

Policy Analysis of Juvenile Criminal Law: Between Protection and Enforcement

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Abstract: *This research aims to analyze juvenile criminal law policy in Indonesia, focusing on the challenges and opportunities in its implementation, as well as the contribution of restorative justice principles in handling cases of juvenile offenders. The method used is Systematic Literature Review (SLR), which collects and analyzes literature related to juvenile law policy, in order to understand the gap between existing regulations and practices in the field. The results show that although Indonesia has a strong legal foundation, such as Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA), the implementation of this policy is often not in line with expectations. Many children involved in legal offenses still do not receive adequate protection, both in terms of legal assistance and approaches that prioritize rehabilitation. Law enforcers often lack an understanding of children's rights, while coordination between agencies involved in handling children's cases is not optimal. These findings indicate the need to increase understanding of restorative justice and the protection of children's rights, as well as the need to strengthen cooperation between relevant institutions. With a more comprehensive approach, it is hoped that this policy can be more effective in providing protection and opportunities for children to reintegrate. This research also proposes that Indonesian juvenile criminal law policy should consider stronger educational aspects as a preventive measure, as well as integrating restorative justice principles to improve social relations between children, victims and the community.*

Keyword: *Juvenile criminal law policy, restorative justice, child protection, Juvenile Criminal Justice System (SPPA), social rehabilitation*

INTRODUCTION

Indonesia's juvenile criminal law policy is the result of a complex balance between protecting children's rights and effective law enforcement. Indonesia has enacted several laws and regulations aimed at protecting

children, including those involved in violations of the law.¹ However, the implementation of this policy often does not go as expected, with many cases where children's rights are ignored in the legal process. This shows a misalignment between the adopted policy and the reality on the ground.²

¹Turmudi, E. (2021). Merajut harmoni, membangun bangsa: memahami konflik dalam masyarakat Indonesia. Yayasan Pustaka Obor Indonesia.

²Dewi, C. A. C., Rizky, H. K., & Averoezy, F. (2024). Analisis Yuridis Terkait Penegakan Hukum Terhadap Tindak Pidana Bullying Menurut Pasal 76 C Undang-Undang Perlindungan Anak. Jurnal

The criminal law policy for children in Indonesia is the result of an effort to balance the protection of children's rights and the need for strict law enforcement. In this case, the state wants to ensure that children involved in violations of the law are still treated humanely, taking into account their developmental needs and opportunities for self-improvement.³Indonesia has adopted several laws, such as Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), which is an important milestone in handling juvenile criminal cases.⁴This law emphasizes the principles of restorative justice, an approach that prioritizes restoration rather than punishment.⁵

The SPPA policy stipulates that legal processes for children must avoid excessive detention or punishment, and prioritize efforts to foster and return children to society.⁶In addition, this law stipulates that children who are perpetrators of crimes must be treated in a way that protects their dignity and well-being, such as through the provision of support and rehabilitation services.⁷

The Juvenile Criminal Justice System (JCCS) policy in Indonesia sets out various

rules to ensure that children involved in criminal acts receive treatment in accordance with their basic rights. The JCCS emphasizes the importance of avoiding detention or punishment that is burdensome or detrimental to the child's development.⁸Instead, this law prioritizes a coaching and reintegration approach into society, with the main goal of enabling children to improve themselves and return to living normal lives in their environment.⁹

In its implementation, this policy prioritizes the principle of restorative justice, which means prioritizing the restoration of relationships and social impacts rather than simply giving punishment. Children who commit crimes, according to the SPPA policy, must receive protection of dignity and welfare, considering that they are still in the stage of psychological and emotional development. Thus, children should not be treated harshly or excessively during the legal process.¹⁰

In its implementation, the Juvenile Criminal Justice System (SPPA) policy in Indonesia prioritizes the principle of restorative justice, namely an approach that prioritizes the restoration of relationships and social impact

Akselerasi Merdeka Belajar dalam Pengabdian Orientasi Masyarakat (AMPOEN): Jurnal Pengabdian kepada Masyarakat, 2(1b), 414-425.

³Setyowati, D. (2020). Understanding the Concept of Restorative Justice as an Effort of the Criminal Justice System to Achieve Justice. *Pandecta research law journal*, 15(1), 121-141..

⁴Sitepu, R. I., & Piadi, Y. (2019). Implementasi restoratif justice dalam pemidanaan pelaku tindak pidana korupsi. *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*, 1(1), 67-75.

