikel ilmiah, buku, dan berita terkait dengan topik penelitian. Data dianalisis dengan pendekatan perundang-undangan, kasus, dan konseptual, serta menggunakan penafsiran hukum gramatikal. Hasil penelitian menunjukkan bahwa evaluasi dalam sistem diversi meliputi kurangnya sumber daya yang memadai, kurangnya pelatihan dan kesadaran aparat penegak hukum khususnya dalam hal psikologi anak, keterlambatan dalam proses peradilan, serta adanya stigma sosial yang memengaruhi korban enggan untuk melapor kepada pihak yang berwajib. Rekomendasi perbaikan sistem diversi perlu dilakukan dengan cara mediasi penal antara korban dan pelaku melalui pendekatan keadilan restoratif, serta upaya integral mulai dari peran keluarga, sekolah, hingga lingkungan.</p> <p><b>Kata Kunci:</b> <i>Diversi, Keadilan Restoratif, Kebijakan Integral.</i></p>

## Introduction

Children are a gift from God Almighty who have dignity and worth, so parents are obliged to carry out this mandate properly by protecting them so that they can become the next generation of the nation. In addition, the state also guarantees the protection of children, including their right to survival, their right to grow and develop well in society, and their right to protection from violence and discrimination, as mandated in Article 28B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia.<sup>1</sup> In addition to being recognized in Indonesian regulations, child protection guarantees are also recognized in the ratification of international conventions on children's rights, namely the ratification of the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child.<sup>2</sup>

Child protection is regulated in Law No. 23 of 2002 concerning Child Protection, which was later amended by Law No. 35 of 2014. This law covers important principles such as the right of children not to be discriminated against, the right to life and to grow up well, the best interests of the child, respecting the opinions of children, and protecting children from isolation and punishment as a last resort. With the enactment of these laws and regulations, in the juvenile justice system, the police, as the first institution to handle cases, play a very important role in determining whether a child will be released or referred to the prosecutor's office. In addition, prosecutors also have the authority to decide whether the child will be released or referred to a juvenile court. Ultimately, the child education institution will make the final decision, from funding to the placement of the child in a correctional facility.<sup>3</sup>

An important point to note is that at every stage of the process, whether in the police, the prosecutor's office, or the court, the welfare of the child must be the basis of the philosophy in dealing with crimes committed by children. This approach is based on two main points: *first*, children are considered to not fully understand the mistakes they have made, so they should be given lighter punishments that are different from those given to adults; *second*, children are believed to be easier to guide and educate than adults.<sup>4</sup>

In Law Number 11 of 2012 concerning the Child Criminal Justice System, it is stated that children in conflict with the law (ABH), especially children who are perpetrators of criminal acts, can be diverted, namely the transfer of settlement from litigation to non-litigation channels with certain conditions.<sup>5</sup> This aims to achieve reconciliation between victims and perpetrators, as well as to achieve restorative justice as mandated by the law. However, juvenile delinquency is currently on the rise, with increasingly extreme and unusual types of delinquency being committed by children. For example, *the first* crime of murder and rape was committed by four minors in the Palembang area.<sup>6</sup>

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<sup>1</sup> majelis Permusyawaratan Rakyat, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," 2020.

<sup>2</sup> Kristina Agustiani Sianturi, Kantor Wilayah, And Kementerian Hukum, "Peradilan Pidana Anak Melalui Diversi" I (n.d.): 184-210.

<sup>3</sup> Sianturi, Wilayah, and Hukum.

<sup>4</sup> Sianturi, Wilayah, and Hukum.

<sup>5</sup> Wahab Aznul (Universitas Muhammadiyah Sorong) Hidayat, "Penerapan Diversi Dalam Sistem Peradilan Pidana Anak," *JUSTISI* 3, no. 10 (2019): 1-23.

<sup>6</sup> BBC NEWS INDONESIA, "Empat Anak Pelaku Pemerkosaan Dan Pembunuhan Siswi SMP Di Palembang Divonis Bersalah – 'Pelaku Terpapar Konten Pornografi,'" 2024, <https://www.bbc.com/indonesia/articles/czx1xx41z04o>.

*Second*, violence resulting in death by 9 perpetrators, all of whom were minors, in the Situbondo area.<sup>7</sup> *Third*, the klitih violence in Yogyakarta, where almost all of the members are minors.<sup>8</sup> *Fourth*, two teenagers in Makassar kidnapped and killed a child because they were allegedly tempted by kidney trading.<sup>9</sup> These facts are crucial for evaluating the juvenile criminal justice system, as even though the perpetrators are minors, the crimes committed are highly unusual for children, even adults.

