



Research Article



## Implementation of Substantive Justice in Juvenile Serious Crime Cases in Indonesia

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**Abstract:** Legal protection for children in conflict with the law constitutes an essential component of the state's responsibility to ensure the fulfillment of children's fundamental rights as a vulnerable group within society. Nevertheless, the increasing involvement of children in serious crimes indicates that the juvenile criminal justice system in Indonesia continues to face significant challenges in achieving substantive justice. This study aims to analyze the implementation of substantive justice in addressing juvenile offenders involved in serious crimes and to formulate an ideal juvenile criminal justice model grounded in the principles of justice. The research employs a socio-legal method with statutory and conceptual approaches. The findings reveal that the implementation of substantive justice has not yet been fully optimized due to several factors, including normative disharmony between child protection principles and the limitations imposed on diversion within the Juvenile Criminal Justice System Law, the predominance of a retributive approach, inconsistencies in judicial decisions, and the inadequacy of rehabilitation facilities. Accordingly, a reconstruction of the juvenile criminal justice system is required through a collaborative restorative model that places rehabilitation, social reintegration, the protection of children's rights, victim recovery, and societal interests in a balanced framework as its primary orientation.

**Keywords:** Child Protection; Justice; Juvenile; Restorative Justice, Substantive Justice;



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## INTRODUCTION

Children represent the continuity of a nation's future and occupy a strategic position in determining the sustainability of national development and statehood.<sup>1</sup> Their existence should not merely be regarded as a component of the social structure but also as the next generation entrusted with advancing national aspirations in the future. Consequently, the state bears the responsibility to provide comprehensive protection for children in order to ensure the fulfillment of their rights in an optimal manner, encompassing physical, mental, social, and legal dimensions. Such protection is particularly important given that children are still in the process of development and therefore require guidance, supervision, and support from parents, society, and the state.<sup>2</sup> From a philosophical perspective, John Gray in his book *Children Are from Heaven*, argues that children are essentially born innocent and inherently good. The

<sup>1</sup> Daye Gang and others, 'A Call for Evaluation of Restorative Justice Programs', *Trauma, Violence, and Abuse*, 22.1 (2021), 186–90 <<https://doi.org/10.1177/1524838019833003>>

<sup>2</sup> Dylan Jones and others, 'From Juvenile Justice Involvement to Incarceration in Young Adulthood: Do Independent Living Services Matter?', *Children and Youth Services Review*, 175 (2025), 108352 <https://doi.org/10.1016/J.CHILDYOUTH.2025.108352>



family and social environment play a crucial role in shaping children's character, potential, and overall development. In this regard the failure of these environments to provide adequate guidance and protection may contribute to behavioral problems, including involvement in unlawful conduct.<sup>3</sup>

The protection of children within the Indonesian legal system has been regulated through various legislative instruments. The regulatory framework was initially established through Law Number 23 of 2002 concerning Child Protection, which was subsequently amended by Law Number 35 of 2014 and further revised through Law Number 17 of 2016. Pursuant to Article 1 of Law Number 35 of 2014, a child is defined as any person under the age of eighteen years, including a child in the womb. This provision reflects the state's commitment to recognizing child protection as an integral component of human rights protection.<sup>4</sup> Furthermore, Article 2 of the Child Protection Law stipulates that child protection shall be implemented based on the principles of non-discrimination, the best interests of the child, the right to life and development, and respect for the views of the child.<sup>5</sup> These principles embody the values contained in the Convention on the Rights of the Child (CRC), which has been ratified by Indonesia and serves as a fundamental basis for child protection policies within the country.

Despite the existence of a comprehensive legal framework for child protection, a considerable number of children continue to become involved in criminal activities and are subsequently categorized as children in conflict with the law.<sup>6</sup> According to Article 1(3) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, a child in conflict with the law refers to an individual aged between twelve and eighteen years who is suspected of committing a criminal offence. The increasing involvement of children in criminal activities, including serious offences such as homicide, sexual violence, aggravated assault, narcotics related crimes, and other serious criminal acts, demonstrates that juvenile offending has become a significant concern within Indonesia's criminal justice system.<sup>7</sup> Data from the Directorate General of Corrections indicate an upward trend in the number of children involved in the correctional system over the past five years. The recorded figures were 1,389 children in 2020, 1,365 in 2021, 1,539 in 2022, 1,639 in 2023, 1,625 in 2024, and 2,018 as of June 2025. These statistics suggest that juvenile involvement in criminal offences remains a serious issue requiring strengthened child protection policies and reforms to

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<sup>3</sup> Charlotte Lyn Bright and Melissa Jonson-Reid, 'Onset of Juvenile Court Involvement: Exploring Gender-Specific Associations with Maltreatment and Poverty', *Children and Youth Services Review*, 30.8 (2008), 914–27 <https://doi.org/10.1016/j.childyouth.2007.11.015>

<sup>4</sup> Susan Baidawi and Rubini Ball, 'Child Protection and Youth Offending: Differences in Youth Criminal Court-Involved Children by Dual System Involvement', *Children and Youth Services Review*, 144 (2023) <https://doi.org/10.1016/j.childyouth.2022.106736>

<sup>5</sup> Amy J.L. Baker and others, 'Foster Children's Views of Their Birth Parents: A Review of the Literature', *Children and Youth Services Review*, 67 (2016), 177–83 <https://doi.org/10.1016/j.childyouth.2016.06.004>

<sup>6</sup> Michael T. Baglivio and others, 'Maltreatment, Child Welfare, and Recidivism in a Sample of Deep-End Crossover Youth', *Journal of Youth and Adolescence*, 45.4 (2016), 625–54 <https://doi.org/10.1007/s10964-015-0407-9>

<sup>7</sup> Carly B. Dierkhising and others, 'System Backgrounds, Psychosocial Characteristics, and Service Access Among Dually Involved Youth: A Los Angeles Case Study', *Youth Violence and Juvenile Justice*, 17.3 (2019), 309–29 <https://doi.org/10.1177/1541204018790647>



the juvenile justice system that place greater emphasis on rehabilitation and social reintegration.

Children who commit criminal offences remain legal subjects entitled to protection under the law.<sup>8</sup> From a psychological perspective, children are generally in a developmental stage characterized by emotional instability and a heightened susceptibility to social influences, economic pressures, and external persuasion. Therefore, law enforcement authorities cannot equate juvenile offenders with adult offenders.<sup>9</sup> The handling of juvenile cases must take into account factors such as age, psychological condition, family background, educational attainment, and other social circumstances contributing to the commission of the offence. Within this context, the concept of juvenile delinquency views child offenders as individuals requiring guidance, treatment, and rehabilitation rather than mere punishment. Such an approach is consistent with the objectives of the juvenile criminal justice system, which prioritizes the best interests of the child as its guiding principle.<sup>10</sup>

In order to ensure legal protection for children in conflict with the law, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System provides a range of procedural and substantive rights for children throughout the criminal justice process. Children are entitled to humane treatment, separation from adult detainees, access to legal assistance, psychological and social support, and protection from torture, inhumane punishment, and discriminatory treatment.<sup>11</sup> Furthermore, arrest, detention, and imprisonment may only be imposed as measures of last resort *ultimum remedium* and for the shortest possible period. These provisions demonstrate that the juvenile criminal justice system in Indonesia is fundamentally constructed upon a paradigm of protection and rehabilitation rather than retribution.<sup>12</sup>

One of the principal forms of legal protection for children in conflict with the law is embodied in the adoption of restorative justice and diversion mechanisms.<sup>13</sup> Article 1(6) of the Juvenile Criminal Justice System Law defines restorative justice as the resolution of criminal cases through the involvement of offenders, victims, their respective families, and other relevant stakeholders in order to collectively seek a fair solution that emphasizes the restoration of the original condition rather than

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<sup>8</sup> Allison Kurpiel and others, 'Is Concurrent Child Welfare Intervention Associated with Recurrent Juvenile Justice Contact? Evidence from Pennsylvania', *Child Abuse & Neglect*, 175 (2026), 108016 <https://doi.org/10.1016/J.CHIABU.2026.108016>

<sup>9</sup> Naeem AllahRakha, 'Legal Challenges of Swarm Intelligence Exploitation in Cybercrime across Distributed Systems', *Contrarius*, 2.3 (2026), 295–319 <https://doi.org/10.53955/CONTRARIUS.V2I3.301>

<sup>10</sup> Anis Mashdurohatun, Mahmoud W M Abu Wazna, and others, 'Bridging Formal Legality and Living Law Public Prosecutorial Policies to Achieve Justice', *Contrarius*, 2.2 (2026), 110–36 <https://doi.org/10.53955/CONTRARIUS.V2I2.272>

<sup>11</sup> Yulia Tri Samiha and others, 'Reframing Street Child Governance in Indonesia', *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum*, 11.1 (2026), 104–29 <https://doi.org/10.22515/ALAHKAM.V11I1.13431>

<sup>12</sup> Sholahuddin Al-Fatih and Sayed Khalid Shahzad, 'Rethinking How Laws Are Made: Indonesia's Legal Method Dilemma', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.2 (2025), 170–90 <https://doi.org/10.53955/JSDERI.V3I2.32>