⁵PRATAMA, R. D. (2024). Tinjauan Hukum Pemidanaan Anak Dengan Rehabilitasi Dalam Kerangka Restorative JUSTICE (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

⁶Andayani, T., Achmad, R., & Flambonita, S. (2022). Perlindungan Hukum Terhadap Anak Korban Eksploitasi Seksual. *Lex Lata*, 3(1).

⁷Andayani, T., Achmad, R., & Flambonita, S. (2022). Legal Protection for Child Victims of Sexual Exploitation. *Lex Lata*, 3(1).

⁸Ghoni, M. R., & Pujiyono, P. (2020). Perlindungan hukum terhadap anak yang berhadapan dengan hukum melalui implementasi diversi di indonesia. *Jurnal Pembangunan Hukum Indonesia*, 2(3), 331-342. Harahap, L. H., Limbong, I., Kholis, N., Pane, R. A., & Ritonga, A. S. (2024). Perspektif Restorative Justice Dalam Perlindungan Anak Sebagai Sistem Peradilan Pidana Di Indonesia. *Hukum Dinamika Ekselensia*, 6(2).

⁹Hardiansyah, V. (2022). Akibat Hukum Pasal 86 Ayat (1) Undang-Undang No. 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak Terhadap Warga Binaan Pemasyarakatan Khusus Anak Kelas Ii Bandung Yang Berusia 18 Tahun (Doctoral Dissertation, Fakultas Hukum Universitas Pasundan).

¹⁰Forestriawan, N., & Kebudayaan, R. D. A. N. T. (2023). Penegakan Hukum Terhadap Tindak Pidana Ringan Dalam Mewujudkan Restorative Justice. *Universitas Borneo Tarakan*

rather than simply imposing punishment.¹¹Through this principle, the main goal of handling children who commit crimes is to improve the relationship between the perpetrator, victim, and community in a more humane and empathetic way. This approach focuses on the understanding that children, because they are in a period of psychological and emotional development, have a great opportunity to change if given the right guidance.¹²This policy emphasizes that the legal process for children must protect their dignity and well-being. In its implementation, the SPPA prohibits the use of harsh methods or excessive treatment of children, considering their vulnerable emotional condition. As an alternative, this policy encourages a dialogue and mediation approach, which allows children to understand the impact of their actions on the victim and their surroundings.¹³In addition, SPPA also provides coaching and rehabilitation programs for children involved in violations of the law, including guidance, counseling, and skills training. These programs aim to improve children's attitudes and behaviors so that they can return to society with better provisions.

In addition, psychological protection is also a major concern, by providing assistance so that children are able to face emotional pressure during the legal process without deep trauma. With this principle of restorative justice, the juvenile criminal justice system in Indonesia is expected to be able to create a more educational, rehabilitative, and positive legal experience, so that children can grow into more responsible individuals and be able to reintegrate into society.¹⁴

Some specific provisions stipulated in the SPPA to protect children include:

¹¹Ferdiansya, A., & Suherman, A. (2024). *Perlindungan Anak Dalam Sistem Peradilan Pidana Anak*. *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882, 2(1), 329-336.

¹²

¹³Kartasiswara, P. (2020). *Penegakan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Pencurian Dengan Pemberatan Di Wilayah*

Alternatives to Detention: The law directs that detention of a child should be a last resort. Where possible, the child should be placed in a program of guidance or supervision that does not completely restrict his or her liberty, except in very serious cases.

Assistance during the Legal Process: Children undergoing legal proceedings are required to receive assistance, either from family, legal counsel, or professionals such as social workers or psychologists. This aims to ensure that children's rights are fulfilled, and that they understand the process they are undergoing.

Rehabilitation Services: The SPPA also regulates rehabilitation services for children who have committed crimes. This rehabilitation can be in the form of counseling, moral guidance, or learning programs that aim to help children develop positive attitudes and behaviors. Social and Educational Recovery: After undergoing the legal process, children are given the opportunity to reintegrate into society, through formal education or social development programs. The goal is for them to be able to continue living productively and avoid repeating criminal acts.¹⁵

However, the challenges in its implementation are quite significant. In the field, there is often a mismatch between child criminal law policies and the reality of law enforcement practices. In many cases, children still face legal processes that are not in accordance with the principles of child protection, such as lack of adequate assistance, substandard detention, and the attitude of law

Hukum Polres Rokan Hilir (Doctoral dissertation, Universitas Islam Riau).

¹⁴Erdianti, R. N. (2020). *Hukum Perlindungan Anak Di Indonesia (Vol. 1)*. UMMPress..

