

REVISITING INDONESIAN LEGAL FRAMEWORK FOR JUVENILE JUSTICE: ENSURING PROCEDURAL RIGHTS FOR ASSAULT OFFENDERS

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Abstract

Assault crimes are violent by nature and are often perceived as a serious threat to public safety. However, the complexity of each crime needs to be analyzed thoroughly in a legal procedure to make sure that important values and principles are applied. This is particularly important among juvenile offenders, where the enforcement of justice needs to be upheld without sacrificing the future of youth. This research is done to analyze the challenges in ensuring procedural rights for juvenile assault offenders in Indonesia. Through the normative legal research method combined with a statutory approach, this research uncovers the legal challenges that juveniles face in accessing their procedural rights in Indonesia's juvenile justice system and how these challenges can be improved. Analysis of this research finds that the Indonesian legal framework is still lacking in many ways, particularly in ensuring the right to ease of access to information regarding the case and the protection of privacy. The analysis also shows that these issues cause conflicts with other laws, constitutional principles, and international standards. This research not only highlights the gaps in Indonesia's juvenile justice system but also lays a theoretical foundation for developing a more holistic and rights-based approach to juvenile justice reform.

Keywords: *Access to Juvenile Rights, Juvenile Criminal Proceedings, Juvenile Justice System, Juvenile Assault Offenders, Procedural Rights.*

A. INTRODUCTION

The treatment and protection of juvenile offenders within the criminal justice system have long been subjects of scrutiny in the legal sphere).¹ Indonesia is a country grappling with its own unique socio-legal landscape, where citizens have expressed concerns over criminal gangs taking advantage of minors to commit crimes, to get lighter sentences, eventually contributing to the worsening of legal culture and even giving rise to vigilantism.² This legal research aims to examine the issues of ensuring procedural rights for juvenile assault offenders in Indonesia. Due to their unique characteristics and developmental stage, the effort to protect the rights of juvenile offenders can present a complex challenge that requires a nuanced approach to effectively address their criminal conduct.³ The tension between rehabilitation and punishment, along with the overarching objective of safeguarding society, creates a serious need to make sure that every important aspect of juvenile justice is proportionally applied,⁴ including procedural rights. Striking the right balance is of utmost importance in realizing a juvenile justice system that not only acknowledges and respects the fundamental rights of juvenile assault offenders but also upholds the broader societal interests and ensures the fair administration of justice. Finding this equilibrium can be a challenging task, as it requires navigating through the intricate web of juvenile justice legal principles and balancing societal interests, such as public safety and crime prevention.

In order to gain a thorough and comprehensive understanding of the complex legal challenges involved, this research endeavors to delve deeply into the existing Indonesian legal framework, meticulously examining the laws and regulations. Moreover, it aims to conduct an in-depth analysis, juxtaposing Indonesia's legal framework with international standards, which can bring about positive reforms,⁵ if a needed one is found. By thoroughly exploring these various dimensions, this study strives to illuminate the complex nuances and dynamics inherent in the Indonesian legal system, contributing to the ongoing discourse surrounding the delicate balance between rehabilitation, punishment, and societal protection among juveniles.

¹ Abdurrahman Alhakim et al. "Unveiling the Controversy: Legal Analysis of Juvenile Narcotics Use for Medical Purposes." *Jurnal Jurisprudence* 13, no. 2 (2023): 226.

² Sana Jaffrey. "Leveraging the Leviathan: politics of impunity and the rise of vigilantism in democratic Indonesia." PhD diss., The University of Chicago, (2019), 24.

³ Nancy E. Dowd, "Children's Equality Rights: Every Child's Right to Develop to Their Full Capacity," *Cardozo Law Review* 41, no. 4 (2019): 1368.

⁴ Irma Cahyaningtyas. "Penal Mediation of Treatments for Children in the Juvenile Justice System." *Diponegoro Law Review* 3, no. 2 (2018): 265.

⁵ Yernar N. Begaliyev et al. "Features of criminal liability of Juvenile criminals: International legal and comparative analysis." *International Journal of Criminology and Sociology* 9, (2020): 1579.

