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Restorative Justice Policy for Children in Conflict with the Law in the Juvenile Criminal Justice System in Indonesia

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Abstract. *Children in conflict with the law are a group that requires special protection because their physical, mental, and social conditions are still in the developmental stage. The restorative justice approach is one of the criminal law policies adopted in the Juvenile Criminal Justice System through Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, which places diversion as the main instrument for resolving cases outside the formal justice process. However, in practice, the implementation of this policy still faces various obstacles, including differences in understanding among law enforcement officials, limited implementation of diversion, and the less than optimal harmonization of laws and regulations governing restorative justice. This study aims to legally analyze the restorative justice policy for children in conflict with the law in the Indonesian juvenile criminal justice system and to identify efforts to strengthen policies that can guarantee the protection of children's rights. This study is a normative legal research using a statute approach, a conceptual approach, and a case approach. The legal materials used include primary, secondary, and tertiary legal materials, which are analyzed qualitatively using descriptive-analytical methods. The research results indicate that normatively, restorative justice policy has an adequate legal basis through Law No. 11 of 2012 concerning the Juvenile Criminal Justice System and its various implementing regulations. However, its implementation has not been fully effective due to regulatory disharmony, differing interpretations among law enforcement officials, and the suboptimal involvement of victims, families, and the community in the case resolution process. Therefore, regulatory harmonization, strengthening the capacity of law enforcement officials, and the development of more comprehensive implementation guidelines are needed so that the implementation of restorative justice can realize legal certainty, justice, benefit, and protection of children's rights in accordance with the principle of the best interests of the child.*



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1. Introduction

Children are a trust and the next generation of the nation who have the right to receive protection, guidance, and the opportunity to develop optimally. From a human rights perspective, children have a special position so that the state is obliged to provide protection against any form of action that can hinder their growth and development, including when children come into contact with the law. This protection is an implementation of the mandate of the 1945 Constitution of the Republic of Indonesia, the Convention on the Rights of the Child, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA).

Children's rights are guaranteed in Article 28 B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. One of the children's rights referred to is the rights of children who are in conflict with the law. The state is obliged to be present to implement them, for the sake of the continuity of life, growth and development and the future of children.¹ Children who commit crimes are called delinquent children or in criminal law are referred to as juvenile delinquency. Romli Atmasasmita argues that juvenile delinquency is any act or behavior of a child under 18 years of age and unmarried that violates applicable legal norms and can endanger the child's personal development.² In addressing and overcoming these various issues, it is necessary to consider the child's status, with all their unique characteristics and traits, as a perpetrator of a crime. This is not just about whether the act is based on their thoughts, feelings, and desires, but also about the various factors that can influence a child to commit a crime. Therefore, the role of parents and the surrounding community is essential.³

When dealing with children as perpetrators of crimes, law enforcement officers must always consider the unique circumstances of children compared to adults. The fundamental nature of children as individuals who are still unstable, their future as a national asset, and their position in society, which still requires protection, can serve as the basis for finding alternative solutions to prevent children from being excluded from the formal criminal justice system, being placed in prison, and being stigmatized as prisoners.⁴ Child Protection in Indonesia means protecting the potential of human resources and building a complete Indonesian human being towards a just and prosperous society both materially and spiritually based on Pancasila and the 1945 Constitution.⁵

¹Misbahul Ummah Al-Ghony, Andy Usmina Wijaya and Fikri Hadi. Restorative Justice in Handling



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Children in Conflict with the Law, *Gorontalo Law Review Journal*, Volume 7 Number 1 (2024), -p. 85-95.

²Romli Atsasmita, 1983, *Problems of Juvenile Delinquency*, Armico, Bandung, -p. 40.

³Randy Pradityo, *Restorative Justice in the Juvenile Criminal Justice System*, *Journal of Law and Justice*, Volume 5 Number 3 (2016), -p. 319 – 330.

⁴Abdul Hakim Garuda Nusantara, 1986, *Prospects for Child Protection*, in *Law and Children's Rights*, editor. Mulyana W. Kusumah Rajawali and the Indonesian Legal Aid Foundation, Jakarta, -p. 19.