¹⁵Utama, F. A. (2021). *Analisis Rehabilitasi Sosial Terhadap Anak Berhadapan Dengan Hukum Di LPKS-ABH Banda Aceh (Doctoral dissertation, UIN Ar-Raniry).*

enforcement that does not fully support the approach mandated by law.¹⁶

This shows a gap between the policies implemented in the regulations and their implementation in the field. Challenges such as the lack of understanding of law enforcers regarding special policies on child criminal acts and limited rehabilitation support facilities for children who commit crimes exacerbate the misalignment between the objectives of child protection and the implementation of the law.¹⁷

The phenomenon of increasing numbers of violations involving children, both as perpetrators and victims, requires serious attention. Children involved in criminal acts often come from disadvantaged social backgrounds, such as poverty, lack of education, and unsupportive environments. Therefore, it is important to understand the factors that influence children's behavior and how legal policies can be formulated to address these issues. This study aims to explore more deeply the challenges and opportunities in child criminal law policies.¹⁸

Child protection is one of the principles underlying legal policies in many countries, including Indonesia. This principle not only emphasizes the protection of children from acts of violence, but also guarantees children's rights to education, health, and humane treatment. However, on the other hand, children who violate the law must also receive proper treatment so as not to harm themselves and society. The balance between protection and law enforcement is essential to creating a just system.¹⁹

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System is one of the important milestones in the enforcement of

juvenile criminal law in Indonesia. This law regulates various aspects ranging from child protection to the judicial procedures that must be undergone by children. Although this law provides a strong legal basis for child protection, its implementation often encounters various obstacles. Many parties still do not understand the essence of this law, so that in practice, many children do not receive the protection they should.

Another obstacle faced is the lack of coordination between the various institutions involved in handling child cases, such as the police, courts, and rehabilitation institutions. This lack of cooperation causes many child cases to not be handled optimally, and children's rights are often ignored. In addition, the social stigma against children involved in violations of the law also contributes to the lack of support for them in the rehabilitation process. This shows the need for a more comprehensive and collaborative approach in dealing with child criminal law issues.

Furthermore, a legal approach that focuses too much on sanctions can worsen the situation of children and hinder the rehabilitation process. Therefore, there needs to be a more humanistic approach that takes into account the psychological and social conditions of children. This study proposes that law enforcement against children should not only be oriented towards punishment, but also towards recovery and social reintegration. Thus, children involved in violations of the law can return to being productive members of society.

In addition, education is an important factor in preventing children from being involved in criminal acts. Educational programs that emphasize character and leadership

¹⁶Fendlyta, N. R. M. (2024). Upaya Pencegahan Korupsi Dan Dampaknya Terhadap Pembangunan. *Causa: Jurnal Hukum dan Kewarganegaraan*, 6(10), 31-40.

¹⁷Waluyo, B. (2022). Penegakan hukum di Indonesia. Sinar Grafika.

¹⁸Lewoleba, K. K., & Fahrozi, M. H. (2020). Studi faktor-faktor terjadinya tindak kekerasan

seksual pada anak-anak. *Jurnal Esensi Hukum*, 2(1), 27-48.

¹⁹Hamida, A., & Setiyono, J. (2022). Analisis Kritis Perlindungan Terhadap Anak Korban Kekerasan Dalam Rumah Tangga: Kajian Perbandingan Hukum. *Jurnal Pembangunan Hukum Indonesia*, 4(1), 73-88.

development can help children understand the consequences of their actions. Therefore, it is important to integrate educational aspects into juvenile criminal law policies to create a safer and more supportive environment. This approach is expected to provide a long-term solution in dealing with the problem of violence and lawlessness among children.²⁰

Finally, in the global context, many countries have developed juvenile criminal law policies that successfully balance protection and enforcement. Learning from the experiences of other countries can inspire Indonesia to formulate better policies. Therefore, this study will not only analyze existing policies, but also compare them with policies from other countries to gain broader insights.

METHODOLOGY

The method used in this study is the Systematic Literature Review (SLR), which aims to collect and analyze relevant literature on juvenile criminal law policy. The SLR process begins by determining a clear and specific research question, followed by a systematic search in various academic databases and law journals that discuss this topic. The criteria for selecting literature include relevance, methodological quality, and contribution to the understanding of juvenile criminal law issues.