The analysis surrounding the guarantee of procedural rights for juvenile assault offenders reflects a multifaceted discourse, where the rights of juvenile offenders and the execution of justice must be carefully balanced.⁶ One prominent area of focus in the literature pertains to the right to legal representation for juvenile assault offenders. Scholars emphasize the crucial role played by competent and qualified legal counsel in ensuring a fair and impartial trial.⁷ They highlight the need for legal representation that understands the unique needs and circumstances of juvenile offenders, allowing them to actively participate in their defense and have their voices heard throughout the legal proceedings. However, another study highlights the scarcity of legal aid resources and the obstacles faced by many offenders, including juveniles, in accessing competent legal representation, particularly in remote and underprivileged areas.⁸ Furthermore, another study adds another insight by underscoring the significance of aspects other than the right to a fair trial for juvenile assault offenders, such as the role of legal aid in the investigation process.⁹ The study also explores the intricacies of ensuring an unbiased adjudication process, examining factors such as pretrial detention, the presumption of innocence, and the use of child-friendly investigation procedures. Other scholars emphasize the importance of judges understanding the competency of juvenile offenders, which essentially requires them to have a good understanding of child development, psychology, and the principles of restorative justice.¹⁰ Additionally, another study raises concerns about the potential for societal prejudices and stigmatization to influence the fairness of the trial and urges the need for safeguards to prevent such biases from compromising the rights of juvenile assault offenders, which if ignored can lead to the exposure of even more serious types of crimes.¹¹

A study underscores the importance of procedural rights, explaining procedural rights and child involvement in juvenile justice are crucial for legal

⁶ Lincoln B. Sloas and Cassandra A. Atkin-Plunk. "Perceptions of balanced justice and rehabilitation for drug offenders." *Criminal Justice Policy Review* 30, no. 7 (2019): 991.

⁷ Stuti S. Kokkalera, Annmarie Tallas, and Kelly Goggin. "Contextualizing the impact of legal representation on juvenile delinquency outcomes: A review of research and policy." *Juvenile and Family Court Journal* 72, no. 1 (2021): 48.

⁸ Benjamin D. Schnell. "The Journey to Universal Legal Aid: Protecting the Criminally Accused's Charter Rights by Introducing a Public Defender System to Ontario." *Western Journal of Legal Studies* 8, no. 2 (2018): 3.

⁹ Eka Waliyati, Burham Pranawa, and Ananda Megha Wiedhar Saputri. "Peran Advokat Dalam Proses Pemeriksaan Perkara Pidana Yang Dilakukan Oleh Anak Di Kejaksaan Negeri Boyolali." *Jurnal Bedah Hukum* 6, no. 1 (2022): 23.

¹⁰ Colleen M. Berryessa and Jillian Reeves. "The perceptions of juvenile judges regarding adolescent development in evaluating juvenile competency." *The Journal of Criminal Law and Criminology (1973-)* 110, no. 3 (2020): 552.

¹¹ Durán, Robert J. *The gang paradox: Inequalities and miracles on the US-Mexico border* (New York: Columbia University Press, 2018), 98.

socialization, accountability, and children's perception of justice.¹² Interestingly, the study also underscores the paradox caused by the protection of procedural rights, where stronger legal protection during juvenile proceedings often leads to harsher punishments at the end. However, it's important to note that this paradox doesn't denounce the importance of ensuring procedural rights, as it can provide a clearer picture of what juveniles have to face during juvenile criminal proceedings and ultimately prevent the development of a flawed perception of justice among juveniles. Furthermore, the study explores the prohibition of ill-treatment and its implications for juvenile offenders.¹³ The findings of this study highlight that the application of juvenile justice must be according to the best interest of the child must always be carried out with the best interest of the child in mind, as they're considered to be not fully capable of understanding the mistakes that they've made. However, there's still no extensive analysis of issues that juvenile offenders face in accessing procedural rights in Indonesia's juvenile justice system. While the literature has highlighted the conceptual framework to ensure procedural rights for juveniles overall, differences in legal framework may raise unique challenges.