<sup>13</sup> Sriharini and others, 'From Doctrinal Legitimacy to Child Protection: Mapping and Reconstructing Child Marriage Fiqh Studies in Indonesia', *Journal of Islamic Law*, 7.1 (2026), 57–83 <https://doi.org/10.24260/JIL.V7I1.5678>



retaliation.<sup>14</sup> Furthermore, Article 1(7) defines diversion as the transfer of the settlement of juvenile cases from the formal criminal justice process to alternative mechanisms outside the criminal court system. The incorporation of restorative justice and diversion reflects a significant paradigm shift within Indonesia's juvenile justice framework, moving from a predominantly punitive approach toward a rehabilitative and restorative model that prioritizes the social recovery and development of the child.<sup>15</sup>

The implementation of restorative justice and diversion principles continues to encounter significant challenges, particularly in cases involving children who commit serious criminal offences. Article 7(2) of the Juvenile Criminal Justice System Law stipulates that diversion may only be applied to offences punishable by imprisonment of less than seven years and which do not constitute repeat offences. This provision indirectly restricts the application of diversion to children involved in serious crimes.<sup>16</sup> As a consequence, juvenile offenders accused of serious offences are more frequently processed through formal judicial mechanisms that remain largely punishment oriented. Such a condition raises important concerns because, regardless of the gravity of the offence committed, children remain rights bearing individuals who are entitled to protection, guidance, and opportunities for personal rehabilitation.<sup>17</sup>

The law enforcement practices applied to juvenile offenders involved in serious crimes in Indonesia continue to be dominated by formalistic and repressive approaches that place greater emphasis on punishment than on consideration of the child's social background, psychological condition, and future development.<sup>18</sup> Public opinion and media pressure further reinforce a retributive paradigm, often resulting in the marginalization of rehabilitation and social reintegration objectives. In reality, punitive approaches may generate long term stigmatization and hinder the recovery and development of children as future members of society.<sup>19</sup> Within this context, the concept of substantive justice becomes particularly relevant, as it prioritizes human dignity, proportionality, rehabilitation, and the protection of children's rights as the central objectives of law enforcement. Implementation remains far from optimal due to inconsistent judicial decisions, inadequate rehabilitation facilities, and the limited

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<sup>14</sup> Danu Aris Setiyanto, Sekar Ayu Aryani, and Sri Wahyuni, 'ICRP Jakarta and Interfaith Marriage Assistance in Indonesia: Civil Rights, Legal Interpretation, and Advocacy for Interfaith Couples', *Journal of Islamic Law*, 5.2 (2024), 170–96 <https://doi.org/10.24260/JIL.V5I2.2796>

<sup>15</sup> Dian Dian, Abdullah A. Mu'min, and Anisa Siti Khodijah, 'Organizational Justice, Citizenship Behavior, and Teacher Performance in Islamic Secondary Education: An Evidence from Indonesian Madrasah', *Jurnal Ilmiah Peuradeun*, 14.1 (2026), 249–74 <https://doi.org/10.26811/PEURADEUN.V14I1.2468>

<sup>16</sup> Sekaring Dyah Ika Wulan and others, 'Justice for Child Offenders: A Humanistic Legal Approach', *Journal of Human Rights, Culture and Legal System*, 5.3 (2025), 749–79 <https://doi.org/10.53955/JHCLS.V5I3.773>

<sup>17</sup> Ali Masyhar and others, 'The Protection Policies on Predatory Digital Credit Traps Students: Lessons from Indonesia', *Journal of Human Rights, Culture and Legal System*, 6.1 (2026), 254–84 <https://doi.org/10.53955/JHCLS.V6I1.862>

<sup>18</sup> Amir Firmansyah, Suparji, and Pujiono Suwandi, 'Achieving Efficiency with Justice in the Reform of Anti-Corruption Law Enforcement in State-Owned Enterprises', *Journal of Human Rights, Culture and Legal System*, 6.1 (2026), 84–115 <https://doi.org/10.53955/JHCLS.V6I1.898>

<sup>19</sup> Juliette C. Hutten and others, 'Cognitive Functioning in Criminal Offenders: A Multi-Level Meta-Analysis', *Aggression and Violent Behavior*, 2026, 102159 <https://doi.org/10.1016/J.AVB.2026.102159>



understanding among law enforcement officials regarding child rights based approaches. Indonesia's juvenile criminal justice system continues to face difficulties in balancing the protection of children's rights, the interests of victims, and society's sense of justice.<sup>20</sup>

From a normative perspective these challenges are reflected in the inconsistency between the child protection principles underpinning the Juvenile Criminal Justice System and the statutory limitations imposed on diversion.<sup>21</sup> Law Number 11 of 2012 explicitly places the best interests of the child, child protection, and restorative justice as its fundamental principles, as stipulated in Articles 2 and 5(1). Furthermore, Article 6 provides that diversion aims to achieve reconciliation between victims and child offenders, resolve juvenile cases outside formal judicial proceedings, prevent deprivation of liberty, and encourage community participation in the resolution of juvenile cases. However, these objectives are not entirely consistent with Article 7(2), which restricts diversion to offences punishable by imprisonment of less than seven years and excludes repeat offenders.<sup>22</sup> As a result, children involved in serious offences, such as homicide, sexual violence, or narcotics related crimes, are generally denied access to restorative mechanisms, despite the philosophical premise that they remain individuals deserving protection and rehabilitation.<sup>23</sup>

This inconsistency demonstrates a conflict between Article 7(2) of the Juvenile Criminal Justice System Law and the principle of the best interests of the child as recognized in Article 3 of the Convention on the Rights of the Child, which was ratified by Indonesia through Presidential Decree Number 36 of 1990, as well as Article 2(b) of Law Number 35 of 2014 concerning Child Protection, which identifies the best interests of the child as a primary consideration in all actions concerning children. The legal framework seeks to ensure protection, rehabilitation, and opportunities for personal reform for children. On the other hand, the restrictions on diversion and the prevailing punitive orientation toward serious offences encourage reliance on formal judicial processes and incarceration.<sup>24</sup> This situation creates a normative disharmony between the rehabilitative child protection paradigm and the predominantly retributive criminal justice paradigm, thereby preventing the optimal

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<sup>20</sup> 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/10.1016/J.AJP.2025.104614>

<sup>21</sup> 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/10.1016/J.CHIABU.2016.11.028>

<sup>22</sup> N. Softley, P. Turner, and C. Lennox, 'Care-Experienced Children and the Criminal Justice System. A Systematic Review of Their Perceptions and the Professionals Who Work with Them. (Children and Youth Services Review)', *Children and Youth Services Review*, 185 (2026), 108903 <https://doi.org/10.1016/J.CHILDYOUTH.2026.108903>

<sup>23</sup> Barbara Robles-Ramamurthy and others, 'Advancing Youth Justice: The Child and Adolescent Psychiatrist's Role', *Child and Adolescent Psychiatric Clinics of North America*, 33.3 (2024), 397–409 <https://doi.org/10.1016/J.CHC.2024.03.006>

<sup>24</sup> Elizabeth S. Barnert, 'Childhood Behind Bars: Children and the US Juvenile Legal System', *Advances in Pediatrics*, 71.1 (2024), 29–40 <https://doi.org/10.1016/J.YAPD.2024.01.002>



realization of substantive justice in the handling of juvenile offenders involved in serious crimes within the Indonesian legal system.<sup>25</sup>

Previous studies have examined the juvenile criminal justice system and the implementation of restorative justice in Indonesia. However, the majority of previous research has focused primarily on the general application of diversion and restorative justice for children in conflict with the law. For instance, Claudia Carolina analyzed the implementation of restorative justice through diversion within the juvenile justice system. Nevertheless, her study did not address juvenile offenders involved in serious crimes nor the implementation of substantive justice in such cases.<sup>26</sup> Similarly, Mahfud Juri examined restorative justice as an alternative mechanism for resolving juvenile criminal cases and concluded that restorative justice serves as a viable alternative to formal punishment.<sup>27</sup> However, his study did not explore the limitations of restorative justice in addressing serious juvenile offences. Furthermore, Hafrida investigated restorative justice in the development of an integrated juvenile justice system and found that the protection of children and victims should be balanced.<sup>28</sup> The study did not examine the implementation of substantive justice in judicial decisions involving serious offences. Likewise, Sriwiyanti analyzed restorative justice from psychological and Islamic law perspectives and argued that the handling of juvenile offenders must consider their psychological condition. However, the study did not address the conflict between child protection objectives and societal demands for justice.