So far, articles related to the juvenile criminal justice system have primarily discussed the concepts of diversion and restorative justice, which are implemented in the best interests of children as perpetrators of crimes. Furthermore, the articles also tend to discuss the criminal responsibility of child perpetrators and criminal law policies regarding juvenile perpetrators. These articles tend to focus on three topics: First, the application of the concept of diversion, which can only be applied to crimes committed by children with a maximum sentence of seven years and not a repeat offense,<sup>10</sup> Enny et al. stated that the resolution of juvenile cases in the criminal justice system prioritizes diversion through a restorative justice approach. If this resolution fails to reach an agreement, it is resolved through the court system.<sup>11</sup>

Second, children who commit crimes can still be held accountable, the criminal threat for children who commit an unlawful act is determined by the Criminal Code, where the sentence imposed is determined as half of the maximum criminal threat for adults, while the imposition of life imprisonment and the death penalty is not applied to children and the protection of children in conflict with the law in an integral and comprehensive manner still does not exist due to the constraints of the distribution of thematic child protection in different laws.<sup>12</sup> Third, the criminal law policy towards children as perpetrators of crimes is regulated by the juvenile criminal justice system by prioritizing restorative justice through penal and non-penal policies<sup>13</sup> and the formulation study on the protection of children in conflict with the law in the juvenile criminal justice system according to Law Number 11 of 2012 has accommodated the principle of the best interest of the child with the existence of diversion.<sup>14</sup> Existing articles have not discussed many evaluations of the juvenile criminal justice system in relation to the rise in juvenile crime in Indonesia, as well as restorative and integrated efforts to prevent recurrence.

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<sup>7</sup> YG, "9 Anak Pelaku Kekerasan Yang Mengakibatkan Matinya Anak Di Situbondo Divonis 7 Tahun 6 Bulan Penjara," *Kejaksaan Negeri Situbondo*, 2024.

<sup>8</sup> Dzulfaroh Kurniawan, "Pakar Hukum UGM: Pelaku Klitih Di Bawah Umur Bisa Dipidana," 2022, <https://www.kompas.com/tren/read/2022/04/06/174500665/pakar-hukum-ugm--pelaku-klitih-di-bawah-umur-bisa-dipidana>.

<sup>9</sup> CNN Indonesia, "2 Remaja Di Makassar Bunuh Bocah 10 Tahun, Niat Jual Ginjal Korban," 2023, <https://www.cnnindonesia.com/nasional/20230110132345-12-898403/2-remaja-di-makassar-bunuh-bocah-10-tahun-niat-jual-ginjal-korban>.

<sup>10</sup> Teguh Prasetyo, "Penerapan Diversi Terhadap Tindak Pidana Anak Dalam Sistem Peradilan Pidana Anak," *Refleksi Hukum: Jurnal Ilmu Hukum* 9, no. 1 (2015): 1, <https://doi.org/10.24246/jrh.2015.v9.i1.p1-14>.

<sup>11</sup> Erny Herlin Setyorini, Sumiati, and Pinto Utomo, "Konsep Keadilan Restoratif Bagi Anak Yang Berkonflik Dengan Hukum Dalam Sistem Peradilan Pidana Anak," *DiH: Jurnal Ilmu Hukum* 16, no. 2 (2020).

<sup>12</sup> Wiwik Afifah, "Pertanggungjawaban Pidana Anak Konflik Hukum," *DiH: Jurnal Ilmu Hukum* 10, no. 19 (2014): 48–62, <https://doi.org/10.30996/dih.v10i19.283>.

<sup>13</sup> I Kadek Bagas Dwipayana, I Made Minggu Widyantara, and Luh Putu Suryani, "Kebijakan Hukum Pidana Terhadap Anak Sebagai Pelaku Tindak Pidana Pembunuhan," *Jurnal Konstruksi Hukum*, 2022, <https://doi.org/10.22225/jkh.3.1.4463.207-211>.

<sup>14</sup> Rahayu Mulyana Saputri, Fitri Wahyuni, and Muhsin Muhsin, "Analisis Kebijakan Dalam Hukum Pidana Perlindungan Anak Pada Pembaruan Sistem Peradilan Pidana Anak Di Indonesia," *Selodang Mayang: Jurnal Ilmiah Badan Perencanaan Pembangunan Daerah Kabupaten Indragiri Hilir* 10, no. 2 (2024): 133–39, <https://doi.org/10.47521/selodangmayang.v10i2.407>.

This article aims to complement previous articles on the juvenile criminal justice system by providing an understanding that the increasing number of juvenile crimes, including extreme crimes, necessitates an evaluation of current regulations and preventive efforts to deter children from committing crimes. In this regard, two identified issues will be the focus of this article. First, an evaluation of the Juvenile Criminal Justice System Law, which has failed to provide legal benefits to children in conflict with the law. Second, restorative and integrated efforts in addressing juvenile crime can be used to improve the juvenile criminal justice system.