B. RESEARCH METHODS

This legal research aims to analyze the identified research gap through normative analysis. By critically analyzing the existing Indonesian legal framework and international human rights standards, this study aims to provide a comprehensive and unbiased assessment of the legal challenges in safeguarding procedural rights of juvenile assault offenders. Ultimately, it is hoped that this research will contribute to informed discussions and potentially inspire policy reforms to enhance the protection and fair treatment of juvenile assault offenders within the Indonesian criminal justice system. This research employs the doctrinal legal research method to analyze the normative values of the existing relevant positive laws in Indonesia,¹⁴ regarding the juvenile justice system. The legal research method refers to the systematic approach used to gather, analyze, and interpret legal information and materials to address specific legal issues or questions.¹⁵ To support the analysis, this

¹² Bernuz Beneitez, Maria José, and Els Dumortier. "Why children obey the law: Rethinking juvenile justice and children's rights in Europe through procedural justice." *Youth justice* 18, no. 1 (2018): 35.

¹³ Rafika Nur et al. "The Essence of Sanctions in Juvenile Justice System." *Journal of Law, Policy and Globalization* 95 (2020): 48.

¹⁴ Hari Sutra Disemadi. "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies." *Journal of Judicial Review* 24, no. 2 (2022): 290.

¹⁵ David Tan. "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2464.

research utilizes the statutory approach, using secondary data in the form of primary law sources, namely The UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), *Undang-Undang Dasar* 1945 (1945 Constitution), Law No. 11 of 2012 on Juvenile Justice System, and Law No. 27 of 2022 on Personal Data Protection.

C. RESULTS AND DISCUSSION

1. Conceptualization of Rights for Juvenile Assault Offenders

The conceptualization of a juvenile justice system presents a key challenge in ensuring safety within society and youth development. It requires a nuanced understanding of the unique characteristics of juvenile offenders, the goals of the criminal justice system, and the principles of due process. Juvenile assault offenders, as minors, are entitled to certain legal protections designed to safeguard their rights while promoting their rehabilitation. These protections stem from international conventions and national legislation, particularly in Indonesia. The principles of proportionality, individualization, and the best interests of the child guide the legal treatment of juvenile offenders.¹⁶ They encompass fair and impartial adjudication, the right to legal counsel, the presumption of innocence, protection against self-incrimination, and the right to appeal. Such safeguards ensure that the rights of juvenile assault offenders are respected throughout the legal process. The legal basis for the international standard for juvenile justice is the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). The Beijing Rules through Rule 1.2 states that "Member States shall endeavor to develop conditions that will ensure for the juvenile a meaningful life in the community, which, during that period in life when she or he is most susceptible to deviant behavior, will foster a process of personal development and education that is as free from crime and delinquency as possible."

Recognizing the developmental differences and potential for rehabilitation among juvenile assault offenders, the justice system often emphasizes therapeutic interventions over punitive measures, prioritizing growth and education for juvenile offenders, through restorative methods like diversion and rehabilitation, which is often employed in Indonesia. Therapeutic interventions refer to rehabilitative programs carried out to address and reduce antisocial patterns among juvenile offenders.¹⁷ This approach seeks to address the underlying causes of juvenile aggression and facilitate their reintegration into society. Rehabilitation programs may encompass counseling, education,

¹⁶ Brittany R. Wescott. "Juvenile Justice Converges on Principles Leading to the International Harmonization of the Juvenile Justice System." *Trento Student Law Review* 2, no. 2 (2020): 42.

¹⁷ Cécile Mathys. "Effective components of interventions in juvenile justice facilities: How to take care of delinquent youths?." *Children and Youth Services Review* 73 (2017): 320.

vocational training, and mental health support.¹⁸ By prioritizing rehabilitation, society aims to prevent recidivism, promote personal growth, and enhance the juvenile's ability to become a law-abiding citizen. However, it is crucial to strike a balance between rehabilitation and the legitimate goals of punishment, such as deterrence and public safety.