The literature reviewed shows that existing research predominantly diversion and restorative approaches as the principal solutions for resolving juvenile cases. However, they have not comprehensively examined the treatment of juvenile offenders involved in serious crimes, for whom diversion is normatively restricted. Moreover, limited attention has been devoted to analyzing how substantive justice is implemented in legal practice when addressing serious juvenile offences, particularly in balancing the protection of children's rights, the interests of victims, and society's sense of justice. Accordingly, the novelty of this research lies not only in its examination of the implementation of substantive justice in cases involving serious juvenile crimes in Indonesia but also in its proposal of a constructive framework in the form of an Ideal Juvenile Criminal Justice System Model for Child Offenders Involved in Serious Crimes Based on Justice Values in Indonesia. The proposed model is directed toward establishing a juvenile justice system that is more humane, rehabilitative, and oriented toward the best interests of the child, while

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<sup>25</sup> 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/10.1016/J.CHILDYOUTH.2022.106702>

<sup>26</sup> Claudia Carolina Indra Putri, 'Juridical Review of Restorative Justice in the Juvenile Justice System through Diversion', *IJCLS (Indonesian Journal of Criminal Law Studies)*, 4.1 (2019), 1–8 <https://doi.org/10.15294/IJCLS.V4I1.36288>

<sup>27</sup> Mahfud Jufri, Norbani Mohamed Nazeri, and Saroja Dhanapal, 'Restorative Justice: An Alternative Process for Solving Juvenile Crimes in Indonesia', *Brawijaya Law Journal*, 6.2 (2019), 157–69 <https://doi.org/10.21776/UB.BJ.2019.006.02.03>

<sup>28</sup> Hafrida Hafrida, 'Restorative Justice In Juvenile Justice To Formulate Integrated Child Criminal Court', *Jurnal Hukum Dan Peradilan*, 8.3 (2019), 439–57 <https://doi.org/10.25216/JHP.8.3.2019.439-457>



simultaneously ensuring adequate protection for victims and fulfilling societal expectations of justice.

## METHOD

This study employs a socio legal research method with a descriptive analytical character to examine the implementation of substantive justice for juvenile offenders involved in serious crimes within the Juvenile Criminal Justice System in Indonesia.<sup>29</sup> This approach perceives law not merely as a body of written norms, but also as a social practice influenced by legal culture, law enforcement authorities, and societal dynamics in handling children in conflict with the law. The research applies both statutory and conceptual approaches by examining Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Supreme Court Regulation Number 4 of 2014, as well as the concepts of restorative justice, diversion, rehabilitation, social reintegration, and the best interests of the child as the basis of analysis. Research data were obtained through library research involving primary, secondary, and tertiary legal materials, which were analysed qualitatively using descriptive and critical methods.<sup>30</sup> The analysis was conducted to identify regulatory disharmony, obstacles in the implementation of restorative justice, the dominance of retributive approaches, as well as the weakness of rehabilitation and social reintegration of children within the practice of juvenile criminal justice in Indonesia. Through such analysis, this study aims to formulate a reconstruction of a collaborative restorative model that places the protection of children's rights, social recovery, and the prevention of recidivism as the primary orientations in realising substantive justice.

## RESULT AND DISCUSSION

### *Regulation of Serious Juvenile Crime in Indonesia*

From a legal perspective not all criminal offences committed by children can be categorized as serious juvenile crimes.<sup>31</sup> Juvenile delinquency encompasses all acts prohibited under criminal law that are committed by children in conflict with the law, regardless of whether such offences are classified as minor or serious. In contrast, serious juvenile crime refers to criminal conduct characterized by a high degree of severity, significant harm to victims, threats to public safety, or offences punishable by severe sanctions under statutory regulations, including homicide, sexual violence, aggravated assault, narcotics related offences, and terrorism.<sup>32</sup> These distinctions are reflected not only in the severity of criminal sanctions but also in the impact of the offences on victims and society, thereby influencing the legal mechanisms applied in addressing such cases. While ordinary juvenile offences may still be resolved through

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<sup>29</sup> David Pérez-Jorge and others, 'Restorative Methods as a Strategy for the Prevention of Violence and Bullying in Primary and Secondary Schools in Mexico: An Exploratory Study', *Heliyon*, 9.7 (2023), e18267 <https://doi.org/10.1016/J.HELIYON.2023.E18267>

<sup>30</sup> Hari Sutra Disemadi, 'Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies', *Journal of Judicial Review*, 24.2 (2022), 289–304 <https://doi.org/10.37253/jjr.v24i2.7280>

<sup>31</sup> Carly Lyn Baetz and others, 'Impact of a Trauma-Informed Intervention for Youth and Staff on Rates of Violence in Juvenile Detention Settings', *Journal of Interpersonal Violence*, 36.17–18 (2021), NP9463–82 <https://doi.org/10.1177/0886260519857163>

<sup>32</sup> Lukman Santoso and others, 'Fragmented Legal Protection in Child Marriage Prevention', *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum*, 11.1 (2026), 27–55 <https://doi.org/10.22515/ALAHKAM.V11I1.14103>



diversion and restorative justice mechanisms, serious juvenile crimes frequently create a dilemma between the protection and rehabilitation of child offenders on the one hand and the demands for justice by victims and society on the other.<sup>33</sup>

Legal protection for children in conflict with the law constitutes an integral aspect of the state's responsibility to ensure the fulfillment of children's human rights as a vulnerable group.<sup>34</sup> From a juridical perspective, children are recognized as legal subjects possessing psychological, emotional, and social characteristics that differ fundamentally from those of adults, thereby necessitating special treatment within the criminal justice system.<sup>35</sup> Law enforcement against children should not be oriented solely toward retribution for criminal conduct but must prioritize the principle of the best interests of the child as the primary foundation of child protection. This principle serves as the basis for the development of substantive justice within the Juvenile Criminal Justice System, particularly in addressing children involved in serious offences such as homicide, sexual violence, aggravated assault, narcotics related crimes, and terrorism.<sup>36</sup> Substantive justice refers to a conception of justice that emphasizes the achievement of genuine and meaningful fairness rather than mere compliance with formal legal procedures.<sup>37</sup> Within the context of juvenile justice, substantive justice requires that law enforcement processes not only apply legal norms textually but also take into consideration the child's psychological condition, family background, social environment, and prospects for rehabilitation and social reintegration.<sup>38</sup> The measure of justice is determined not solely by the legality of procedural processes but also by the extent to which judicial outcomes provide protection, recovery, and social benefits for the child without disregarding the interests of victims and society.<sup>39</sup>

The development of substantive justice in modern criminal law emerged as a response to overly legalistic approaches that prioritize procedural formalities. Within the juvenile justice system, this perspective is particularly relevant because children who commit criminal offences are often themselves victims of broader social conditions, including poverty, domestic violence, educational failure, negative peer

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<sup>33</sup> Kofi E. Boakye and Thomas D. Akoensi, 'Doing Time: Young People and the Rhetoric of Juvenile Justice in Ghana', *Palgrave Studies in Prisons and Penology*, Part F4187 (2021), 77–103 [https://doi.org/10.1007/978-3-030-68759-5\\_5](https://doi.org/10.1007/978-3-030-68759-5_5)

<sup>34</sup> Robert Ame, 'Towards a Relevant and Sustainable Juvenile Justice System in Ghana', *Journal of Global Ethics*, 15.3 (2019), 250–69 <https://doi.org/10.1080/17449626.2019.1690550>

<sup>35</sup> Clement Aryee and Esmeranda Manful, 'Child Protection Realities of Detained Juveniles in a Ghanaian Correctional Facility: A Qualitative Narrative', *Child Protection and Practice*, 4 (2025), 100124 <https://doi.org/10.1016/J.CHIPRO.2025.100124>

<sup>36</sup> Lukman Santoso and others, 'Fragmented Legal Protection in Child Marriage Prevention', *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum*, 11.1 (2026), 27–55 <https://doi.org/10.22515/ALAHKAM.V11I1.14103>

<sup>37</sup> Nidhi Karve and others, 'Bridging the Gaps: Standardizing Child Trafficking Training within Indiana's Juvenile Justice System', *Journal of Pediatric and Adolescent Gynecology*, 39.2 (2026), 265–66 <https://doi.org/10.1016/J.JPAG.2026.01.048>

<sup>38</sup> Gia E. Barboza-Salerno and others, 'An Examination of the Effect of Area-Level Characteristics on Juvenile Justice and Child Welfare Referrals Using Multivariate Bayesian Spatial Modeling', *Child Abuse & Neglect*, 160 (2025), 107203 <https://doi.org/10.1016/J.CHIABU.2024.107203>

<sup>39</sup> Erin M. Espinosa and Chris Scharenbroch, 'Risk and Needs Assessment in Child Welfare and Juvenile Justice: From Development to Sustainable Implementation', *Reference Module in Social Sciences*, 2026 <https://doi.org/10.1016/B978-0-443-26629-4.00244-6>



influences, and inadequate social supervision.<sup>40</sup> Therefore, the primary objective of juvenile justice is not merely to impose sanctions but also to ensure rehabilitation and guidance that enable children to reintegrate successfully into society.<sup>41</sup> This paradigm has been incorporated into Law Number 11 of 2012 concerning the Juvenile Criminal Justice System through the adoption of restorative justice and diversion as the principal mechanisms for resolving juvenile cases.