This evaluation of the juvenile criminal justice system is based on the argument that the increase in juvenile crime is a strong alarm for the existence of the juvenile criminal justice system regulated in Law Number 11 of 2012, which prioritizes a diversion system to achieve restorative justice. These efforts have proven ineffective because juvenile crimes continue to recur and become increasingly disturbing. Furthermore, so far, the juvenile criminal justice system has only discussed criminal law policies without comprehensively considering the causal factors, so that restorative and integrative efforts can be important input to prevent the recurrence of juvenile crimes. As in the case in Palu, Mohammad Rifky et al. stated in their research that there were several factors contributing to the failure of the diversion process. *The first* factor was family and community, in which the family was closest to the victim and played an important role in influencing the victim's decision on whether to continue with the case or accept the settlement agreement through diversion proposed by law enforcement officials. Then, the community also believes that prison is the best place for someone (in this case, minors) who has committed a crime. Most people still think that children who have committed crimes should be sent to prison, rather than having their cases resolved through deliberation (diversion). Victims also assume that in such crimes, imprisonment is a fair punishment for children who have committed crimes against them. *Second*, physical and economic conditions, such as the victim's heartache and resentment, who still wants the perpetrator to be rehabilitated at the Special Child Development Institution, can hinder the success of the diversion process. *Third*, law enforcement officials play a crucial role in this regard. Even if the regulations are sound, if the quality of the officers is low, the law will not be implemented properly and correctly, and various major problems are likely to arise. For example, in facilitating diversion, law enforcement officials are expected to provide advice, suggestions, and perspectives that convince all parties to reach an agreement so that the process runs successfully and effectively. However, in reality, the diversion process is hampered by a lack of approach and guidance for the families of the victims and perpetrators. *Fourth*, cultural factors: society considers criminal acts such as abuse, bullying, and so on to be reprehensible, so perpetrators (both children and adults) must be punished in accordance with the crimes they have committed.<sup>15</sup>

## Research Method

This research is a qualitative research with a normative juridical nature, which is conducted by examining theories, concepts, and reviewing applicable laws and regulations.<sup>16</sup> The object of study regarding the juvenile criminal justice system in Indonesia is interesting to research because the diversion system, restorative justice, and integrated efforts implemented are less effective so that a comprehensive evaluation is needed to improve the legal process

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<sup>15</sup> Mohamad Rifky, Umar Anwar, And Politeknik Ilmu Pemasarakatan, "Penuntutan Pada Tindak Pidana Penganiyaan ( Studi Kasus Klien Anak Bapas Kelas Ii Palu )" 9, no. 6 (2022): 3106–12.

<sup>16</sup> Beni Ahmad Saebani et al., "Penelitian Hukum M Etode," N.D., 1–5.



while creating a safer community environment without fear of crime. The data collection technique used in this research is Library Research by collecting primary materials (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in Indonesia) and the Criminal Code, and secondary materials, such as related books, journals, and scientific articles.<sup>17</sup>

## **Results and Discussion**

### **Evaluation of the Juvenile Criminal Justice System Law**

The increasing number of crimes involving minors is increasingly becoming a serious concern. Based on the facts discovered by researchers, the increase in crime rates involving children as perpetrators is in stark contrast to the initial goal of implementing the restorative justice concept as stated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which in reality cannot resolve and solve this problem. The implementation of the restorative justice concept does not run smoothly as the theory has been explained by experts. The implementation of the restorative justice concept should be the best solution to resolve this problem, however, the reality in Indonesia shows an increase in criminal cases involving children as the main perpetrators. Based on data from the Directorate General of Corrections, the Ministry of Law and Human Rights, it shows an increasing trend from 2020 to 2023. As of August 26, 2023, there were nearly 2,000 children in conflict with the law (ABH), with details of 1,467 children in detention and still undergoing the trial process, while 526 children were serving sentences as convicts.

For example, the increasing number of crimes involving minors is increasingly becoming a serious concern. Some examples of cases involving children as perpetrators include the victim of bullying experienced by Albi Ruffi Ozara (9 years old), a 3rd grade elementary school student in Subang who was bullied by his seniors to the point of death. In addition, bullying can also cause victims to experience depression to the point of death, as in the case that occurred in the Way Bungur area, East Lampung, a minor was determined to end his life by burning his body with gasoline (Pertalite). The incident occurred on the east coast of Sumatra during the day. The victim died with burns all over his body. It is suspected that the victim suffered from depression due to frequent bullying by his peers, the bullying was caused by economic factors, so the victim was often insulted for being poor.<sup>18</sup>

Furthermore, throughout 2024, the Central Java police recorded that 143 children in Central Java were in conflict with the law (ABH) related to crime, thuggery, and carrying sharp weapons. For example, in September 2024, the police arrested dozens of teenagers carrying sharp weapons used to harm others, a crime known as "kreak." This crime can create social conflict that challenges the opposing party with threats or open social violence, causing unrest in the surrounding community. The police arrested 20 teenagers who carried kreak in Gandekan Village, Central Semarang and Jalan Barito, East Semarang. The police also confiscated four sharp weapons and 12 motorcycles. In addition to the Central Java Regional Police, the Jakarta Metro Jaya Regional Police have also eradicated brawls between teenagers carrying sharp weapons. The actions of these teenagers were considered by the community to be very disturbing and disturbing the peace of the neighborhood. Later, the victim was found with a

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<sup>17</sup> Universitas Islam and Negeri Sumatera, "ALACRITY : Journal Of Education" 1, no. 2 (2021): 1–12.