⁵Novi Edyanto, *Restorative Justice to Resolve Cases of Children in Conflict with the Law*, *Journal of Police Science*, Volume 11, Number 3 (2017), -p. 39-46.

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Prior to the enactment of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, the resolution of criminal cases involving children was still dominated by a repressive approach through the formal justice process. This approach tended to position children as objects of punishment, resulting in various negative impacts, such as stigmatization, psychological trauma, loss of educational opportunities, and increased potential for recidivism. This condition was deemed inconsistent with the goals of child protection and the principle of the best interests of the child. As a form of reform of juvenile criminal law, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System adopted the concept of restorative justice by making diversion the primary mechanism for resolving juvenile criminal cases at every stage of the criminal justice process.⁶ BE Morrison stated that restorative justice is a source of conflict resolution and seeks to make it clear to the offender that the behavior is not condoned, at the same time as being supportive and respectful of the individual.⁷ This approach emphasizes restoring the original situation through dialogue, deliberation, and agreement between the perpetrator, victim, family, community counselor, and the community, without focusing solely on punishment. Thus, restorative justice is expected to protect children's rights while simultaneously addressing the interests of the victim and the community.⁸

Although the concept of restorative justice has a strong legal basis, its implementation still faces various challenges. Various studies indicate that there are still differences in understanding among law enforcement officials regarding the concept of restorative justice, a tendency to interpret restorative justice only as a peaceful resolution outside the courts, and a suboptimal integration of restorative justice principles across all stages of the juvenile criminal justice system. Furthermore, the implementation of diversion is not always successful due to the influence of the type of crime, the willingness of the victim, the capacity of law enforcement officials, and the minimal participation of families and the community. The resolution of criminal acts using the restorative justice approach aims to resolve conflicts that occur between the perpetrator and the victim and avoid negative effects arising from the current criminal justice system.⁹

⁶DS Dewi and Fatahillah A. Syukur, 2011, *Penal Mediation: Implementation of Restorative Justice in Indonesian Juvenile Courts*, Indi Publishing, Bandung, -p. 9.

⁷BE Morrison, 2001, *The School System : Developing its capacity in the regulation of a civil society*, in J. Braithwaite & H. Strang (Eds.), *Restorative Justice and Civil Society*, Cambridge University Press, England, -p. 195.

⁸Kuat Puji Prayitno, 2012, *Application of the Restorative Justice Concept in Indonesian Justice*, Genta Publishing, Yogyakarta, -p. 8.

⁹Barda Nawawi Arief, 2000, *Legislative Policy in Combating Crime with Imprisonment*, BP UNDIP



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On the other hand, the development of regulations regarding restorative justice also raises the need for regulatory harmonization. In addition to Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, restorative justice policies have also developed through various internal regulations of law enforcement agencies, such as the Indonesian National Police, the Indonesian Attorney General's Office, and the Supreme Court. These regulations provide greater scope for restorative case resolution, but they also have the potential to lead to differences in interpretation and application if not aligned with the characteristics of the juvenile criminal justice system.

These issues demonstrate that the success of restorative justice implementation is determined not only by the existence of legal norms, but also by policy consistency, synchronization of laws and regulations, and law enforcement officials' understanding of child protection goals. Therefore, a comprehensive legal review is needed to assess the suitability of restorative justice policies in the Juvenile Criminal Justice System with the principles of legal certainty, justice, expediency, and the best interests of the child.

Discussing restorative justice is very interesting. Previous researchers Fauziah Lubis, Fatimah Zahara, and Wanda Hamidah discussed restorative justice, the purpose of punishment, and the need for legal certainty.¹⁰ Muhammad Rosikhu, Opan Satria Mandala, and Saparudin Efend, highlighted that the juvenile criminal justice system has the goal of restorative justice to create quality human resources, therefore legal facilities and infrastructure are needed that anticipate the stigma or evil label that arises when children come into contact with the law, while also restoring and reintegrating the child into society.¹¹ Fredella Bunga Filonia, conducted research that focused on the application of restorative justice to children and examined the concept within the framework of a criminal justice system that is oriented towards justice and child protection.¹²

This research is different because it attempts to analyze the restorative justice policy for children in conflict with the law in the Indonesian Juvenile Criminal Justice System, identify normative problems that still exist in its regulations, and formulate recommendations for strengthening policies in order to realize a juvenile criminal justice system that is more oriented towards protecting children's rights, recovery, and restorative justice.