From a normative perspective, the existence of restorative justice and diversion reflects the state's commitment to shielding children from the adverse consequences of formal judicial proceedings and the stigma associated with criminal punishment.<sup>42</sup> Within this framework, imprisonment is regarded as an *ultimum remedium* or a measure of last resort.<sup>43</sup> Nevertheless, the effectiveness of these mechanisms encounters significant challenges when applied to serious criminal offences. Article 7(2) of the Juvenile Criminal Justice System Law stipulates that diversion may only be applied to offences punishable by imprisonment of less than seven years and which do not constitute repeat offences. The majority of serious crimes committed by children do not satisfy the legal requirements for diversion and must therefore proceed through formal judicial mechanisms.<sup>44</sup>

These challenges become even more complex because serious juvenile crimes possess characteristics that differ substantially from ordinary juvenile offences.<sup>45</sup> Under Indonesian law, a child in conflict with the law is defined as a person who has reached the age of twelve but has not yet attained the age of eighteen and is suspected of committing a criminal offence. Serious juvenile crime refers to offences involving a high degree of violence, substantial harm to victims, threats to public safety, or offences carrying severe criminal sanctions under statutory law. Such crimes include homicide, sexual violence, aggravated assault, narcotics-related offences, terrorism, and radicalism.<sup>46</sup> These characteristics directly affect the legal responses

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<sup>40</sup> Stephen M. Cox, Peter Kochol, and Jennifer Hedlund, 'The Exploration of Risk and Protective Score Differences Across Juvenile Offending Career Types and Their Effects on Recidivism', *Youth Violence and Juvenile Justice*, 16.1 (2018), 77–96 <https://doi.org/10.1177/1541204016678439>

<sup>41</sup> Carter Hay and others, 'Predicting Recidivism Among Released Juvenile Offenders in Florida: An Evaluation of the Residential Positive Achievement Change Tool', *Youth Violence and Juvenile Justice*, 16.1 (2018), 97–116 <https://doi.org/10.1177/1541204016660161>

<sup>42</sup> Paul Atagamen Aidonojie and others, 'Examining Human Rights Abuses on Religious, Cultural, and Political Intolerance in Nigeria', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 78–94 <https://doi.org/10.53955/JSDERI.V3I1.55>

<sup>43</sup> Michael J. Leiber and Rebecca Fix, 'Reflections on the Impact of Race and Ethnicity on Juvenile Court Outcomes and Efforts to Enact Change', *American Journal of Criminal Justice*, 44.4 (2019), 581–608 <https://doi.org/10.1007/s12103-019-09479-3>

<sup>44</sup> Ashlee R. Barnes-Lee and Amber Petkus, 'A Scoping Review of Strengths-Based Risk and Needs Assessments for Youth Involved in the Juvenile Legal System', *Children and Youth Services Review*, 148 (2023), 106878 <https://doi.org/10.1016/j.childyouth.2023.106878>

<sup>45</sup> Julie Goodwin, Shelley L. Brown, and Tracey A. Skilling, 'Gender Differences in the Prevalence and Predictive Validity of Protective Factors in a Sample of Justice-Involved Youth', *Youth Violence and Juvenile Justice*, 20.3 (2022), 231–49 <https://doi.org/10.1177/15412040221089235>

<sup>46</sup> Muhamad Yofhan Wibianto, Hartiwiningsih, and I. Gusti Ayu Ketut Rachmi Handayani, 'Real Justice, Real Impact with the Prosecutors in Action', *Journal of Human Rights, Culture and Legal System*, 5.3 (2025), 1015–41 <https://doi.org/10.53955/JHCLS.V5I3.804>



available because most such cases do not qualify for diversion under the Juvenile Criminal Justice System Law.<sup>47</sup>

The involvement of children in serious criminal conduct demonstrates that the issue cannot be understood solely as a matter of legal violation. In many cases, juvenile offending is influenced by social, psychological, economic, and environmental factors.<sup>48</sup> Children involved in homicide are often influenced by emotional conflicts, peer pressure, or inadequate self-control. Cases of sexual violence and aggravated assault frequently stem from cultures of violence, bullying, and the influence of digital media. Meanwhile, in narcotics and terrorism related offences, children often occupy a dual position as both offenders and victims of exploitation by others. These findings are reinforced by the 2024 Thematic Analysis of the National Survey on the Life Experiences of Children and Adolescents, which reported that 50.78 percent of children aged 13–17 years had experienced at least one form of violence during their lifetime. These data indicate that many children who subsequently come into conflict with the law originate from vulnerable and problematic environments.

In addition to the complexity of causative factors, crimes involving children have also demonstrated increasing levels of seriousness. Monitoring data from the Indonesian Child Protection Commission (KPAI) in 2024 indicate that issues of special child protection continue to be dominated by cases of violence and sexual offences. As of October 2024, 211 cases involving child victims of sexual crimes had been recorded, while incidents of sexual intercourse involving children increased by approximately 23 percent and cases of sexual violence rose by approximately 32 percent compared to the previous year. These developments demonstrate that crimes involving children, whether as perpetrators or victims, have become increasingly complex and require more comprehensive responses than procedural resolutions through diversion and restorative justice alone.<sup>49</sup>

In practice, restorative justice also encounters limitations when applied to offences resulting in severe harm and trauma to victims. In cases involving homicide, sexual violence, or aggravated assault, restoring relationships between offenders and victims is often difficult due to the significant physical and psychological consequences suffered by victims.<sup>50</sup> Under such circumstances, resolutions focused exclusively on reconciliation may fail to satisfy the sense of justice held by victims, their families, and society. Diversion and restorative justice primarily emphasize procedural case resolution, whereas the comprehensive assessment of a child's individual

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<sup>47</sup> Ashlee R. Barnes-Lee, 'Development of Protective Factors for Reducing Juvenile Reoffending: A Strengths-Based Approach to Risk Assessment', *Criminal Justice and Behavior*, 47.11 (2020), 1371–89 <https://doi.org/10.1177/0093854820949601>

<sup>48</sup> Raul Aguilar Ruiz and Noemí Pereda, 'Exposure to Family Violence and Risk Factors for Recidivism in Juvenile Offenders', *Victims and Offenders*, 17.2 (2022), 219–37 <https://doi.org/10.1080/15564886.2021.1888168>

<sup>49</sup> Qudratullah and others, 'Towards Discursive Justice: An Integrative Foucault-Islam Framework for Critical Media Discourse Analysis in Justice Issues', *Jurnal Ilmiah Al-Syir'ah*, 23.1 (2025), 156–69 <https://doi.org/10.30984/JIS.V23I1.3196>

<sup>50</sup> Gunawan Rahardjo and others, 'Alternative Punishment Based on Restorative Justice to Reduce the Overcapacity of Indonesian Community Institutions', *Pakistan Journal of Life and Social Sciences*, 22.1 (2024), 5241–47 <https://doi.org/10.57239/PJLSS-2024-22.1.00386>



circumstances, including psychological maturity, risk of recidivism, rehabilitation needs, and prospects for social reintegration, remains insufficiently accommodated.<sup>51</sup>

This situation gives rise to normative challenges within the legal regulation of serious juvenile crime in Indonesia. Articles 2 and 5 of the Juvenile Criminal Justice System Law emphasize that the juvenile justice system must be implemented based on the principles of child protection, the best interests of the child, and restorative justice. However, the restrictions on diversion contained in Article 7(2) effectively deprive child offenders involved in serious crimes of opportunities to obtain rehabilitation oriented and recovery-based solutions. As a consequence, the child protection orientation that constitutes the spirit of the Juvenile Criminal Justice System Law tends to shift toward a retributive approach when confronted with serious offences.<sup>52</sup> This condition reflects a normative inconsistency between the objectives of child protection and the statutory limitations embedded within the existing legal framework.

The Indonesian legal system provides special protection for children involved in serious crimes. In addition to the Juvenile Criminal Justice System Law, such protection is reinforced by Law Number 35 of 2014 concerning Child Protection, which obligates the state to guarantee children's rights to survival, growth, development, and protection from violence and discrimination. During judicial proceedings, children are entitled to legal assistance, parental or guardian support, social rehabilitation, psychological services, identity protection, education, and healthcare services.<sup>53</sup> Children cannot be sentenced to capital punishment or life imprisonment, while any term of imprisonment imposed may not exceed one half of the sentence applicable to adult offenders. Children serving criminal sanctions are placed in Special Child Development Institutions (*Lembaga Pembinaan Khusus Anak*), which are specifically oriented toward guidance, education, and rehabilitation.<sup>54</sup>

These legal provisions are consistent with international legal instruments, particularly the Convention on the Rights of the Child, ratified by Indonesia through Presidential Decree Number 36 of 1990, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines). These instruments emphasize the principles of non discrimination, the best interests of the child, respect for children's rights to growth and development,

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<sup>51</sup> Marlina and Mahmud Mulyadi, 'Building Restorative Justice in Gampong as a Bottom-up Legitimation of the Protection of Children in Conflict with the Law in Indonesia: Case Study in Aceh', *Cogent Social Sciences*, 10.1 (2024) <https://doi.org/10.1080/23311886.2024.2347410>