Despite the prevailing emphasis on rehabilitation, dissenting perspectives challenge the concept of providing extensive rights to juvenile assault offenders. Critics argue that traditional prosecutors might not see juvenile justice as adequate in addressing its own limitations, such as the lack of expressive function on the conformity of moral codes, the lack of pain infliction and public shaming to deter future crimes, and the lack of representation of larger public interests that might not necessarily be what the victims want.¹⁹ They maintain that the justice system should prioritize accountability and punitive measures to deter future criminal behavior effectively, especially when the offenders are considered dangerous to the public. This is even more difficult to argue against when there's a strong public sentiment on a specific juvenile assault case, which mixes in the socio-economic background of the offender, for the support of the victim.²⁰ Furthermore, qualitative analysis has also shown that there are many repeat offenders among juvenile offenders, highlighting many factors associated with recidivism, such as drug use and gang affiliation.²¹

Within the context of addressing juvenile assault offenders, it is crucial to recognize the pivotal role those legal protections play in upholding their fundamental rights and ensuring the equitable and impartial treatment within the criminal justice system. These essential safeguards are firmly rooted in international conventions, exemplified by the United Nations Convention on the Rights of the Child (UNCRC), which articulates a comprehensive framework outlining the specific rights and freedoms that ought to be guaranteed to children in conflict with the law.²² The UNCRC serves as a guiding compass, emphasizing the importance of treating juvenile offenders with dignity, respect, and sensitivity, while also prioritizing their best interests, rehabilitation, and reintegration into society. As a country that has ratified this

¹⁸ Siti Balqis Mohd Azam et al. "A case study on academic and vocational training for child offenders undergoing a multisystemic therapy-based rehabilitation order in Malaysia." *Children and Youth Services Review* 122 (2021): 105911.

¹⁹ Bruce A. Green and Lara Bazelon. "Restorative justice from prosecutors' perspective." *Fordham Law Review* 88, no. 6 (2019): 2287.

²⁰ Maguna Eliastuti et al. "Analisis Sindiran Dalam Konten Video Akun Instagram Bintang Emon." *Jurnal Ilmu Komunikasi Dan Media Sosial (JKOMDIS)* 3, no. 2 (2023): 394.

²¹ Tom D. Kennedy. "Chronic juvenile offenders: Exploring risk factor models of recidivism." *Youth Violence and Juvenile Justice* 17, no. 2 (2019): 175.

²² Barry Goldson. "Reading the present and mapping the future(s) of juvenile justice in Europe: complexities and challenges." In *Juvenile Justice in Europe*, ed. Barry Goldson (London: Routledge, 2018): 210.

through Presidential Decree (Keppres) No. 36 of 1990,²³ Indonesia can establish a solid foundation for a just and humane approach to addressing juvenile assault offenses, striking a delicate balance between the protection of societal interests and the safeguarding of the inherent rights of these young individuals.

Central to the legal protections for juvenile assault offenders is the principle of fair and impartial adjudication, which necessitates that the legal process involving these individuals upholds the principles of due process and procedural fairness.²⁴ This encompasses a range of critical rights, including the right to a speedy and public trial, where timely and transparent justice is administered. It is crucial to afford juvenile offenders the right to be fully informed of the charges against them, empowering them to comprehend the nature and gravity of the accusations and actively participate in their defense. The right to confront witnesses plays a vital role, allowing juvenile offenders or their legal representatives to question the credibility and reliability of testimonies presented.²⁵ Simultaneously, the right to present evidence and witnesses in their defense ensures a more balanced and equitable judicial process.²⁶ These guarantees ensure that the voice of the juvenile offender is heard and that their rights are protected throughout the legal proceedings.

The right to legal counsel constitutes an additional pivotal element within the legal protections afforded to juvenile assault offenders. The provision of sufficient and competent legal representation is of utmost importance to guarantee the preservation of their rights, as well as to provide them with essential guidance and advice throughout the legal proceedings, as this right can potentially be waived by the child him/herself unknowingly.²⁷ By having access to legal counsel, juvenile offenders are empowered with the necessary support to comprehend complex legal procedures, navigate negotiations with prosecutors, and present a strong and comprehensive defense. The presence of competent legal representation plays a vital role in leveling the playing field, ensuring that the juvenile offender's interests are adequately represented and protected, ultimately contributing to a fair and just outcome.