2. Research Methods

This research is a normative legal research, namely research that places law as a norm or rule that applies in the legal regulatory system,¹³ which aims to analyze

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restorative justice policies for children in conflict with the law in the Indonesian Juvenile Criminal Justice System. Normative legal research focuses on the study of legal norms contained in laws and regulations, legal principles, doctrines, and court decisions.¹⁴ related to the implementation of restorative justice. This approach was chosen because the focus of the research is to examine the suitability and harmonization of legal policies governing the resolution of juvenile cases through a restorative justice approach. The research approaches used include a statutory approach, a conceptual approach, and a case approach. The statutory approach is carried out by examining various legal provisions related to the Juvenile Criminal Justice System, including the 1945 Constitution of the Republic of Indonesia, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Protection Children, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, Law No. 1 of 2023 concerning the Criminal Code, Law No. 20 of 2025 concerning the Criminal Procedure Code, as well as implementing regulations and policies of law enforcement agencies governing the implementation of restorative justice. A conceptual approach is used to examine the theory of restorative justice, the theory of legal protection, the theory of punishment, and the principle of the best interests of the child, while the case approach is carried out through an analysis of court decisions related to the implementation of restorative justice in child cases. The sources of legal materials used consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations, court decisions, and relevant international legal instruments, such as the Convention on the Rights of the Child. Secondary legal materials include scientific books, journal articles, research results, expert opinions, and scientific works discussing restorative justice, diversion, child protection, and the juvenile criminal justice system. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other reference sources that support understanding of legal concepts and terminology. The legal materials were collected through literature review, which involved tracing, inventorying, and reviewing various relevant legal materials. These legal materials were then classified based on their discussion content to

¹⁰ Fauziah Lubis, Fatimah Zahara and Wanda Hamidah, Implementation of Restorative Justice, The Intent of Punishment, and Legal Clarity in Indonesia, UNES LAW REVIEW, Volume 6, Number 2 (2023), -p. 6602-6613.

¹¹ Muhammad Rosikhu, Opan Satria Mandala, and Saparudin Efend, Restorative Justice in Juvenile Criminal Justice System, Collaborative Journal of Science, Volume 6 Issue (2023), -p. 605-611.

¹² Fredella Bunga Filonia, Implementation of Restorative Justice for Children from the Perspective of the Juvenile Criminal Justice System in Indonesia, Jurnal Hukum In Concreto, Volume 3 Number 1 (2024), -p. 98-119.

¹³ Soerjono Soekanto, 2017, Introduction to Legal Research, University of Indonesia, Jakarta, p. 56.

¹⁴ Soerjono Soekanto, Ibid., p. 56.

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facilitate the analysis of restorative justice regulations for children in conflict with the law. The legal materials were analyzed qualitatively using descriptive-analytical methods. The analysis involved an inventory of legal norms, interpretation of statutory provisions, assessment of vertical and horizontal synchronization between regulations, and legal argumentation to identify strengths, weaknesses, and the need for policy reform.¹⁵ Restorative justice in the Juvenile Criminal Justice System. The results of the analysis are then used as a basis for formulating recommendations for strengthening legal policies oriented towards protecting children's rights, legal certainty, justice, expediency, and the application of the principle of the best interests of the child.

3. Results and Discussion

3.1. Restorative Justice Policy for Children in Conflict with the Law in the Juvenile Criminal Justice System in Indonesia

The word restorative justice comes from English, consisting of two words: "restoration," meaning repair; recovery; or restoration, and "justice," meaning justice. "Restorative" means (noun) a medicine that heals/strengthens/refreshes; (adjective) that strengthens, heals, or refreshes. Thus, the linguistic meaning of restorative justice is healing justice, or restorative justice.¹⁶ Furthermore, Howard Zehr in his book *The Little Book of Restorative Justice* provides a definition of Restorative justice, namely a process to involve to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.¹⁷ Article 1 No. 6 of the Juvenile Justice System Law, which regulates restorative justice, has the following complete formulation: "Restorative justice is the resolution of criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other related parties to jointly seek a just resolution by emphasizing restoration to the original state, and not revenge."