<sup>52</sup> Abdul Kadir Jaelani and others, 'The Impact of Tourism Villages Regulations to Achieve Sustainable Villages Tourism', *Contrarius*, 1.3 (2025), 245–61 <https://doi.org/10.53955/CONTRARIUS.V1I3.217>

<sup>53</sup> Teuku Syarafi and Mahdi Syahbandir, 'Confiscation of Corruption Asset in The Indonesian Legal System: A Study of Criminal Law in Aceh', *Samarah*, 8.2 (2024), 665–86 <https://doi.org/10.22373/SJHK.V8I2.20045>

<sup>54</sup> Ian D. Marder, 'Mapping Restorative Justice and Restorative Practices in Criminal Justice in the Republic of Ireland', *International Journal of Law, Crime and Justice*, 70 (2022), 100544 <https://doi.org/10.1016/J.IJLCJ.2022.100544>



and the importance of rehabilitative approaches while limiting the use of imprisonment against children.<sup>55</sup>

It may therefore be concluded that the legal framework governing serious juvenile crime in Indonesia has sought to balance the objectives of law enforcement and the protection of children's rights. The limitations of diversion and restorative justice in addressing serious offences demonstrate that these mechanisms are not fully capable of responding to the complexity of the issues involved.<sup>56</sup> A substantive justice approach is required one that evaluates not only compliance with legal procedures but also balances the interests of child rehabilitation, victim recovery, and societal protection.<sup>57</sup> Through such an approach, judges and law enforcement officials may comprehensively assess the child's degree of culpability, the underlying causes of the offence, rehabilitation needs, the impact on victims, and the broader objectives of social protection.<sup>58</sup> Judicial decisions would not merely provide legal certainty but would also embody a form of justice that is substantive, humane, and sustainable.

### ***Implementation of Substantive Justice in Cases of Serious Juvenile Crime in Indonesia***

The implementation of substantive justice in addressing serious crimes committed by children in Indonesia represents a manifestation of the paradigm shift within juvenile criminal law, which no longer focuses solely on punishment *retributive justice* but instead prioritizes protection, rehabilitation, and social reintegration as the primary objectives of the juvenile criminal justice system.<sup>59</sup> This transformation is founded on the understanding that children who commit criminal offences remain individuals undergoing psychological, emotional, and social development and therefore require treatment distinct from that afforded to adult offenders.<sup>60</sup> Within this framework, substantive justice emerges as a conception of justice that not only emphasizes compliance with formal legal procedures but also seeks to achieve outcomes that are humane, proportionate, and oriented toward the best interests of the child.<sup>61</sup> Substantive justice functions as a corrective mechanism to rigid formal

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<sup>55</sup> Anis Mashdurohatun, Bambang Sugihartono, and others, 'Combating Digital Defamation: Regulations, Challenges and Protecting Reputation', *Journal of Sustainable Development and Regulatory Issues*, 3.3 (2025), 486–514 <https://doi.org/10.53955/JSDERI.V3I3.147>

<sup>56</sup> Indriati Amarini and others, 'Social Reintegration after the Implementation of Restorative Justice in the Indonesian Criminal Code', *Jurnal Media Hukum*, 31.1 (2024), 115–33 <https://doi.org/10.18196/JMH.V31I1.20655>

<sup>57</sup> Dinda Aprilia and others, 'Regulatory Model for Tourism Villages in Forest Areas Based on Sustainable Tourism', *Legality: Jurnal Ilmiah Hukum*, 33.1 (2025), 286–306 <https://doi.org/10.22219/ljih.v33i1.40177>

<sup>58</sup> Liam Leonard and Paula Kenny, 'Measuring the Effectiveness of Restorative Justice Practices in the Republic of Ireland Through a Meta-Analysis of Functionalist Exchange', *The Prison Journal*, 91.1 (2011), 57–80 <https://doi.org/10.1177/0032885510389561>

<sup>59</sup> Januar Rahadian Mahendra and Silas Oghenemaro Emovwodo, 'Monodualistic and Pluralistic Punishment Politics in Criminal Code Reform: Lessons from Indonesia', *Journal of Law, Environmental and Justice*, 1.3 (2023), 225–43 <https://doi.org/10.62264/JLEJ.V1I3.17>

<sup>60</sup> Dinda Aprillia and Abdul Kadir Jaelani, 'Forest Area Tourism Village Management: Regulatory Analysis In Karanganyar Regency As An Effort To Realize Sustainable Tourism', *The Fourth International Conference on Government Education Management and Tourism*, 4 (2025), 084–084 <https://www.conference.loupiasconference.org/index.php/ICoGEMT-4/article/view/607>

<sup>61</sup> Ian D. Marder, 'Institutionalising Restorative Justice in the Police: Key Findings from a Study of Two English Police Forces', *Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice*, 23.4 (2020), 500–526 <https://doi.org/10.1080/10282580.2020.1755847>



justice, particularly when the strict application of legal procedures may produce outcomes that are unfair to children. Its implementation should be understood as an effort to balance the values of justice, utility, and legal certainty, as articulated in the legal philosophy of Gustav Radbruch.<sup>62</sup>

At the investigation stage the implementation of substantive justice is reflected in the obligation of law enforcement authorities to treat children humanely and prioritize the protection of their rights.<sup>63</sup> The police perform not only a law enforcement function but also bear responsibility for safeguarding the dignity and future of children throughout the legal process. Investigations involving children must be conducted in a child friendly manner, free from intimidation, physical violence, psychological coercion, and any other forms of treatment that may compromise the child's welfare. This approach is consistent with Article 28B (2) of the 1945 Constitution of the Republic of Indonesia, which guarantees every child's right to survival, growth and development, and protection from violence and discrimination. Within the framework of substantive justice, legal and psychological assistance from the earliest stages of proceedings constitutes an essential instrument for ensuring the child's right to defense while simultaneously preventing abuses of authority by law enforcement officials.<sup>64</sup> This perspective aligns with John Rawls's theory of justice, which emphasizes the need for special protection of vulnerable groups in order to achieve equitable justice.<sup>65</sup>

The implementation of substantive justice is equally evident at the prosecution stage. Prosecutors do not merely act as representatives of the state seeking accountability for criminal conduct; they are also obliged to consider the best interests of the child by comprehensively evaluating the child's social background, family circumstances, educational attainment, psychological condition, and potential for rehabilitation.<sup>66</sup> Prosecutorial demands should not be based solely on considerations of retribution or public pressure but must also account for the objectives of child protection and recovery as part of safeguarding future generations.<sup>67</sup> This approach reflects the principle of distributive justice, which advocates proportional treatment based on the individual circumstances of the offender.

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<sup>62</sup> Elizabeth Aston, Kath Murray, and Megan O'Neill, 'Achieving Cultural Change through Organizational Justice: The Case of Stop and Search in Scotland', *Criminology and Criminal Justice*, 21.1 (2021), 40–56 <https://doi.org/10.1177/1748895819839751>

<sup>63</sup> Ahmad Syahird and others, 'Restorative Justice Approach as Ultimum Remedium of Corruption Crimes', *Pakistan Journal of Criminology*, 16.3 (2024), 949–62 <https://doi.org/10.62271/PJC.16.3.949.962>

<sup>64</sup> Yolanda Anyon and others, 'Restorative Interventions and School Discipline Sanctions in a Large Urban School District', *American Educational Research Journal*, 53.6 (2016), 1663–97 <https://doi.org/10.3102/0002831216675719>

<sup>65</sup> Saraswati S. Putu Sekarwangi and Olim Narzullayev, 'Integrating Miranda Rights to Promote Human Rights Compliance', *Journal of Sustainable Development and Regulatory Issues*, 3.3 (2025), 459–85 <https://doi.org/10.53955/JSDERI.V3I3.94>

<sup>66</sup> Muhammad Kurniawan Budi Wibowo and others, 'The Oportunitas Principle in Corruption Law Enforcement: A Juridical Study on the Authority of Prosecutors', *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 24.1 (2025), 4974–88 <https://doi.org/10.31941/PJ.V24I2.6410>

<sup>67</sup> Budiyo Budiyo and Yustus Pondayar, 'Conceptualizing the Integration of Restorative Justice in Environmental Crimes into Customary Criminal Justice', *Journal of Law, Environmental and Justice*, 4.1 (2026), 124–60 <https://doi.org/10.62264/JLEJ.V4I1.204>



At the trial stage substantive justice is manifested through the role of judges in identifying and applying the values of justice that exist within society while placing the best interests of the child at the center of judicial decision making.<sup>68</sup> Judges are not confined to formal legality alone but are also required to demonstrate moral and social sensitivity in understanding the specific circumstances of each child. Aristotle's concept of *epikeia* becomes particularly relevant in this context, as judges must exercise wisdom in interpreting legal norms when rigid application of statutory rules may result in injustice. Prior to rendering a decision, judges should consider factors such as the child's age, level of maturity, psychological condition, family environment, social influences, and prospects for rehabilitation and social reintegration.