<sup>18</sup> Achmad Junicko Nugraha, "Upaya Kepolisian Dalam Penyelidikan Kasus Bullying Oleh Sesama Anak Yang Menyebabkan Korban Meninggal Dunia (Studi Kasus Polsek Way Bungur Lampung Timur)" 01 (2023): 1–23.

laceration on the neck caused by a sharp weapon, and was later pronounced dead when taken to Tarakan Hospital.<sup>19</sup>

According to the website of the Ministry of Women's Empowerment and Child Protection (Kemen-PPA), significant changes occurred in the handling of children in conflict with the law by the prosecutor's office and the police between 2020 and 2022. According to the data, from January to December 2020, there were 4,837 children in conflict with the law (ABH), with 473 cases undergoing diversion at the police and 908 at the prosecutor's office. Then, from January to September 2021, there was an increasing trend in the number of children in conflict with the law (ABH), reaching 5,237 cases. However, only 379 cases underwent diversion at the police and 540 at the prosecutor's office. Meanwhile, from January to September 2022, the number of children in conflict with the law decreased to 4,050, with only 314 cases undergoing diversion at the police and 311 at the prosecutor's office. (SIMFONI-PPA, 2025) These data indicate that despite the implementation of diversion, the number of cases of child perpetrators who successfully undergo diversion remains very limited. Therefore, to increase the number of diversion cases for perpetrators, to ensure the protection of children's rights and reduce the negative impact of the criminal justice process, more intensive and strategic efforts are needed.<sup>20</sup>

Although the implementation of diversion has made efforts to protect children's rights in the judicial process, there are still challenges that need to be addressed, because evaluation of juvenile criminal justice procedures in Indonesia is very important to ensure justice and better protection of children's rights. One of the keys to the success of the restorative justice approach is the extent to which children (offenders) can return to living their social lives normally. In this case, the social reintegration process is very important because it helps offenders to be accepted back into their families, schools, and communities without carrying a heavy stigma. This restorative approach has proven to be more effective than the conventional justice system. After participating in the diversion process, many children show positive changes in their emotional and behavioral aspects, feeling valued as individuals who still have the opportunity to improve themselves. This is very valuable, especially since most of the child offenders come from unsupportive or stressful environments. This can be seen in various studies, including reports from UNICEF and LPSK, which show that children who undergo the diversion process are less likely to repeat their actions. This is because they undergo deep reflection during mediation and build a shared commitment with the victim and the community. The trust that is rebuilt becomes an important social capital to support the reintegration process.<sup>21</sup> When viewed based on facts on the ground, such as in the South Manokwari area, there are several things that need to be evaluated in the juvenile criminal justice process, including delays in the judicial process.<sup>22</sup> This shows that juvenile criminal justice procedures in Indonesia often experience delays in the handling process, this is caused by several factors, including:

1. Lack of adequate resources, such as limited facilities and infrastructure, as for example, occurred in the Special Child Development Institution (LPKA) in the Kutoarjo area, which is still lacking in terms of inappropriate teaching staff, does not have a counselor

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<sup>19</sup> SIMFONI-PPA, "Data Kekerasan Anak Di Indonesia Tahun 2025," 2025, <https://kekerasan.kemenpppa.go.id/ringkasan>.

<sup>20</sup> Alfian Mela Maran, Yusti Probawati, and Mary Philia Elisabeth, "Proses Diversi Anak Yang Berkonflik Dengan Hukum : Belajar Dari Sistem Diversi Di Amerika Serikat" 13 (2024): 555–71, <https://doi.org/10.37893/jbh.v13i2.957>.

<sup>21</sup> Ida Naf'atun, "Efektivitas Restorative Justice Dalam Menangani Perkara Anak Di Bawah Umur" 2 (2024): 38–45.

<sup>22</sup> Wilayah Manokwari, Yohanes Victor Obinaru, and Immanuel I R Hammar, "Unes Law Review" 7, no. 2 (2024): 869–79.

in the child counseling program, and coaching tools are incomplete and damaged.<sup>23</sup> So that the limited facilities and infrastructure can hinder the process of integral policy diversion.

2. Lack of training and awareness among law enforcement officers regarding how to handle cases involving children as perpetrators of crimes. Most police and other law enforcement officers do not have specific expertise in child psychology, even though child psychology is considered very important for overcoming the trauma experienced by victims. Therefore, if there is a lack of understanding in child psychology, it can lead to misunderstandings in terms of investigations, especially can result in the collected evidence being incorrect, and some law enforcement officers still do not fully understand the concepts of restorative justice and diversion, so that their implementation cannot be optimal. Such as the case experienced by Yusman Telaumbanua, a young man from Nias, North Sumatra, who was a former death row inmate in a premeditated murder case. In this case, it means that in practice, there are still children who are sentenced without considering the concept of diversion contained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which states that imprisonment should be used as a last resort in trying children in conflict with the law (ABH). Therefore, training and capacity building are needed for law enforcement officers to carry out the mandate of the Law effectively.<sup>24</sup>
3. The social stigma attached to victims must also be addressed. Victims feel ashamed and afraid to report their experiences, which can impact their desire to seek justice, ultimately reducing the number of reports received by the police and the number of unresolved cases.<sup>25</sup> The legal culture in society still tends to punish perpetrators of crimes, especially children, necessitates public outreach and education regarding the importance of a more humane approach to children in conflict with the law (ABH).