After data collection, the researcher conducted a critical analysis of each literature obtained. This analysis includes identifying the main themes that emerged from various studies, as well as an assessment of the success and failure of the legal policies that have been implemented. Through this process, the researcher hopes to provide a comprehensive picture of the challenges faced in implementing child criminal law policies.

Furthermore, this study also identifies gaps in existing research, as well as evaluating the impact of legal policies that have been implemented. In this way, researchers can highlight aspects that still need to be improved to achieve a balance between child protection and effective law enforcement. In addition, SLR allows researchers to present

evidence-based results and provide relevant recommendations for policy makers.

The SLR method also facilitates comparisons between child criminal law policies in Indonesia and other countries. By analyzing literature from various countries, researchers can learn from successful experiences and practices, and evaluate how these policies can be adapted to the Indonesian context. This is very important in efforts to create better policies in dealing with child criminal law issues.²¹

Finally, the results of this study are expected to be input for policy makers and legal practitioners to formulate more effective policies, both in providing protection to children and in ensuring fair law enforcement. Thus, this study not only contributes to the development of science, but also to better legal practices in the field.

RESULTS AND DISCUSSION

The results of the study show that although there are various legal policies aimed at protecting children, their implementation is still far from expectations. Many children involved in violations of the law do not receive proper protection, especially in the judicial process. This study found that low understanding of children's rights among law enforcers often leads to violations of these rights. This indicates the need for more intensive training for law enforcers regarding the protection of children's rights in the context of criminal law.

In addition, the results of the literature analysis also show that the sanctions applied to children who violate the law are often not in accordance with the principles of restorative justice. Many children are punished without considering the factors that influence their behavior, such as family conditions and social environment. This study recommends that the restorative justice approach be applied more in cases of children, so that it can provide an opportunity for them to improve themselves and reintegrate into society.

Another challenge faced in child criminal law policy is the lack of coordination between institutions involved in handling child cases. This study found that the lack of

²⁰Suryana, D., & Rizka, N. (2019). Manajemen Pendidikan anak usia dini berbasis akreditasi Lembaga..

²¹Firman Agung, S. A. (2022). Analisis Penerapan Restitusi Terhadap Korban Tindak Pidana Perlindungan Pekerja Migran Indonesia (Studi Putusan Nomor 376/Pid. Sus/2022/PN Tjk)..

communication and cooperation between institutions, such as the police, courts, and rehabilitation institutions, resulted in suboptimal case handling. Therefore, a better mechanism is needed to improve coordination between institutions so that children's rights can be maximally protected in the legal process.

In terms of education, the results of the study indicate that many educational programs have not integrated the values of child protection and violence prevention effectively. Schools as important institutions in the development of children's character must be more proactive in creating a safe and supportive environment. This study recommends that education about children's rights and the impact of criminal acts be integrated into the school curriculum as part of efforts to prevent violence.

Furthermore, the social stigma against children involved in law violations is a major barrier to the rehabilitation process. Research shows that these children are often shunned by their peers and society, which worsens their psychological condition. Therefore, there is a need for an educational campaign aimed at changing the public's view of these children and supporting them in the process of social reintegration.

At the international level, many countries have developed juvenile criminal law policies that successfully balance protection and enforcement. The experiences of these countries can be valuable lessons for Indonesia in formulating better policies. This study shows that policies based on the principles of restorative justice and rehabilitation, compared to a punitive approach, are more effective in handling juvenile cases.

Finally, the analysis of the child criminal law policy in Indonesia shows that there are still many aspects that need to be improved. Although there is a legal framework that supports child protection, the challenges of implementation in the field require serious attention. This study suggests that policy makers conduct periodic evaluations of existing policies to ensure that the protection of children's rights remains a top priority in law enforcement.

CONCLUSION

Based on the research results, it can be concluded that the criminal law policy for children in Indonesia requires a more comprehensive and integrated approach. Although there is already a legal framework that supports child protection, its implementation in the field still encounters various obstacles. Therefore, it is important to increase understanding and awareness among law enforcers regarding children's rights so that protection can be provided optimally. Furthermore, the application of the principle of restorative justice in law enforcement against child offenders is highly recommended. By providing children with the opportunity to improve themselves and reintegrate into society, it is hoped that it will reduce the number of violations of the law involving children. In addition, cooperation between various institutions and sectors of society is also key to creating a fair and sustainable system. Finally, this research is expected to provide a positive contribution in the development of child criminal law policies in Indonesia, by prioritizing the protection of children's rights and fair law enforcement. Thus, it is expected to create a safer environment and support for children, while minimizing the potential for legal violations among them.

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