The utilization of social inquiry reports (*litmas*) prepared by the Correctional Center (*Balai Pemasyarakatan*) and psychological assessments constitutes an important instrument in realizing substantive justice.<sup>69</sup> These instruments provide comprehensive information regarding the child's social, familial, educational, and psychological circumstances, thereby enabling judges to determine the most appropriate and proportionate sanction, whether in the form of criminal punishment or rehabilitative measures.<sup>70</sup> The objectives of juvenile justice are directed not merely toward retribution for wrongdoing but also toward the recovery of the child and the prevention of recidivism. The practical implementation of substantive justice may be observed through judicial decisions involving children who commit serious offences.<sup>71</sup> One notable example is the Decision of the East Jakarta District Court Number 8/Pid.Sus-Anak/2024/PN Jkt.Tim concerning a homicide committed by a child. In this case, the child was processed through formal judicial proceedings because homicide does not satisfy the requirements for diversion under Article 7(2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which limits diversion to offences punishable by imprisonment of less than seven years and excludes repeat offenders. Since the statutory penalty for homicide exceeds seven years of imprisonment, diversion was unavailable despite the continuing relevance of the best interests of the child principle. This decision illustrates the normative tension between the objective of child rehabilitation and the statutory limitations contained within the Juvenile Criminal Justice System Law.<sup>72</sup>

A similar phenomenon can be observed in the Decision of the Medan District Court Number 116/Pid.Sus-Anak/2023/PN Mdn concerning a sexual violence offence

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<sup>68</sup> Anis Mashdurohatun, I. Made Dwi Jayantara, and others, 'Delayed Justice in Protecting Emergency Medical Workers', *Journal of Sustainable Development and Regulatory Issues*, 3.2 (2025), 347–71 <https://doi.org/10.53955/JSDERI.V3I2.116>

<sup>69</sup> William Maxey and others, 'Discrepancy between Policy and Practice: A Case Study on Hegemony within an Indonesian Juvenile Correctional Center (LPKA)', *Children and Youth Services Review*, 177 (2025), 108469 <https://doi.org/10.1016/J.CHILDYOUTH.2025.108469>

<sup>70</sup> Alyssa Vieira and others, 'Non-Suicidal Self-Injury, Suicidal Behaviors, and Mental Health Symptoms among Sexual Minority Youth with Juvenile Justice System Involvement', *Children and Youth Services Review*, 155 (2023) <https://doi.org/10.1016/j.childyouth.2023.107196>

<sup>71</sup> Muassomah Muassomah and others, 'Participatory-Based Character Education: Indonesian School Children's Experiences', *Jurnal Ilmiah Peuradeun*, 13.3 (2025), 1615–42 <https://doi.org/10.26811/PEURADEUN.V13I3.1969>

<sup>72</sup> Bo Kyung Elizabeth Kim and others, 'Statewide Trends of Trauma History, Suicidality, and Mental Health Among Youth Entering the Juvenile Justice System', *Journal of Adolescent Health*, 68.2 (2021), 300–307 <https://doi.org/10.1016/j.jadohealth.2020.05.044>



committed by a child. In that case, the judge sought to apply the principle of the best interests of the child by taking into account the child's circumstances and future prospects. At the same time, however, the court was required to consider the serious harm suffered by the victim and society's demand for justice. This situation demonstrates that the handling of serious crimes committed by children extends beyond the protection of child offenders and also encompasses victim recovery and the protection of broader societal interests.<sup>73</sup> Serious juvenile crime cases generate a complex dilemma involving the rights of child offenders, the rights of victims, and public expectations of justice, which cannot always be adequately addressed through diversion or restorative justice mechanisms.

These judicial decisions demonstrate that diversion and restorative justice, which constitute the philosophical foundation of the Juvenile Criminal Justice System Law, are not always sufficient to address serious crimes committed by children.<sup>74</sup> In cases involving homicide, sexual violence, narcotics related offences, and other serious crimes, additional legal interests must also be protected, namely the interests of victims and society.<sup>75</sup> Accordingly, a substantive justice approach becomes essential because it enables judges to consider all dimensions of a case comprehensively, including the child's level of culpability, social background, impact on victims, rehabilitation needs, and broader objectives of societal protection.<sup>76</sup>

Implementing substantive justice becomes increasingly urgent in light of the growing involvement of children in serious crimes throughout Indonesia.<sup>77</sup> This phenomenon cannot be separated from broader social transformations occurring within society. Data from the 2024 National Survey on the Life Experiences of Children and Adolescents indicate that approximately 50.78 percent of children aged 13–17 years have experienced at least one form of violence during their lifetime. Such figures suggest that many children grow up in environments that may foster aggressive or deviant behavior. A significant number of children who later become offenders have themselves previously been victims of violence, neglect, or exploitation.<sup>78</sup> Furthermore, advances in information technology and social media have increased children's exposure to harmful content, including violence, pornography, online gambling, and other forms of deviant behavior that may adversely affect psychological development and conduct.

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<sup>73</sup> Jeffrey J. Roth and Mari B. Pierce, 'Improving Responses to Juvenile Burglary Offenders', *Safer Communities*, 18.34 (2019), 94–106 <https://doi.org/10.1108/SC-09-2018-0026>

<sup>74</sup> Melissa Sharer and others, 'Improving Foster Care and Juvenile Justice Services: A Community-Based Participatory Mixed-Methods Study in Iowa and Illinois', *Evaluation and Program Planning*, 116 (2026), 102763 <https://doi.org/10.1016/J.EVALPROGPLAN.2026.102763>

<sup>75</sup> Laura S. Abrams, 'Juvenile Justice at a Crossroads: Science, Evidence, and Twenty-First Century Reform', *Social Service Review*, 87.4 (2013), 725–52 <https://doi.org/10.1086/674074>

<sup>76</sup> Muhammad Deni Putra and others, 'When the Sacred Meets the Market: The Commodification of Islamic Housing in Lima Puluh Kota, West Sumatra', *Journal of Islamic Law*, 6.1 (2025), 135–54 <https://doi.org/10.24260/JIL.V6I1.3539>

<sup>77</sup> Sino Esthappan and others, 'Transforming Practice Through Culture Change: Probation Staff Perspectives on Juvenile Justice Reform', *Youth Violence and Juvenile Justice*, 18.3 (2020), 274–93 <https://doi.org/10.1177/1541204020901761>

<sup>78</sup> Elyta Elyta and others, 'Political Development through Renewable Energy: The Use of Ex-Mining Land in Indonesia's New Capital', *Jurnal Ilmiah Peuradeun*, 13.3 (2025), 1693–1718 <https://doi.org/10.26811/PEURADEUN.V13I3.1099>



Family dysfunction and inadequate social supervision have also emerged as significant factors contributing to the rise of serious juvenile crime.<sup>79</sup> Numerous studies indicate that serious offences committed by children frequently originate in dysfunctional family environments, poverty, domestic conflict, inadequate educational opportunities, and negative peer influences. Such conditions increase children's vulnerability to involvement in serious criminal activities, including homicide, sexual violence, narcotics abuse, and other grave offences.<sup>80</sup> Monitoring data from the Indonesian Child Protection Commission (KPAI) in 2024 further reveal that sexual crimes against children continue to dominate issues of special child protection, reflecting the increasing complexity of child related crime in Indonesia.

The growing prevalence of serious crimes involving children should not be viewed solely as a criminal law issue but also as a threat to national development, particularly in relation to the realization of Indonesia Emas 2045. One of the central pillars of Indonesia Emas 2045 is the development of high quality, competitive human resources supported by strong educational attainment. From this perspective, juvenile involvement in serious crime reflects deficiencies in both child protection systems and broader human development policies. If this trend continues, the quality of Indonesia's future human resources may be jeopardized, as children who should be prepared to become productive members of society instead lose opportunities for education, personal development, and social participation due to their involvement in criminal activities.<sup>81</sup> The handling of serious juvenile crime must be regarded as an integral component of national development strategies aimed at strengthening human capital.