Restorative justice can be defined as a concept that responds to the development of the criminal justice system by emphasizing the need for community involvement and victims who feel marginalized by the mechanisms currently in place. Furthermore, restorative justice can serve as a framework for law enforcement in responding to criminal acts. In various principles and models of

¹⁵ Burhan Ashshofa, 2001, *Qualitative Research Methods*, Gramedia, Jakarta, -p. 54.

¹⁶ Sukardi, 2020, *Restorative Justice in Indonesian Criminal Law Enforcement*, Raja Grafindo, Jakarta, -p. 19.

¹⁷ Howard Zehr, *Changing lenses : A New Focus for Crime and justice*, Waterloo, Herald Press, 1990, p. 181

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restorative justice approaches, the dialogue process between the perpetrator and victim is the foundation and most important component of implementing this justice. Direct dialogue between the perpetrator and victim allows the victim to express their feelings and express their hopes for the fulfillment of their rights and desires within a criminal case resolution. Through dialogue, it is hoped that the perpetrator will be moved to self-correct, recognize their mistakes, and accept responsibility for the consequences of their crime with full awareness. Through this dialogue process, the community can also participate in realizing the agreement and monitoring its implementation. Therefore, restorative justice is also known as case resolution through mediation (penal mediation).

The concept of restorative justice is a paradigm for resolving criminal cases that emphasizes the restoration of the circumstances of the parties affected by the crime, rather than solely imposing punishment on the perpetrator. In the Indonesian juvenile justice system, this concept is legitimized through Law No. 1 of 2023 concerning the Criminal Code, which prioritizes the goal of punishment as not only retaliation, but also restoration of balance, resolution of conflicts, and the creation of peace in society. This serves as the philosophical foundation for the application of restorative justice in the Indonesian criminal law system. Furthermore, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Protection Children, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System Articles 6 through 15 explicitly regulate diversion as a form of restorative justice for children in conflict with the law. Diversion is the transfer of a child's case from the criminal justice process to a process outside the criminal justice system.¹⁸ These provisions indicate a paradigm shift from a retributive approach to a restorative approach that prioritizes the recovery, protection, and social reintegration of children.

Suwantji SisworaHardjo stated the same thing, that children who commit delinquency must be treated differently from adults who commit crimes.¹⁹ This is also stated in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Protection Children, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. Thus, systematically, the content of the authority of the Juvenile Court will not and must not: a). Exceed the absolute competence of the General Court; b). Examine, try and decide cases that have become the absolute competence of other judicial bodies, such as the Religious Court. In the Juvenile Criminal Justice System, there are several elements that form a single unit,

¹⁸Article 1 number 7 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

¹⁹Suwantji SisworaHardjo, 1986, Children's Rights in the Criminal Justice Process, in Law and Children's Rights, editor Mulyana W. Kusumah. Rajawali and the Indonesian Legal Aid Foundation, -p.25.

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namely: Juvenile Investigators, Juvenile Public Prosecutors, Juvenile Judges and Juvenile Correctional Institution Officers. A fair Juvenile Court will provide protection for the rights of children, whether as suspects, defendants, or as convicts/prisoners. Therefore, in the regulations governing Juvenile Court, children's rights are the basis for the formation of these regulations.

In positive law, the stages of the juvenile criminal justice process through restorative justice (diversion) are regulated in Article 52 of the Juvenile Criminal Justice System Law. For further clarity, the following is the complete formulation: a). First, Paragraph (1) The Chief Justice is obliged to appoint a Judge or Panel of Judges to handle the juvenile case no later than 3 (three) days after receiving the case file from the public prosecutor; b). Second, Paragraph (2) The Judge is obliged to attempt Diversion no later than 7 (seven) days after being appointed by the District Court as Judge; Third, Paragraph (3) Diversion as referred to in paragraph (2) is implemented no later than 30 (thirty) days; Fourth, Paragraph (4) The Diversion process can be implemented in the mediation room of the District Court; Fifth, Paragraph (5) In the event that the Diversion process successfully reaches an agreement, the Judge submits the Diversion minutes along with the Diversion agreement to the Chief Justice of the District Court to make a decision; Sixth, Paragraph (6) In the event that Diversion is not successfully implemented, the case continues to the trial stage. According to Article 1 No. (7) of Law No. 11 of 2012, Diversion is the transfer of the settlement of children's cases from the criminal justice process to a process outside the criminal justice system.