²³ Tazkia Tunnafsia Siregar, Ika Rachmawati Sukarno Putri, and Laura Sharendova Gunawan. "Peran Hak Asasi Manusia dan Hukum Adat Dalam Mencegah Pernikahan Dini di Indonesia." *Innovative: Journal Of Social Science Research* 3, no. 5 (2023): 11051.

²⁴ Christina L. McMahan. "Juvenile justice in Oregon: Balanced and restorative justice in action." *Juvenile and Family Court Journal* 70, no. 1 (2019): 60.

²⁵ Beneitez, José, and Dumortier. "Why children obey the law." 39.

²⁶ Jeffrey W. Stowers Jr. "Misunderstood: A Juvenile's Ability to be Competent Enough to Understand the Consequences of a Guilty Plea." *New Criminal Law Review* 19, no. 1 (2016): 3.

²⁷ Donald E. McInnis, Shannon Cullen, and Julia Schon. "The Evolution of Juvenile Justice: From the Book of Leviticus to Parens Patriae: The next Step after In re Gault." *Loyola of Los Angeles Law Review* 53, no. 3 (2020): 55.

The presumption of innocence is a fundamental principle that applies to juvenile assault offenders, essential for safeguarding their legal protections. It requires that the guilt of the accused be proven beyond a reasonable doubt before any conviction can be made, placing the burden of proof on the prosecution. By adhering to this principle, the legal system aims to prevent wrongful convictions and ensure fair treatment of juveniles. It reinforces the principle that a juvenile offender should not be stigmatized or presumed guilty until proven so in a court of law. The presumption of innocence plays a vital role in upholding the principles of fairness, justice, and the protection of rights for these individuals.

Preserving the confidentiality of juvenile criminal cases is also crucial for multiple reasons. It safeguards the well-being and future prospects of young offenders by shielding them from the potential stigma and negative consequences that may arise from public exposure of their actions. Confidentiality allows them to learn from their mistakes, reform their behavior, and pursue a path toward rehabilitation without the burden of a tarnished reputation. Moreover, it promotes honesty and openness in the juvenile justice system, creating an environment where young offenders feel comfortable expressing remorse, seeking guidance, and actively participating in their own rehabilitation. By maintaining confidentiality, we prioritize the best interests of the juveniles involved and provide them with the opportunity to move forward positively in their lives.²⁸

2. Constitutional Perspective on the Importance of Procedural Rights for the Juvenile Justice System in Indonesia

The Indonesian Constitution, *Undang-Undang Dasar* 1945 (1945 Constitution), provides a solid constitutional foundation that underscores the importance of procedural rights within the entire justice system, including the juvenile justice system. From a constitutional perspective, the recognition and protection of procedural rights for juvenile offenders align with the principles of justice, human dignity, and the promotion of the best interests of the child. The Constitution, as the supreme law of the land, establishes the framework for a fair and equitable legal system that ensures the protection of the rights and welfare of all individuals, including juveniles involved in criminal proceedings. It provides the basic principles and foundations for the Indonesian legal framework to be developed.²⁹

²⁸ Arista Candra Irawati. "Konstruksi Hukum Kerahasiaan Identitas Anak Terhadap Korban, Pelaku Dalam Perspektif Hak Asasi Manusia." *Rampai Jurnal Hukum (RJH)* 1, no. 1 (2022).

²⁹ Mia Kusuma Fitriana. "Peranan Politik Hukum dalam Pembentukan Peraturan Perundang-Undangan di Indonesia sebagai Sarana Mewujudkan Tujuan Negara (Laws And Regulations In Indonesia As The Means Of Realizing The Country'S Goal)." *Jurnal Legislasi Indonesia* 12, no. 2 (2018).