In addition to its relevance to Indonesia Emas 2045, the issue of serious juvenile crime is closely connected to the achievement of the Sustainable Development Goals (SDGs), particularly SDG 4 concerning quality education, SDG 5 concerning gender equality and the elimination of sexual violence, SDG 10 concerning the reduction of social inequalities, and SDG 16 concerning peace, justice, and strong institutions. The high incidence of juvenile involvement in homicide, sexual violence, narcotics related offences, and other serious crimes indicates substantial obstacles to achieving these sustainable development objectives.<sup>82</sup> Therefore, the implementation of substantive justice within the juvenile criminal justice system is relevant not only from the

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<sup>79</sup> Sandra Pavelka and Douglas Thomas, 'The Evolution of Balanced and Restorative Justice', *Juvenile and Family Court Journal*, 70.1 (2019), 37–58 <https://doi.org/10.1111/JFCJ.12125>

<sup>80</sup> Keisha April and others, 'Conceptualizing Juvenile Justice Reform: Integrating the Public Health, Social Ecological, and Restorative Justice Models', *Children and Youth Services Review*, 148 (2023), 106887 <https://doi.org/10.1016/J.CHILDYOUTH.2023.106887>

<sup>81</sup> 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/10.1016/J.JCRIMJUS.2025.102424>

<sup>82</sup> Dylan Jones and others, 'From Juvenile Justice Involvement to Incarceration in Young Adulthood: Do Independent Living Services Matter?', *Children and Youth Services Review*, 175 (2025), 108352 <https://doi.org/10.1016/J.CHILDYOUTH.2025.108352>



perspective of child protection and law enforcement but also as part of a broader effort to promote sustainable human development.<sup>83</sup>

Ultimately the implementation of substantive justice in addressing serious crimes committed by children should be understood as an approach capable of balancing the interests of child offenders, the rights of victims, societal interests, and the objectives of national development.<sup>84</sup> The implementation of substantive justice continues to face significant obstacles, including the dominance of punitive paradigms, the influence of public opinion, conflicts between the protection of children's rights and victims' rights, inconsistencies in judicial decisions, inadequate rehabilitation facilities, shortages of professional personnel, and the ineffective implementation of rehabilitation and social reintegration programs.<sup>85</sup> Comprehensive reforms are required in the areas of legal regulation, institutional capacity, human resource development, and legal culture. Such reforms should be directed toward a system that prioritizes protection, recovery, and the future development of children. Through this approach, the juvenile criminal justice system may function not only as an instrument of law enforcement but also as a mechanism of human development that contributes to the realization of Indonesia Emas 2045 and the sustainable achievement of the Sustainable Development Goals.

### ***Reconstruction of the Criminal Justice System Model Based on the Values of Substantive Justice for Juvenile Offenders Involved in Serious Crimes***

Achieving a Juvenile Criminal Justice System grounded in substantive justice requires the reconstruction of policies governing the treatment of juvenile offenders involved in serious crimes.<sup>86</sup> This need for reconstruction arises from the reality that the implementation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System continues to face various structural, normative, and cultural challenges that allow punitive approaches to remain dominant in practice. Although the Juvenile Criminal Justice System Law explicitly designates restorative justice as a fundamental principle, as stipulated in Article 5(1), law enforcement practices continue to demonstrate a predominantly retributive orientation focused on punishment. This condition reflects a significant gap between the normative objectives of the law and its practical implementation, particularly in cases involving children accused of offences punishable by imprisonment exceeding seven years.<sup>87</sup> Consequently, children

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<sup>83</sup> Kathleen M. Heide and Eldra P. Solomon, 'Female Juvenile Murderers: Biological and Psychological Dynamics Leading to Homicide', *International Journal of Law and Psychiatry*, 32.4 (2009), 244–52 <https://doi.org/10.1016/j.ijlp.2009.04.003>

<sup>84</sup> Michael M. Welner, 'Assessment of Criminal Maturity in Juvenile Homicide Offenders', *Encyclopedia of Forensic and Legal Medicine: Volume 1-4, Third Edition*, 1 (2025), 360–70 <https://doi.org/10.1016/B978-0-443-21441-7.00325-3>

<sup>85</sup> Christina Mancini and Christi Metcalfe, 'Public Assessments of the Criminal Justice System in Addressing Mental Health', *Journal of Criminal Justice*, 89 (2023), 102120 <https://doi.org/10.1016/J.JCRIMJUS.2023.102120>

<sup>86</sup> Ozkan Eren and Naci Mocan, 'Juvenile Punishment, High School Graduation, and Adult Crime: Evidence from Idiosyncratic Judge Harshness', *Review of Economics and Statistics*, 103.1 (2021), 34–47 [https://doi.org/10.1162/rest\\_a\\_00872](https://doi.org/10.1162/rest_a_00872)

<sup>87</sup> Leslie Paik and others, 'The Long Reach of Juvenile and Criminal Legal Debt: How Monetary Sanctions Shape Legal Cynicism and Adultification', *Children and Youth Services Review*, 154 (2023), 107121 <https://doi.org/10.1016/J.CHILDYOUTH.2023.107121>



are frequently treated as objects of punishment rather than as individuals requiring protection, guidance, rehabilitation, and comprehensive recovery.

Policy reconstruction must begin with the reformulation of juvenile sentencing policies, which remain constrained by legalistic approaches and formal statutory penalties.<sup>88</sup> Article 7(2)(a) of the Juvenile Criminal Justice System Law limits diversion to offences punishable by less than seven years of imprisonment, thereby creating a form of normative discrimination against children involved in serious crimes. Such restrictions are inconsistent with the principles of non discrimination and the best interests of the child as recognized in the Convention on the Rights of the Child and in national child protection legislation.<sup>89</sup> Sentencing policy reform should be directed toward eliminating statutory penalty thresholds as a prerequisite for diversion, thereby ensuring that every child, including those involved in serious offences, retains the opportunity to access restorative and rehabilitative forms of justice.<sup>90</sup> This approach is not intended to abolish criminal responsibility but rather to ensure that accountability is implemented proportionately while taking into consideration the child's psychological condition, social circumstances, and developmental needs.

Within this framework policy reconstruction should prioritize sentencing guidelines grounded in substantive justice, where recovery and social reintegration constitute the primary objectives.<sup>91</sup> Substantive justice should not be understood merely as the formal application of legal rules but rather as an effort to achieve humane justice by balancing child protection, victims' interests, and social harmony. Consequently, judicial decisions concerning children who commit serious offences should not be driven solely by retributive considerations.<sup>92</sup> Instead, judges should assess factors such as age, family background, psychological condition, social environment, degree of remorse, and prospects for rehabilitation. Substantive justice oriented sentencing guidelines should provide broader opportunities for the application of alternative sanctions, including social rehabilitation, intensive supervision, specialized education, vocational training, community service, and psychosocial therapy, rather than relying primarily on long term imprisonment, which may reinforce processes of prisonization and social labeling.<sup>93</sup>

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<sup>88</sup> Lisa Stolzenberg and others, 'A Comparison of First-Time Offenders, Repeat Offenders, and Frequent Utilizers of the Criminal Justice System', *Journal of Criminal Justice*, 94 (2024), 102270 <https://doi.org/10.1016/J.JCRIMJUS.2024.102270>

<sup>89</sup> David S. Kirk and Sara Wakefield, 'Collateral Consequences of Punishment: A Critical Review and Path Forward', *Annual Review of Criminology*, 1 (2018), 171–94 <https://doi.org/10.1146/ANNUREV-CRIMINOL-032317-092045>

<sup>90</sup> Sahuri Lasmadi, Ratna Kumala Sari, and Hari Sutra Disemadi, 'Restorative Justice Approach as an Alternative Companion of the Criminal Justice System in Indonesia', 2020 <https://doi.org/10.2991/AEBMR.K.200513.044>

<sup>91</sup> Hamda Sulfinadia and others, 'Negotiating Islamic Inheritance and Customary Law: Functional Legal Pluralism and Matrilineal Pusako Randah in Minangkabau', *Journal of Islamic Law*, 7.1 (2026), 1–30 <https://doi.org/10.24260/JIL.V7I1.3743>

<sup>92</sup> Michael F. Caldwell and Brendan M. Caldwell, 'The Age of Redemption for Adolescents Who Were Adjudicated for Sexual Misconduct', *Psychology, Public Policy, and Law*, 28.2 (2022), 167–78 <https://doi.org/10.1037/LAW0000343>

<sup>93</sup> Meta Permatasari and Umar Ma'ruf, 'Implementation of Legal Protection Against The Criminal Acts of Children & Witnesses in The Criminal Action of Stealing', *Law Development Journal*, 2.4 (2021), 565 <https://doi.org/10.30659/LDJ.2.4.565-572>



Such reconstruction must also be accompanied by strengthening the capacity of law enforcement officials as the principal actors responsible for implementing the juvenile justice system.<sup>94</sup> One of the most fundamental challenges in handling children involved in serious crimes is the persistence of a retributive mindset among law enforcement personnel, including police officers, prosecutors, and judges. This paradigm often results in legal processes that prioritize punishment over recovery. Therefore, capacity building initiatives should be implemented through integrated education and training programs emphasizing children's rights, child psychological development, restorative justice principles, the best interests of the child, and rehabilitative approaches within juvenile justice.<sup>95</sup> These training programs should be continuous and coordinated across institutions to ensure a shared understanding of juvenile case management. Furthermore, all law enforcement officials responsible for handling juvenile cases should possess specialized certification in juvenile justice as a means of guaranteeing professional competence and safeguarding children's rights throughout legal proceedings.

The enhancement of law enforcement capacity should also be accompanied by the development of integrated coordination mechanisms among criminal justice institutions and social welfare agencies.<sup>96</sup> To date, institutional fragmentation and weak inter agency coordination have constituted significant obstacles to the effective implementation of the Juvenile Criminal Justice System.<sup>97</sup> Consequently, policy reconstruction should establish a collaborative handling model involving the Police, the Public Prosecution Service, Juvenile Courts, Correctional Centers (*Balai Pemasyarakatan*), Special Child Development Institutions (*Lembaga Pembinaan Khusus Anak*), professional social workers, psychologists, local governments, and child protection agencies. Such institutional synergy is essential to ensure that every child receives comprehensive support from the investigation stage through post sentence social reintegration. Within this model, Correctional Centers play a strategic role through the preparation of social inquiry reports (*Litmas*), which provide recommendations regarding proportionate treatment based on the child's circumstances, while social workers and psychologists conduct social and psychological assessments that support rehabilitation and recovery processes.