Of course, the stages or processes outlined above will not run optimally if the resolution of child criminal cases is oriented towards the interests of child perpetrators as the goal of the restorative justice approach, due to the lack of understanding and unification of the vision or goals of the restorative justice approach. Prioritizing or paying attention to the interests of children as perpetrators is even reaffirmed in the provisions of Article 10 paragraph (1) of the Covenant on Civil and Political Rights which guarantees that every person whose liberty is deprived must be treated humanely with respect for the inherent dignity of that person. Restorative justice is an effort to treat children in conflict with the law in accordance with their dignity.

The criminal justice process carried out by law enforcement officials when a child perpetrator is proven guilty, ideally and should be punished by returning the child to his parents. Efforts to implement the law's mandate that the imposition of imprisonment on children is a last resort (*ultimum remedium*) should also be in line with the understanding that the best decision is an action to return the child perpetrator to his parents to be educated and guided as appropriate. The juvenile

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justice system itself is actually good, but a good system must be accompanied by an attitude inspired by a desire to see and believe that this world is always getting better. A view that is actually broader and more far-reaching than what people argue.²⁰In addition, the principle of the best interest of the child should always be prioritized when dealing with children in conflict with the law.

Law No. 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights, in Article 24 paragraph (1), states that every child has the right to receive protection measures, because their status as minors should be used as a legal basis for judges to stop cases involving children. This formulation is the legal basis for the application of restorative justice. Such decisions are valid because judges are given the freedom to explore, follow and understand the legal values and sense of justice that exist in society.

This is in line with the formulation of Beijing Rules Point 11.1 "Consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority", which stipulates that the transfer of formal legal processes to non-formal settlement channels through the application of the restorative justice model in handling juvenile cases can be carried out by the Judge.²¹Restorative justice can be used as a reference for judges to resolve children's cases. The Beijing rules provide maximum protection for children's future because they contain the following principles: a). The best interests of the child are prioritized; b). Criminal justice is avoided as much as possible; c). All forms of intervention are minimized; d). Police, prosecutors, judges and other law enforcement officers use policy/discretion as much as possible in handling children's cases; e). Criminalization and punishment of children must be avoided unless there is serious harm to the child or others; f). Legal aid must be provided immediately free of charge.

Essentially, restorative justice involves three stakeholders: the victim, the perpetrator, and civil society, in determining the resolution of child cases. Through restorative justice, efforts are made to bring victims and perpetrators together with the goal of achieving restitution for the victim. On the other hand, child perpetrators, despite their status as perpetrators, are also victims and have the right to restitution and even socialization, not through retaliation.²²

Apart from being regulated in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Protection Children, and Law No. 11 of 2012 concerning

²⁰Roeslan Saleh, 1983. A Reorientation in Criminal Law, Aksara Baru, Jakarta, -p.21.

²¹Randy Pradityo, Op.Cit., -p. 319 – 330.

²²Randy Pradityo., Ibid.

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the Juvenile Criminal Justice System Restorative justice policies are strengthened through various sectoral regulations issued by the Police, the Prosecutor's Office, and the Supreme Court. The Police Department is guided by the Republic of Indonesia National Police Regulation No. 8 of 2021 concerning Handling Criminal Offenses Based on Restorative Justice, specifically regulating material and formal requirements, types of cases that can be resolved, and the mechanism for terminating investigations through restorative justice. The Prosecutor's Office is guided by the Republic of Indonesia Prosecutor's Office Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, which regulates the prosecutor's authority to terminate prosecutions if they meet restorative justice requirements. The Judiciary Department is guided by Supreme Court Regulation No. 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, which serves as a guideline for judges in applying a restorative justice approach to the trial process. Furthermore, Supreme Court Regulation No. 2 of 2012 concerning Adjustments to the Limits of Minor Crimes and the Amount of Fines in the Criminal Code serves as the basis for resolving minor criminal cases with a simpler and more restorative approach. From these three institutions there is also a Joint Memorandum of Understanding between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the Chief of the Republic of Indonesia National Police No. 131/KMA/SKB/X/2012, No. M.HH-07.HM.03.02 of 2012, No. KEP-06/E/EJP/10/2012, and No. B/39/X/2012 concerning the Implementation of the Adjustment of the Limits for Minor Crimes, Fast Examination Procedures, and the Implementation of Restorative Justice.