The 1945 Constitution explicitly emphasizes the principle of equality before the law and the right to a fair trial. These constitutional guarantees apply to all individuals, as a state based on law.³⁰ This is based on Article 1, paragraph (3) of the 1945 Constitution, which states that "The State of Indonesia is a state based on law." This basic principle has to be applied, which means that the Indonesian legal system also has to treat everyone, including children within the legal sphere, for whatever reason they're involved, fairly. As this essentially applies to juvenile offenders, it's important to have a legal system equipped with the basic rules and principles highlighting the necessity of procedural safeguards tailored to their specific needs and vulnerabilities. By ensuring that procedural rights are upheld for juvenile offenders, the Indonesian legal system aligns itself with the fundamental principles enshrined in the Constitution, fostering an equitable justice system that promotes the rehabilitation and reintegration of juvenile offenders into society.

Furthermore, the 1945 Constitution recognizes the importance of the protection and well-being of children. After emphasizing the rights of every person to establish a family through a legal marriage, the 1945 Constitution through Article 28B paragraph (2) specifically highlights the obligation of the state to provide special protection for children, by stating that "Every child shall be entitled to viability, to grow up, and to develop as well as be entitled to protection against violence and discrimination." The fundamental understanding of the nature of the legal system in Indonesia can be introduced by this paragraph also includes those involved in criminal proceedings.³¹ This constitutional provision underscores the imperative to protect the rights and welfare of juvenile offenders and affirms the significance of procedural rights as integral components of such protection. By upholding procedural rights, the Indonesian legal system demonstrates its commitment to respecting the dignity and best interests of juvenile offenders, as mandated by the Constitution.

Additionally, the constitutional perspective on procedural rights for juvenile offenders acknowledges the principle of proportionality in criminal justice. This principle is solidified within the Indonesian legal system through Article 27 paragraph (1), which states that "All citizens shall be equal before the law and in government and shall uphold the law and government without exception." Through this principle, the 1945 Constitution upholds the principle

³⁰ Reynaldo Tampi. "Prinsip Yang Adil Dalam Sistem Peradilan Pidana Indonesia." *Lex Crimen* 10, no. 7 (2021).

³¹ Amrizal Siagian, Wiwit Kurniawan, and Tri Hidayati. "Sanksi Pidana Kenakalan Anak Sebagai Pelaku Bulliyng Menurut Uu No. 11 Tahun 2012 Tentang Sistem Peradilan Pidanan Anak." *Jurnal Ilmiah Humanika* 3, no. 3 (2020): 1-11.

that punishments should be commensurate with the offense committed.³² In the context of the juvenile justice system, and in relation to Article 28B paragraph (2), this principle should also include the effort within the legal system to consider the special circumstances of juvenile offenders. By ensuring procedural rights, such as the right to a fair trial and individualized sentencing measures, the Constitution guides the legal system in applying proportionate and rehabilitative measures rather than relying solely on punitive approaches. This constitutional perspective recognizes the unique vulnerabilities and developmental stages of juveniles, aiming to promote their cognitive and behavioral development through rehabilitation rather than punitive measures.

It is essential to note that while the Indonesian Constitution has provided the necessary normative support to uphold the importance of procedural rights for juvenile offenders, implementation challenges may arise. Limitations, including resource constraints and varying interpretations of constitutional provisions, may impact the effective realization of these rights. This is more prevalent, particularly when the punitive approach is promoted by the public sentiment, or at least distortedly thought to have been promoted by the public sentiment.³³ Balancing these perspectives within the framework of the Constitution requires detailed normative analysis for legislating laws and regulations that don't contradict the values and principles introduced by the 1945 Constitution.

3. Balancing Public Pressure and Legal Procedure

The delicate balance between responding to public pressure and upholding the procedural rights of individuals within the legal system is a fundamental challenge faced by legal practitioners, policymakers, and the judiciary. Public pressure, driven by societal expectations, media scrutiny, and the pursuit of justice, often exerts significant influence on legal proceedings and decision-making processes.³⁴ However, it is imperative to maintain a steadfast commitment to procedural rights, such as the presumption of innocence, the right to a fair trial, and due process, in order to safeguard the integrity and legitimacy of the justice system.