Policy reconstruction should further be directed toward the development of adequate child specific rehabilitation institutions oriented toward guidance and development. The limited number and quality of Special Child Development Institutions (LPKA), Temporary Child Placement Institutions (LPAS), and Child Social Welfare Institutions (LPKS) have resulted in situations where children are placed in

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<sup>94</sup> Zainal Azwar and others, 'Child Filiation and Its Implications on Maintenance and Inheritance Rights: A Comparative Study of Regulations and Judicial Practices in Indonesia, Malaysia, and Turkey', *Journal of Islamic Law*, 5.1 (2024), 62–85 <https://doi.org/10.24260/jil.v5i1.2326>

<sup>95</sup> Femmy Silaswaty Faried, Hadi Mahmud, and Suparwi, 'Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022), 66–77 <https://doi.org/10.53955/JHCLS.V2I1.31>

<sup>96</sup> Natalia Maharani and others, 'Effectiveness of International Legal Instruments in Preventing and Eradicating Human Trafficking: Palermo Protocol Implementation Study', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 9.1 (2026), 1–20 <https://doi.org/10.24090/VOLKSGEIST.V9I1.15370>

<sup>97</sup> Jonathan Hobson and others, 'Restorative Justice, Youth Violence, and Policing: A Review of the Evidence', *Laws*, 11.4 (2022) <https://doi.org/10.3390/LAWS11040062>



unsuitable facilities or, in some cases, housed together with adult detainees. Such conditions are clearly inconsistent with child protection principles and the rehabilitative objectives of the Juvenile Criminal Justice System. Accordingly, the state must make substantial investments in the establishment of specialized child rehabilitation institutions that function not merely as places of detention but also as centers for education, psychological rehabilitation, vocational training, character development, and social reintegration.<sup>98</sup> These institutions should be reconstructed according to humane and restorative principles through the provision of formal education, psychological counseling, social therapy, vocational programs, and, where necessary, deradicalization initiatives.<sup>99</sup> Such measures are essential to ensure that children retain meaningful opportunities for future development and successful reintegration into society following the completion of legal proceedings.

Harmonizing child protection, victims' rights, and societal justice constitutes a crucial element of policy reconstruction. A common concern is that restorative approaches toward children involved in serious crimes may undermine victims' rights and public perceptions of justice. In reality, restorative justice seeks to establish a balanced relationship among the interests of offenders, victims, and society through participatory and equitable mechanisms of recovery.<sup>100</sup> Within this framework, victims must continue to receive protection, psychological recovery services, restitution, and recognition of the harm they have suffered. At the same time, society should be actively involved in the social reintegration of children in order to reduce stigma and discrimination against those who have previously come into conflict with the law.<sup>101</sup> Such harmonization should be achieved through deliberation, mediation, and community-based recovery processes consistent with the values of Pancasila, particularly the principles of humanity, deliberative democracy, and social justice.<sup>102</sup>

Ultimately the reconstruction of policies governing juvenile offenders involved in serious crimes should be directed toward the establishment of an ideal Juvenile Criminal Justice System model grounded in the values of justice in Indonesia, namely a Collaborative Restorative Model.<sup>103</sup> This model places recovery, rehabilitation, and social reintegration at the center of the justice process while engaging all relevant stakeholders in an integrated manner. The Collaborative Restorative Model recognizes that addressing serious juvenile crime is not solely the responsibility of law

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<sup>98</sup> Csa Teddy Lesmana and others, 'Participatory Rational Justice in Criminal Law Reform as an Integrative Theory for Substantive Justice and Social Legitimacy', *Volksggeist: Jurnal Ilmu Hukum Dan Konstitusi*, 9.1 (2026), 21–36 <https://doi.org/10.24090/VOLKSGEIST.V9I1.15585>

<sup>99</sup> Lisa Mary Armstrong, 'Is Restorative Justice an Effective Approach in Responding to Children and Young People Who Sexually Harm?', *Laws*, 10.4 (2021) <https://doi.org/10.3390/LAWS10040086>

<sup>100</sup> Bambang Sugeng Rukmono and Sandi Yudha Prayoga, 'Justice A Legal Analysis of Medical Marijuana Regulation', *Contrarius*, 1.1 (2025), 28–40 <https://doi.org/10.53955/CONTRARIUS.V1I1.81>

<sup>101</sup> Abdurrakhman Alhakim, Teguh Prasetyo, and Henry Soelistyo Budi, 'Revitalizing Justice: Empowering Juvenile Sexual Offenders through a Restorative Approach in Indonesia', *Journal of Judicial Review*, 25.1 (2023), 17–32 <https://doi.org/10.37253/JJR.V25I1.7537>

<sup>102</sup> Article Abstract Author Firdaus Arifin and others, 'Ambiguity and Contestation in Legal Standing Restrictions: Rethinking Public Interest and Constitutional Rights in Indonesia', *Volksggeist: Jurnal Ilmu Hukum Dan Konstitusi*, 8.2 (2025), 395–413 <https://doi.org/10.24090/VOLKSGEIST.V8I2.13192>

<sup>103</sup> Heather Hensman Kettrey and Mark W. Lipsey, 'The Effects of Specialized Treatment on the Recidivism of Juvenile Sex Offenders: A Systematic Review and Meta-Analysis', *Journal of Experimental Criminology*, 14.3 (2018), 361–87 <https://doi.org/10.1007/S11292-018-9329-3>



enforcement institutions but rather a shared responsibility among government agencies, families, communities, media organizations, educational institutions, social workers, and child protection bodies.<sup>104</sup> Through this model, judicial proceedings are no longer perceived merely as mechanisms of punishment but as instruments of moral education, social recovery, and protection of children's future prospects.

From the perspective of Pancasila values, this policy reconstruction reflects the implementation of the principles of Belief in God, Humanity, National Unity, Deliberation, and Social Justice within the juvenile criminal justice system.<sup>105</sup> The principle of humanity requires that children continue to be treated with dignity and respect, even when they have committed serious offences. The principle of deliberation is reflected in restorative mechanisms that involve offenders, victims, families, and communities in participatory decision-making processes. Meanwhile, the principle of social justice is realized through a balanced protection of children's rights, victims' rights, and societal interests.<sup>106</sup> Accordingly, the reconstruction of policies concerning juvenile offenders involved in serious crimes is intended not merely to improve the formal legal framework but also to establish a juvenile justice system that embodies substantive justice, humanity, and a future oriented commitment to children as the next generation of the nation.

## CONCLUSION

Based on the findings of this study, it can be concluded that the implementation of substantive justice in addressing serious crimes committed by children in Indonesia has not yet been fully realized, despite the fact that the Juvenile Criminal Justice System has normatively incorporated the principles of child protection, the best interests of the child, restorative justice, and rehabilitation. The principal challenge lies in the existence of a normative disharmony between the child protection principles embodied in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and the diversion limitations stipulated in Article 7(2), which result in children involved in serious offences being processed predominantly through formal judicial mechanisms characterized by a retributive orientation. In practice, the realization of substantive justice continues to encounter significant obstacles, including the dominance of punitive paradigms, the influence of public opinion, inconsistencies in judicial decision making, inadequate rehabilitation facilities, and the lack of effective inter institutional coordination in the processes of child rehabilitation and social reintegration. Accordingly, the Juvenile Criminal Justice System requires comprehensive reconstruction through the adoption of a Collaborative Restorative Model that equally prioritizes rehabilitation, social reintegration, the protection of children's rights, victim recovery, and the interests of society. Such a model should be implemented through the reformulation of diversion and juvenile sentencing policies, the enhancement of law enforcement capacity, the development of adequate

<sup>104</sup> Ketut Sukewati, Lanang Putra Perbawa, and Paul Atagamen Aidonojie, 'Restorative Justice as a Policy Approach to Traffic Crime Resolution in Indonesia', *Contrarius*, 1.1 (2025), 41–50 <https://doi.org/10.53955/CONTRARIUS.V1I1.82>

<sup>105</sup> Sri Wiyanti Eddyono, 'Restorative Justice for Victim's Rights on Sexual Violence: Tension in Law and Policy Reform in Indonesia', *Journal of Southeast Asian Human Rights*, 5.2 (2021), 176–201 <https://doi.org/10.19184/JSEHR.V5I2.28011>

<sup>106</sup> Enshen Li and Mingyue Su, 'From Punishment to Control: Assessing Juvenile Diversion in China', *Law and Social Inquiry*, 45.2 (2020), 372–97 <https://doi.org/10.1017/LSI.2019.70>



rehabilitation institutions, and strengthened collaboration among relevant stakeholders. Through these measures, it is expected that a juvenile criminal justice system can be established that embodies substantive justice, promotes a more humane and child centered approach, and remains consistent with the values of Pancasila, the Sustainable Development Goals (SDGs), and the vision of Indonesia Emas 2045.

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