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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Legal Protection for Children in the Juvenile Criminal Justice System (Application of Diversion and Restorative Justice in the Investigation Process)

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Abstract. *Children are a trust and gift from God Almighty, possessing the dignity and worth of a complete human being. To safeguard their dignity and worth, children have the right to receive special protection, particularly legal protection within the judicial system. Indonesia, as a state party to the Convention on the Rights of the Child, which regulates the principles of legal protection for children, has an obligation to provide special protection for children in conflict with the law. The special criminal justice system for children certainly has a specific goal for the future interests of children and society, which contains the principles of restorative justice. There are special non-penal solutions that can be applied to children in conflict with the law as a form of protection for children, such as the implementation of diversion. Diversion as a form of resolving child criminal cases through a restorative justice approach by investigators is implemented based on Law Number 11 of 2012 concerning the Child Criminal Justice System, Government Regulation of the Republic of Indonesia Number 65 of 2015 concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 (twelve) Years Old, Secret Telegram of the Head of the Criminal Investigation Unit of the Indonesian National Police Number Pol.: TR/1124/XI/2006 and Number Pol. TR/395/DIT,VI/2008 concerning the Implementation of Diversion and Restorative Justice in Handling Child Perpetrator Cases and Fulfilling the Best Interests of Children in Child Cases Whether as Perpetrators, Victims or Witnesses. The implementation of diversion as a form of resolving child criminal cases through a restorative justice approach by investigators, namely after being named a suspect, investigators immediately make preparations for diversion. Diversion must be carried out no later than 7 days after the child is named a suspect. The implementation of diversion uses a restorative justice approach. In a settlement agreement with compensation, investigators do not interfere in the process. Coordination between the police and the prosecutor's office is carried out by submitting files when diversion is declared unsuccessful and*



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proceeding to prosecution. After the diversion deliberations reach an agreement, investigators submit the diversion report and the diversion agreement to the Chief Justice of the District Court for a decision.

Keywords: *Child Protection; Criminal Justice; Diversion; Restorative Justice.*

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1. Introduction

Children in conflict with the law occupy a particularly vulnerable position within the criminal justice system because their physical, psychological, emotional, and social development is still in progress. Criminal proceedings that are primarily oriented toward punishment may expose children to stigmatization, psychological pressure, disruption of education, social exclusion, and the risk of further involvement in criminal environments. Consequently, juvenile justice requires a distinctive legal framework that does not merely establish criminal responsibility but also guarantees the protection, rehabilitation, and future development of children. In Indonesia, this need has encouraged the development of a specialized juvenile criminal justice system that emphasizes restorative justice, diversion, and social reintegration.

The normative foundation for protecting children in conflict with the law is principally established through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The legislation introduces a specific framework for children that differs substantially from the conventional adult criminal justice model. It recognizes restorative justice and diversion as important instruments for resolving appropriate cases while reducing the negative consequences associated with formal criminal proceedings. The framework is further supported by Indonesia's broader child-protection legislation, which establishes the obligation of the state and relevant institutions to safeguard children from violence, discrimination, exploitation, and other forms of harm. These legal principles demonstrate a shift from a punishment-oriented paradigm toward a child-centred approach that places the best interests and development of children at the centre of judicial decision-making.

The investigation stage represents a particularly important component of this framework because it is often the first formal point of contact between a child and law-enforcement authorities. At this stage, investigators have a significant responsibility to ensure that children's procedural rights are respected and that unnecessary involvement in the formal criminal justice system is avoided. The application of diversion provides an opportunity to resolve eligible cases through a restorative process involving the child, victim, parents or guardians, social workers, and other relevant parties. Rather than focusing exclusively on punishment, restorative justice seeks to address the harm caused by an offence, encourage the child to assume responsibility, protect the interests of victims, and facilitate rehabilitation and reintegration.

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However, the existence of legal provisions does not necessarily guarantee effective implementation. Challenges may arise from differences in institutional understanding, limited professional capacity, inadequate coordination, inconsistent application of diversion, and the possibility that restorative mechanisms become merely procedural requirements. These conditions demonstrate the need to reconstruct the investigation process through a more comprehensive child-centred and rights-based approach.

Such reconstruction requires child-sensitive investigative procedures, meaningful access to legal assistance, appropriate involvement of parents or guardians, protection of victims, multidisciplinary assessment, and effective institutional supervision. Investigators should consider the child's age, psychological condition, family environment, educational circumstances, and prospects for rehabilitation when determining the appropriate legal response. At the same time, restorative processes must ensure that victims participate voluntarily and that their dignity, privacy, safety, and legitimate interests are adequately protected.