One aspect to consider in this balancing act is the potential impact of public pressure on the presumption of innocence.³⁵ The principle of the

³² Surya Oktaviandra. "Analisis Aspek Legalitas, Proporsionalitas, Dan Konstitusionalitas Ketentuan Imunitas Pidana Bagi Pejabat Pemerintah Dalam Undang-Undang Nomor 2 Tahun 2020." *Majalah Hukum Nasional* 50, no. 2 (2020): 184.

³³ Daniel P. Mears, Justin T. Pickett, and Christina Mancini. "Support for balanced juvenile justice: Assessing views about youth, rehabilitation, and punishment." *Journal of quantitative criminology* 31 (2015): 461.

³⁴ Björn Ahl and Daniel Sprick. "Towards judicial transparency in China: The new public access database for court decisions." *China Information* 32, no. 1 (2018): 7.

³⁵ Simon Butt. "Indonesia's criminal justice system on trial: The Jessica Wongso case,." *New Criminal Law Review* 24, no. 1 (2021): 11.

presumption of innocence, deeply entrenched in legal systems worldwide, requires that individuals accused of crimes be considered innocent until proven guilty beyond a reasonable doubt. However, heightened public sentiment and media coverage can create a complex dilemma as it promotes democracy and social control over the deliverance of justice in a trial, but also an environment where individuals accused of offenses face public condemnation and prejudgment.³⁶ This raises concerns about the potential erosion of the presumption of innocence and the right to a fair trial, as the accused may struggle to secure an impartial jury and receive fair treatment throughout the legal process.

Moreover, public pressure can also influence the conduct of investigations and law enforcement agencies. On one hand, it can help prevent police misconduct due to the constant pressure and curiosity brewing in the public's eyes.³⁷ Under public scrutiny, authorities may face demands for swift action, leading to rushed or inadequate investigations that may compromise the collection of evidence and the reliability of the entire judicial process. In such cases, ensuring thorough investigations that adhere to established legal procedures becomes crucial to maintaining the integrity and reliability of the evidence presented before the court.

However, it is essential to acknowledge that public pressure often arises from legitimate concerns for justice and public safety.³⁸ In high-profile cases involving heinous crimes, the public expects the legal system to be responsive and accountable. Ignoring public sentiment altogether may risk alienating the very communities that the justice system aims to protect and serve.³⁹ This will eventually create a perception that the justice system is discouraging participation, which can affect certain communities greatly. Consequently, striking a balance requires policymakers and legal practitioners to address public concerns while ensuring that procedural rights are upheld.

One approach to reconciling public pressure and procedural rights is through enhanced transparency and communication. These factors are important as they can show the guiding principles of a legal measure, and the legal system can then judge fairly whether or not these procedures are according to the law or not.⁴⁰ By fostering a better understanding of legal

³⁶ Cristiano Martins, Valeska Martins, and Rafael Valim. *Lawfare: waging war through law*. London: Routledge, 2021.

³⁷ Marie Ouellet et al. "Network exposure and excessive use of force: Investigating the social transmission of police misconduct." *Criminology & Public Policy* 18, no. 3 (2019): 676.

³⁸ Alfred C. Aman and Landyn Wm Rookard. "Private Government and the Transparency Deficit." *Administrative Law Review* 71, no. 3 (2019): 438.

³⁹ Ryan D. Doerfler and Samuel Moyn. "The Ghost of John Hart Ely." *Vanderbilt Law Review* 75, no. 3 (2022): 770.

⁴⁰ Joe Purshouse. "Paedophile hunters', criminal procedure, and fundamental human rights." *Journal of Law and Society* 47, no. 3 (2020): 385.

processes and the reasons behind certain procedural decisions, public trust in the justice system can be bolstered.⁴¹ Open dialogue and education initiatives can help bridge the gap between public expectations and the complexities of legal procedure, allowing for a more informed public discourse that respects the importance of procedural rights.