Considering these challenges, it is crucial to reform the juvenile criminal justice system to increase the effectiveness of legal case handling, ensure adequate facilities and infrastructure, and raise public awareness. Therefore, a comprehensive evaluation will not only improve the legal process but also help create a safer community environment, allowing children to grow and develop without fear of crime.

### **Restorative Efforts and Integrative Policies in Handling Child Crimes to Improve the Juvenile Criminal Justice System**

In the old criminal law system, law enforcement often prioritized the imposition of punishment that was retaliatory for the crimes committed by the perpetrator without considering the long-term impact that the perpetrator would face, especially if the perpetrator was still a child or still a minor.<sup>26</sup> This kind of criminal system is considered less effective in creating solutions based on justice for perpetrators whose status is still children as they still

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<sup>23</sup> Titania Aurera Larasati, "Hambatan Pembinaan Oleh Lembaga Pembinaan Khusus Anak Kutoarjo Dalam Mewujudkan Reintegrasi Sosial," *Recidive: Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 9, no. 1 (2020): 58, <https://doi.org/10.20961/recidive.v9i1.47393>.

<sup>24</sup> Renita Dharma Pratiwi and Moch Ardi, "Constraints of Restorative Justice Principles in Children's Criminal Action," *Jurnal Lex Suprema* I, no. II (2019): 1–19, <https://ejournal.undip.ac.id/index.php/phpidana/article/view/25036>.

<sup>25</sup> Manokwari, Obinaru, and Hammar, "Unes Law Review."

<sup>26</sup> Fauzan Sugama et al., "Efektivitas Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Anak Di Indonesia" 1, no. 3 (2024): 306–16.

need special protection like children outside there. This is in line with the ideals of our country, namely to realize legal justice, legal certainty, and legal benefits for all Indonesian people.<sup>27</sup> Starting from this anxiety, the concept or theory of restorative justice was born as an effort to resolve the problem of criminal acts committed by children as perpetrators.

Restorative justice, or in Indonesian known as *restoratif*, is a theory of justice that prioritizes repairing what has been done by the perpetrator of a crime and is carried out through an agreement of all parties involved in the crime, namely the perpetrator himself, the victim, and the victim's family.<sup>28</sup> Howard Zehr views restorative justice as a theory or concept of justice that requires the parties, namely the perpetrator and the victim, to repair the bad consequences caused by the crime committed by the perpetrator by providing guarantees as a sign of peace between the two.<sup>29</sup>

In simple terms, restorative justice is a theory of justice used in resolving criminal cases involving perpetrators and victims by prioritizing peace and the release of retaliatory criminal penalties for the perpetrators. In this case, the perpetrator is required to issue guarantees such as a statement of good behavior or can be through a fine paid to the victim as compensation for the losses that have been done by the perpetrator of the crime to the victim, so that if this restorative justice effort is carried out, there will no longer be retaliatory criminal sanctions for the perpetrator of the crime, and the victims who are harmed by the perpetrator's actions will also receive compensation or restitution from the perpetrator.

The concept of restorative justice in the Indonesian legal system is recognized and implemented to address criminal offenses committed by children. This is officially recorded in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which requires a diversion approach in resolving criminal cases committed by children.<sup>30</sup> Simply put, diversion is an effort to divert cases from formal justice to a more child-friendly process, namely resolving problems by bringing together the perpetrator of the crime who is still a child, the victim, the victim's family, and other parties involved in the crime. Based on Circular Letter of the Chief of Police Number 8 of 2021, it explains that the purpose of restorative justice efforts is to improve the relationship between the perpetrator and the victim and avoid protracted legal processes.<sup>31</sup> One effort that can be made in implementing restorative justice is through deliberation-based justice that aims to create a balance of justice between the victim and the perpetrator. To achieve justice, this effort can be done through dialogue and recovery, where the victim and perpetrator are actively involved in finding the best solution. Basically, in resolving child cases, restorative justice involves three stakeholders, including the victim, the perpetrator, and the community (civil society).

The provisions of Article 1 number 6 of Law Number 11 of 2012 which regulates the Juvenile Criminal Justice System state that restorative justice is the resolution of criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other related parties

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<sup>27</sup> Inna Fauziatal Ngazizah, "Relativization of Principle Application : Weak Establishment of Legal Regulations and the Relevance of Decisions of the Constitutional Court" 1, no. 2 (2024): 1–8.