The presence of these various regulations demonstrates the state's commitment to expanding the application of restorative justice. However, this diversity of legal bases also poses challenges in the form of differences in mechanisms, procedures, and scope of application, requiring harmonization to ensure consistent implementation of restorative justice for children and provide legal certainty. Conceptually, diversion is the primary instrument in the implementation of restorative justice. Diversion is not intended to eliminate criminal responsibility for children, but rather to shift case resolution from the formal judicial process to a resolution that prioritizes dialogue, deliberation, perpetrator responsibility, victim recovery, and family and community involvement. Thus, the goal of child protection is achieved without neglecting the rights of victims or the interests of society.

The analysis shows that Indonesia has a fairly comprehensive legal framework for the implementation of restorative justice for children in conflict with the law. These regulations reflect the principles of child protection as guaranteed in the

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Constitution, the Convention on the Rights of the Child, and the Child Protection Law. However, the implementation of this policy has not been fully effective. First, there are still differences in understanding among law enforcement officials regarding the concept of restorative justice. In practice, some officials still view restorative justice as limited to reconciliation between perpetrators and victims, even though the essence of restorative justice includes restitution of losses, perpetrator accountability, restoration of social relationships, and reintegration of children into society. Second, the implementation of diversion still faces various obstacles, including rejection from victims or their families, limited mediator capacity, suboptimal support from the Correctional Center, and low community participation in the case resolution process. Previous studies also indicate that the success of restorative justice is greatly influenced by inter-institutional coordination and community support for case resolution outside the litigation process. Third, the lack of uniform operational standards for the implementation of restorative justice at each stage of the judicial process causes its implementation to vary from one region to another. This condition has the potential to reduce legal certainty and give rise to unequal treatment of children in conflict with the law.

3.2. Weaknesses of Restorative Justice Policies for Children in Conflict with the Law in the Juvenile Criminal Justice System in Indonesia

There is no perfect ivory, no perfect policy. Based on the results of the analysis of various laws and regulations related to restorative justice policies for children in conflict with the law in the juvenile criminal justice system in Indonesia, there are normative issues that require attention, one of which is that the provisions regarding restorative justice are still scattered across various regulations, thus potentially creating overlapping regulations. In the juvenile criminal justice system in Indonesia, this concept is legitimized through Law No. 1 of 2023 concerning the Criminal Code, Law No. 20 of 2025 concerning the Criminal Procedure Code, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Protection Children, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Law No. 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights, Beijing Rules Point 11.1 In addition, the restorative justice policy is strengthened through various sectoral regulations issued by the Police, Prosecutor's Office, and the Supreme Court. In the Police based on the Regulation of the Republic of Indonesia National Police No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, In the Prosecutor's Office based on the Regulation of the Republic of Indonesia National Prosecutor's Office No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, In the

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Judiciary based on the Regulation of the Supreme Court No. 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, and the Regulation of the Supreme Court No. 2 of 2012 concerning Adjustments to the Limits of Minor Crimes and the Amount of Fines in the Criminal Code, which are the basis for resolving minor criminal cases with a simpler and more restorative approach, as well as the Memorandum of Understanding between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the Chief of the Republic of Indonesia National Police No. 131/KMA/SKB/X/2012, No. M.HH-07.HM.03.02 of 2012, No. KEP-06/E/EJP/10/2012, and No. B/39/X/2012 concerning the Implementation of Adjusted Limits for Minor Crimes, Speedy Examination Procedures, and the Implementation of Restorative Justice. Regulatory harmonization is necessary so that all law enforcement officers have the same guidelines in applying the principles of restorative justice.