2. Research Methods

The implementation of diversion as a form of resolving child criminal cases through a restorative justice approach by investigators, namely after being named a suspect, investigators immediately make preparations for diversion.

3. Results and Discussion

3.1. The Normative Framework for Child Protection in the Juvenile Criminal Justice System

The protection of children within the juvenile criminal justice system constitutes an essential component of a state governed by the rule of law and committed to the fulfilment of human rights. Children who come into contact with the criminal justice system occupy a particularly vulnerable position because their physical, psychological, emotional, and social development is still ongoing. Consequently, the treatment of children in conflict with the law cannot be equated with the treatment of adult offenders. Indonesian law has therefore established a specialized normative framework designed to ensure that criminal justice processes respect children's dignity, developmental needs, and best interests.

The principal legal instrument governing juvenile justice in Indonesia is Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The legislation establishes a distinctive approach to children in conflict with the law by

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emphasizing restorative justice, diversion, rehabilitation, and social reintegration. Rather than treating punishment as the primary objective, the juvenile justice system seeks to ensure that children understand the consequences of their conduct while receiving opportunities to develop positively and return to their families and communities. This approach reflects the principle that deprivation of liberty should constitute a measure of last resort and should be applied only when necessary and in accordance with the law.

The normative framework is further supported by the Child Protection Law, particularly Law Number 35 of 2014 as amended by subsequent legislation. This framework recognizes children as rights-holders entitled to protection from violence, discrimination, exploitation, and other forms of abuse. Within criminal proceedings, these principles require state institutions to consider the specific vulnerability of children and to prevent procedures that may cause unnecessary psychological or social harm. Protection should therefore extend from the initial investigation through prosecution, adjudication, detention, and post-judicial rehabilitation.

At the investigation stage, legal protection is particularly important because police investigators are often the first state officials to interact directly with children suspected of committing an offence. Investigators are required to apply child-sensitive procedures, respect the child's procedural rights, and consider whether diversion can be applied. Legal assistance, parental or guardian involvement, and appropriate social and professional support are important safeguards for ensuring that children understand the proceedings and are not subjected to intimidation, coercion, or discriminatory treatment.

The principle of the best interests of the child should function as a fundamental consideration in every decision concerning investigation and criminal proceedings. This principle requires law-enforcement authorities to consider not only the alleged offence but also the child's age, personal circumstances, family environment, educational situation, psychological condition, and prospects for rehabilitation. Consequently, criminal justice decisions should be individualized rather than based exclusively on the punitive nature of the alleged conduct.

The normative framework also incorporates restorative justice through diversion mechanisms. Diversion seeks to resolve appropriate cases outside the formal judicial process by involving the child, victim, families, social workers, and relevant authorities in reaching a constructive resolution. This mechanism can reduce the negative consequences of formal criminal proceedings, including stigmatization, disruption of education, and exposure to the prison environment.

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Ultimately, Indonesia's juvenile criminal justice framework reflects a significant transition from a punishment-oriented approach toward a child-centred, restorative, and rights-based model. Nevertheless, the existence of comprehensive legal norms must be accompanied by consistent implementation, institutional capacity, trained law-enforcement personnel, and effective supervision. The effectiveness of child protection should therefore be measured not merely by compliance with procedural requirements but by the extent to which the justice system genuinely safeguards children's dignity, development, rehabilitation, and future social reintegration.

3.2. Application of Diversion and Restorative Justice at the Investigation Stage

The application of diversion and restorative justice at the investigation stage represents a fundamental shift in the treatment of children in conflict with the law. Rather than relying exclusively on conventional criminal proceedings and punitive sanctions, Indonesian juvenile justice seeks to resolve appropriate cases through approaches that emphasize rehabilitation, accountability, restoration, and social reintegration. The investigation stage is particularly important because it constitutes the earliest point at which law-enforcement authorities can prevent children from becoming unnecessarily involved in the formal criminal justice system. Effective implementation of diversion at this stage can therefore function as both a procedural safeguard and a substantive mechanism for protecting children's rights.

Under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, diversion is designed to transfer the resolution of a child's case from the formal criminal justice process toward an alternative mechanism based on restorative justice. Diversion is not simply the termination of a criminal investigation, but a structured process through which the parties seek an appropriate resolution by considering the consequences of the offence and the circumstances of the child. The mechanism is intended to achieve several objectives, including preventing children from being deprived of liberty, avoiding stigmatization, encouraging responsibility, reconciling the child and victim where appropriate, and enabling the child to return to family and community life.

Police investigators have a central role in implementing diversion during the investigation stage. When dealing with a child suspected of committing an offence, investigators should assess whether the statutory requirements for diversion are fulfilled and initiate the necessary process. The investigation should be conducted through child-sensitive procedures that respect the child's dignity, age, psychological condition, and procedural rights. The involvement of parents or



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guardians, legal counsel, social workers, and other relevant professionals is important to ensure that the child understands the process and can participate meaningfully.