<sup>28</sup> siti Munawaroh, "Pengaruh Keikutsertaan Organisasi Ippnu- Ippnu Dan Lingkungan Keluarga Terhadap Kepemimpinan Pelajar Nu Grogol Sawoo Ponorogo," *Pharmacognosy Magazine* 75, no. 17 (2021): 399–405.

<sup>29</sup> Tofik Yanuar Chandra, "Penerapan Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Al-Mashlahah: Jurnal Hukum Islam Dan Pranata Sosial Islam*, no. 11 (2023): 179–90, <https://doi.org/10.30868/am.v11i01.3827>.

<sup>30</sup> Sugama et al., "Efektivitas Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Anak Di Indonesia."

<sup>31</sup> BPK RI, "Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif," 2021.



to jointly seek a just solution by emphasizing restoration to the original state, and not retaliation. It can be understood that restorative justice is an idea that responds to the evolution of the criminal justice system by focusing on the need for community involvement and victims who feel excluded from the current way the criminal justice system works, especially for juvenile justice.<sup>32</sup>

Furthermore, restorative justice can serve as a framework for assisting law enforcement in addressing the increasing number of juvenile crimes. It aims to restore harmony within society and reintegrate perpetrators, rather than simply punishing them.<sup>33</sup> Therefore, these efforts align with the purpose of criminal justice, which is not merely to punish the perpetrator, but also to restore the victim's well-being and provide the perpetrator with the opportunity to atone for their wrongdoings through more constructive means.<sup>34</sup> The concept of restorative justice is based on the belief that children who have committed crimes have the potential to become better individuals in the future. Therefore, the justice system must support recovery rather than imposing harsh and retaliatory sentences for crimes committed by juvenile perpetrators. Therefore, restorative justice is a more humane approach to safeguarding and ensuring the future of children who commit crimes, so that their reputations are not tarnished by their actions.

It is important to note that the implementation of restorative justice must respect the human rights of both parties: the child perpetrator and the victim of the perpetrator's actions.<sup>35</sup> Restorative justice must also prioritize the involvement of all relevant parties, thus requiring a qualified facilitator to oversee the criminal case resolution process. In the Indonesian context, the success or failure of the restorative justice concept depends heavily on the expertise of law enforcement, community involvement, and family members, who collaborate and assist each other in finding a just solution for all parties involved in resolving the criminal case.

Burt Galaway and Joe Hudson explain that restorative justice must encompass at least three elements. First, a crime is viewed as a conflict involving an individual that can cause harm to the victim, the general public, or the perpetrator. Second, the goal of implementing restorative justice theory must result in reconciliation through an agreement to reconcile, with the perpetrator obligated to provide compensation to the victim for their actions. Third, the criminal justice system must facilitate the parties—the perpetrator, the victim, and their families—to find solutions to the problem together.

Compared to the United States, restorative justice can be achieved through various programs, including victim mediation, family discussions, adjudication, victim education and awareness, and a diversion system. Restorative justice in America is also supported by facilitators, such as community organizations or other organizations authorized to handle such matters (outside of law enforcement agencies). Meanwhile, the implementation of restorative justice in Indonesia still relies on state institutions authorized to enforce the law, such as the

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<sup>32</sup> Randy Pradityo, "Restorative Justice Dalam Restorative Justice In Juvenile Justice System," 2016, 319–30.

<sup>33</sup> Nadea Lathifah Nugraheni et al., "Legal Analysis of the Implementation of Restorative Justice System in Troso Village," *Scholars International Journal of Law, Crime and Justice* 7, no. 02 (2024): 56–60, <https://doi.org/10.36348/sijlcj.2024.v07i02.001>.

<sup>34</sup> Fina Rosalina, "Mengembalikan Ide Dasar Keseimbangan Tujuan Pemidanaan : Koreksi Atas Wacana Penerapan Restorative Justice Terhadap Tindak Pidana Korupsi," *Ajudikasi : Jurnal Ilmu Hukum* 6, no. 2 (2022): 1–23.

<sup>35</sup> Mulyana Saputri, Wahyuni, and Muhsin, "Analisis Kebijakan Dalam Hukum Pidana Perlindungan Anak Pada Pembaruan Sistem Peradilan Pidana Anak Di Indonesia."

police and the prosecutor's office.<sup>36</sup> Therefore, at the very least, these efforts can restore the criminal acts committed by children as perpetrators, so that their crimes are not repeated in the future.