In addition to the regulatory constraints surrounding restorative justice, which are still scattered across various regulations, other normative issues concern the role of victims in the restorative justice process. There are also the lack of detailed guidelines regarding the forms of reparation that perpetrators must fulfill. This can result in the implementation of diversion agreements focusing solely on formal reconciliation without ensuring real reparation for victims, or victim recovery being neglected and not a focus within the restorative justice process. A further obstacle is the lack of an integrated national evaluation mechanism to measure the effectiveness of restorative justice implementation. This results in the success of diversion being judged primarily on the basis of reaching an agreement, rather than on the success of the victim's recovery or the child's social reintegration.

To realize a more effective juvenile criminal justice system, policy strengthening is needed through several strategic steps. First, harmonize all regulations regarding restorative justice to ensure uniform standards of implementation at the investigation, prosecution, and court hearing levels; Second, increase the capacity of law enforcement officers through education and training on the philosophy of restorative justice, mediation techniques, communication with children, and protection of victims' rights; Third, strengthen the role of Correctional Institutions, social workers, psychologists, and child protection agencies in assisting the diversion process so that case resolution is truly oriented towards recovery and the best interests of children; Fourth, develop a national monitoring and evaluation mechanism for the implementation of restorative justice so that the government can measure the effectiveness of the policy, identify implementation obstacles, and continuously improve the regulations.

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Thus, the research results indicate that restorative justice policies in the Juvenile Criminal Justice System are normatively aligned with child protection principles and human rights standards. However, regulatory harmonization, institutional capacity strengthening, and increased coordination between law enforcement agencies and stakeholders are still needed. Such strengthening is crucial for realizing a juvenile criminal justice system that provides legal certainty, justice, benefits, and optimal protection for children in conflict with the law.

4. Conclusion

Based on the research results, it can be concluded that the restorative justice policy for children in conflict with the law in the Juvenile Criminal Justice System in Indonesia has run way adequate legal framework, particularly through Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, which integrates the diversion mechanism as the primary instrument for resolving juvenile criminal cases. This regulation demonstrates a paradigm shift from a retributive justice approach to a restorative justice approach that prioritizes the protection of children's rights, the best interests of the child, victim recovery, and the social reintegration of children. This approach aligns with the principles of child protection recognized in national law and international instruments. However, the results of the legal analysis indicate that the implementation of restorative justice policies has not been fully optimal. Problems still faced include the lack of harmony between laws and technical regulations, differences in understanding among law enforcement officials regarding the concept of restorative justice, the lack of uniformity in the implementation mechanisms for diversion, and the suboptimal involvement of victims, families, communities, and correctional institutions in the case resolution process. These conditions have implications for the inconsistent implementation of restorative justice across all stages of the Juvenile Criminal Justice System. Therefore, regulatory harmonization, the development of more comprehensive implementation guidelines, increased capacity of law enforcement officials, and strengthened inter-agency coordination in the implementation of restorative justice are needed. Furthermore, an integrated monitoring and evaluation mechanism needs to be developed to ensure that the resolution of juvenile cases is truly oriented towards protecting children's rights, victim recovery, legal certainty, justice, and benefit. Thus, restorative justice policies will not only become a norm in laws and regulations, but can also be effectively implemented as a legal protection instrument for children in conflict with the law in Indonesia.



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Regulation:

Constitution Base Republic of Indonesia in 1945

Joint Memorandum of Understanding of the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the Chief of the Indonesian National Police No. 131/KMA/SKB/X/2012, No. M.HH-07.HM.03.02 of 2012, No. KEP-06/E/EJP/10/2012, and No. B/39/X/2012 concerning the Implementation of the Adjustment of the Limits for Minor Crimes, the Fast Examination Procedure, and the Implementation of Restorative Justice

Law No. 1 of 2023 concerning the Criminal Code

Law No. 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights

Law No. 20 of 2025 concerning the Criminal Procedure Code

Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Protection Children, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System

Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection

Regulation of the Republic of Indonesia National Police No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice

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Supreme Court Regulation No. 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice

Supreme Court Regulation No. 2 of 2012 concerning Adjustments to the Limits of Minor Crimes and the Amount of Fines in the Criminal Code