Restorative justice provides the substantive foundation for diversion. Its primary objective is not merely to determine guilt or innocence but to address the harm resulting from the offence. The process can provide victims with an opportunity to communicate the impact of the offence while allowing children to acknowledge responsibility and understand the consequences of their actions. Depending on the circumstances, agreements may involve an apology, restitution, educational measures, community service, counselling, return to parents or guardians, or other lawful arrangements designed to support rehabilitation.

However, the implementation of diversion must maintain a balance between the interests of the child and the rights of the victim. Diversion should not be imposed through pressure, coercion, or unequal bargaining relationships. Victims must be provided with sufficient information and opportunities to participate voluntarily and safely. At the same time, the child's agreement must reflect genuine understanding rather than fear or intimidation. Investigators therefore require adequate training in restorative justice, child psychology, mediation, communication, and victim protection.

Institutional coordination is another important factor in successful implementation. Police investigators need to cooperate with probation officers, social workers, psychologists, prosecutors, child-protection institutions, families, and community representatives. Such cooperation enables authorities to develop resolutions that reflect the child's individual circumstances and provide appropriate rehabilitation and supervision.

Ultimately, diversion and restorative justice at the investigation stage should be understood as essential components of child-centred criminal justice rather than merely alternatives to prosecution. Their effectiveness depends on consistent legal standards, competent investigators, meaningful participation of victims and children, institutional coordination, and effective monitoring. When properly implemented, diversion can prevent unnecessary criminalization while maintaining accountability, repairing harm, supporting rehabilitation, and promoting the child's successful reintegration into society.

3.3. Reconstruction of Child-Centred Investigation Through Restorative and Rights-Based Justice

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The reconstruction of the investigation process involving children in conflict with the law requires a fundamental transformation from a predominantly punitive approach toward a child-centred, restorative, and rights-based model. The investigation stage represents the initial and one of the most decisive points of contact between children and the criminal justice system. Decisions made during this stage may significantly influence a child's psychological development, educational continuity, family relationships, social identity, and future prospects. Therefore, investigative procedures should not be designed merely to establish criminal responsibility but must simultaneously function as mechanisms for protecting the dignity, rights, and best interests of children.

A child-centred investigation begins with recognition that children possess distinct developmental characteristics and vulnerabilities. Investigators should therefore adapt investigative techniques to the child's age, maturity, intellectual capacity, and psychological condition. Communication should be conducted in language that children can understand, while questioning should avoid intimidation, threats, coercion, or unnecessarily confrontational methods. The presence of legal counsel, parents or guardians, social workers, or other appropriate professionals can provide essential safeguards and ensure that children understand their procedural rights. Such safeguards are particularly important because children may have limited capacity to understand the consequences of statements or decisions made during investigation.

The reconstruction of investigation should also strengthen the substantive application of restorative justice. Restorative justice requires law-enforcement authorities to examine the harm caused by an offence and consider appropriate measures to repair that harm while encouraging the child to assume responsibility. Instead of focusing exclusively on punishment, investigators should explore whether the circumstances of the case permit diversion and whether a restorative resolution can adequately address the interests of both the child and the victim. This approach recognizes that accountability and rehabilitation are not contradictory objectives but can operate simultaneously within juvenile justice.

4. Conclusion

The examination of legal protection for children within Indonesia's juvenile criminal justice system demonstrates that the application of diversion and restorative justice represents an important transformation from a predominantly punitive model toward a child-centred and rehabilitative approach. The normative framework established through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System provides a specific legal foundation for protecting children

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in conflict with the law while emphasizing restorative justice, diversion, rehabilitation, and social reintegration. These principles reflect the recognition that children require treatment that corresponds to their age, developmental condition, vulnerability, and best interests. The investigation stage is particularly significant because it constitutes the initial point of interaction between children and law-enforcement authorities. The effective application of diversion at this stage can prevent unnecessary exposure to formal criminal proceedings and reduce potential consequences such as stigmatization, psychological pressure, disruption of education, and social exclusion. Restorative justice further provides an opportunity to address the harm caused by criminal conduct by encouraging responsibility, victim participation, reconciliation where appropriate, and constructive resolution. Nevertheless, the effectiveness of diversion and restorative justice depends heavily on implementation. Differences in institutional understanding, limited professional capacity, insufficient coordination, and the risk of treating diversion merely as a procedural requirement may weaken the protection intended by the legal framework. Therefore, the investigation process requires reconstruction through child-sensitive and rights-based procedures.

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