Barda Nawawi Arief in his writings provides the opinion that there are two (2) efforts to overcome criminal crimes, namely through "penal" media (criminal law) and "non-penal" media (outside criminal law).<sup>37</sup> The integral policy in the context of overcoming child crime is to combine "penal" and "non-penal" media, which in this case not only aims to provide sanctions to perpetrators, but is also used to prevent crimes committed by children through preventive and rehabilitative efforts. The penal approach involves the use of applicable legal instruments and must pay attention to the principles of child protection, such as the best interests of children, non-discriminatory attitudes, and respect for children's rights, so that Law Number 12 of 2011 concerning the Juvenile Criminal Justice System can be the main legal basis in dealing with children in conflict with the law (ABH).<sup>38</sup> Criminal law is a punishment that is ultimum remedium, meaning it should be the last resort in law enforcement after all other means are deemed incapable of resolving the issue for the common good. Hamzah agrees that not all complex issues in society should be resolved through criminal law. Of course, other areas of law should deal with them first, because criminal law is not only about prison sentences, but also about the rehabilitation of victims and perpetrators, as well as the best interests of all parties.<sup>39</sup>

From the perspective of criminal law policy formulation, it is clear that the decision to criminalize an act must consider various aspects, such as national development goals, the principle of public welfare, and the costs and effectiveness of law enforcement. Similarly, decriminalization assesses whether an act is truly detrimental to society or is an excessive burden on law enforcement officials. Sudarto stated that the 1980 National Criminal Law Reform Symposium highlighted several important principles, such as the balance between lawmakers and their oversight in criminalization and its impact on the legal order and law enforcement officials. These principles aim to ensure that criminal law is used proportionally and does not create injustice in society.<sup>40</sup>

Meanwhile, non-penal approaches are efforts undertaken outside the courts and aim to prevent juvenile crime. Children who commit crimes such as theft, abuse, rape, and similar crimes are a serious problem that must be addressed immediately and appropriately. Addressing this problem cannot be done by one party alone; it requires collaboration between parents, the community, educational institutions, and law enforcement officials. Some possible efforts include:

1. The role of the government, namely being responsible for regulations, facilities and infrastructure that can support the implementation of integral policies and the

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<sup>36</sup> Andika Ramadhani Wibowo Mukti and Rahtami Susanti, "Studi Komparatif Penerapan Restorative Justice Di Negara Indonesia Dan Amerika Serikat," *Wijayakusuma Law Review* 5, no. 1 (2023): 71–81, <https://doi.org/10.51921/wlr.v5i1.240>.

<sup>37</sup> Yonna Beatrix Salamor and Erwin Ubwarin, "Kebijakan Penanggulangan Tindak Pidana Narkotika Di Wilayah Maluku," *Jurnal Muara Ilmu Sosial, Humaniora, Dan Seni* 1, no. 1 (2017): 58, <https://doi.org/10.24912/jmishumsen.v1i1.335>.

<sup>38</sup> L. Karima, A., Rahma, N. L., Kasdi, A., & Nubahai, "Kepentingan Terbaik Anak Pemohon Dispensasi Pernikahan Dalam Penafsiran Hukum Oleh Hakim," *Al-Syakhsiyyah: Journal of Law & Family Studies* 5, no. 2 (2023): 119–32, <https://doi.org/10.21154/syakhsiyyah.v5i2.7082>.

<sup>39</sup> Wahidur Roychan, Taufikur Rohman, and Universitas Bhayangkara, "Reformulasi Pengaturan Restoratif Justice Dalam Sistem Peradilan Pidana Di Indonesia" 13, no. 2 (2023).

<sup>40</sup> Dwi Haryadi, "Kebijakan Integral Penanggungan Cyberporn Di Indonesia," 2012.

government is involved in monitoring and evaluating the implementation of these policies.

2. Within the nuclear family. The family is the primary setting for a child's development, both physically, emotionally, spiritually, and socially. The family is a source of shared affection and psychosocial protection for its members. (Munawaroh, 2021) Parents' role is not limited to providing a living, as is their obligation, such as providing shelter, food, clothing, and a decent education. However, in addition to providing a living, parents must also continually guide their children. Parents play a significant and crucial role in educating, monitoring, guiding, and preventing their children from committing prohibited acts, especially criminal acts that carry penalties stipulated by law. Children who do not receive education or guidance from their parents about whether or not something is permissible in a social setting tend to be free to express their frustrations to others without any feelings of guilt. For example, a child who is always educated by his parents about the prohibition of stealing in religious and state law, then the consequences that arise from stealing, such as sin in the context of religion or imprisonment in the context of the consequences of stealing, it is certain that the child will think a million times before committing theft. This is because the child receives guidance and character education from his parents about the prohibition of stealing in the context of religion and state law. Children who are educated and directed in this way by their parents also do not rule out the possibility that they will commit theft if they encounter an environment that considers stealing a normal act to do, especially children who do not receive any guidance and character education from the nuclear family circle through their parents.
3. In the educational sphere. Teaching and learning activities by teachers in educational institutions or schools can also reduce delinquency committed by children. Teachers, as substitute parents at school, are expected to be good role models for their students. Character education, religious-based education, and social science-based education taught by teachers to students can be a means to prevent delinquency in children when they are in their social environment. This is because not all parents have the extra ability to educate their children in aspects of religious knowledge, character education, and social science education. Therefore, parents in the nuclear family environment and teachers in the school environment can help each other to prevent delinquency committed by their children or students.
4. In the community. A community environment that justifies prohibited acts such as stealing, consuming alcohol and drugs, and similar acts will affect the growth and development and character of the child. Therefore, parents, teachers, and the community must work together and help each other so that children do not commit criminal acts that are punishable by law.<sup>41</sup> For example, efforts that can be made by the surrounding community so that children can receive positive energy and actions are inviting them to join organizations such as IPNU (Nahdlatul Ulama Student Association) and IPPNU (Nahdlatul Ulama Female Student Association) which also involve religious leaders. This can be proven by the Community Service (PKM) report carried out by students of the State Islamic University (UIN) Sunan Kudus in Tanjungrejo Village, Jekulo District, Kudus Regency, that it turns out that with the existence of these organizations, children

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<sup>41</sup> Sugama et al., "Efektivitas Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Anak Di Indonesia."

become more open and receive positive energy so that if they have conflicts, they can be resolved through a more moderate and inclusive approach.<sup>42</sup> In addition, the community should undertake other rehabilitative efforts and focus on factors that influence children's behavior.

Limitations in the use of penal means encourage the need to optimize non-penal approaches, which focus more on prevention by addressing the root causes of crime. Non-penal means are considered more effective because of their preventive nature, in contrast to penal means, which tend to be repressive because they only act after a crime has occurred. The non-penal approach is the primary objective of criminal policy. In various UN (United Nations) congresses on crime prevention and the treatment of lawbreakers, several important points must be emphasized, including:<sup>43</sup>

1. Crime prevention and the criminal justice system should not be considered isolated issues and must be addressed with a holistic approach.
2. Prevention efforts should focus on eliminating the factors that cause crime and make this a fundamental strategy in criminal policy.
3. Social inequality, discrimination, low living standards, unemployment, and low levels of education are often the main factors triggering crime in various countries.
4. Crime prevention needs to be linked to economic development, political systems, socio-cultural values, and the dynamics of societal change in a global context.

From these key points, it can be concluded that crime prevention policies aim not only to correct the behavior of perpetrators but also to create a conducive social environment by eliminating the factors that trigger crime. Therefore, a repressive approach to criminal law needs to be balanced with more preventative non-penal strategies. An integrated policy is needed, where penal and non-penal means complement each other in building a more effective and equitable legal system.

One manifestation of this integrated policy is the diversion system, which transfers the resolution of juvenile cases from the judicial process to outside the judicial realm. The goal of this diversion is to achieve reconciliation between the perpetrator and the child, protect the child from discriminatory processes, instill a sense of responsibility in the child, and encourage community participation in addressing the crime to maintain social order and prevent similar violations in the future. Thus, this approach is expected to enrich the legal system and produce positive outcomes for society.

Diversion is implemented through deliberations involving three (3) stakeholders, including victims, perpetrators, and the community (civil society) to jointly seek solutions by emphasizing restoration to the original state and not as a means of retaliation. As an example of a country that has implemented diversion for children in conflict with the law is the United States. For example, in Harris County, Texas, the United States implements community-based programs that can utilize organizations/communities as a forum for intervention. This program is considered very important to implement, because children who receive sanctions (perpetrators) will eventually return to society. Then there are several services implemented in the United States, including community services, the provision of foster care, and intensive

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<sup>42</sup> Hasan Bastomi and Nujumun Niswah, "Menyulam Harmoni : Penguatan Nilai Moderasi Beragama Pada Anggota IPNU-IPPNU Desa Tanjungrejo , Kecamatan Jekulo , Kabupaten Kudus" 4 (2024).

<sup>43</sup> Haryadi, "Kebijakan Integral Penanggulangan Cyberporn Di Indonesia."



supervision that can be carried out in schools, community environments, and other organizations. Based on these recommended efforts, it is hoped that the implementation of the evaluation of the juvenile criminal justice system in Indonesia will run better and more integratively.

## **Conclusion**

Based on the findings of this paper, two important points were identified. First, an evaluation of the juvenile justice system shows a significant upward trend in the number of children involved as perpetrators. This increase is not merely statistical, but rather a reflection of deep-rooted social and economic problems, such as family dysfunction, environmental influences, and easy access to unfiltered information. The increasing number of cases poses a major challenge for law enforcement agencies, from the police to the courts, because the existing system must be able to provide a response that is not only punitive, but also educates and rehabilitates children without ruining their future. In essence, the emergence of these cases requires all stakeholders to immediately strengthen prevention and early intervention efforts.

Second, to overcome these challenges, the author recommends that the juvenile justice system in Indonesia increasingly prioritize restorative justice as the main mechanism, especially for minor cases. This approach represents a fundamental paradigm shift, from focusing on punishing perpetrators to focusing on restoring victims and rebuilding damaged relationships between perpetrators, victims, and the community. Through mediation and diversion, children in conflict with the law (CICL) are given the opportunity to take responsibility for their actions in a constructive manner (e.g., apologizing, compensating for damages, or other means), while formal legal proceedings are a last resort. The application of restorative justice is very important to ensure that children do not lose the opportunity to reintegrate into society and to prevent criminal labels (stigmatization) from sticking to them.

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