Furthermore, it is essential to recognize dissenting voices and alternative viewpoints in the public sphere. Public pressure is not monolithic, and diverse perspectives may exist regarding the appropriate balance between justice, procedural rights, and public expectations. Engaging in meaningful dialogue and considering dissenting opinions can contribute to a more robust decision-making process that accommodates various viewpoints while maintaining the primacy of procedural rights. When examining the delicate balance between public pressure and ensuring procedural rights within the legal system, it is crucial to underscore the unique implications for juvenile offenders. The special status of juveniles, based on their age and cognitive development, necessitates heightened attention to safeguarding their procedural rights.⁴² Failure to provide adequate protection may have far-reaching consequences for both the individual and society, particularly considering the potential impact on the youth's cognitive development and future prospects.

Procedural rights play a critical role in safeguarding the well-being and development of juvenile offenders. The right to legal representation, for instance, ensures that juveniles have access to competent counsel who can advocate for their best interests and protect their rights throughout the legal process.⁴³ This right is especially significant for juveniles, as their cognitive abilities and decision-making capacities are still developing. Effective legal representation can help mitigate the potential vulnerabilities and disparities in knowledge and power that exist between the juvenile and the legal system, ensuring fair treatment and an opportunity for rehabilitation.

Additionally, the right to a fair trial assumes particular importance for juvenile offenders due to their unique cognitive characteristics. The cognitive development of adolescents is characterized by ongoing brain maturation and the formation of critical thinking abilities, impulse control, and understanding of consequences. Consequently, juveniles may possess limited abilities to

⁴¹ Tali Gal and Hadar Dancig-Rosenberg. "I Am Starting to Believe in the Word 'Justice': Lessons from an Ethnographic Study on Community Courts." *The American Journal of Comparative Law* 68, no. 2 (2020): 377.

⁴² Aaron Wallace Meek. "Why Use a Hammer When a Scalpel Will Do? Suggestions for Fairer Juvenile Plea Bargaining in Kentucky." *Kentucky Law Journal* 108, no. 4 (2019): 714.

⁴³ Aekje Teeuwen. "Procedural rights supporting expeditious trials for juveniles: Effective remedies and legal representation." *Asia-Pacific Journal on Human Rights and the Law* 22, no. 2 (2021): 151.

comprehend complex legal concepts, fully engage in their defense, or evaluate the potential consequences of their actions. Ensuring a fair trial, with age-appropriate court procedures and judicial sensitivity to the cognitive limitations of juveniles, becomes paramount to protect their rights and guarantee a just legal outcome.

The impact of procedural rights on the cognitive development of juvenile offenders extends beyond the courtroom. Research consistently demonstrates that the experiences and treatment of young individuals within the legal system can have long-lasting effects on their psychological well-being, self-esteem, and future prospects.⁴⁴ Violations of procedural rights, such as denial of legal representation, lack of access to relevant information, or ill-treatment during detention, can contribute to feelings of injustice, trauma, and alienation. These adverse experiences can impede the cognitive and emotional development of juveniles, hindering their potential for rehabilitation and reintegration into society.

Furthermore, recognizing and respecting procedural rights for juvenile offenders can contribute to positive outcomes and reduce recidivism rates. Studies consistently show that comprehensive and fair juvenile justice systems, which prioritize procedural rights, offer greater opportunities for rehabilitation and successful reintegration into society. By providing access to appropriate legal representation, fair trials, and safeguards against ill-treatment, the legal system can support the cognitive and behavioral development of juvenile offenders, fostering a sense of accountability, empathy, and responsible decision-making.

The mentioned factors are all essential in the development of a juvenile justice system and show the need to balance public pressure and ensure procedural rights within the legal system, especially the juvenile justice system, which is a complex challenge that requires careful consideration. Upholding the presumption of innocence, the right to a fair trial, and due process is crucial to safeguard the integrity and legitimacy of the juvenile justice system. While public pressure can be driven by legitimate concerns for justice, it is important to find ways to enhance transparency, promote dialogue, and consider dissenting perspectives to strike a balance that respects procedural rights while addressing public expectations.

4. Normative Challenges and Legal Consequences

Ensuring procedural rights for juvenile offenders within the legal system presents normative challenges and carries significant legal consequences that extend beyond the immediate context. From a normative perspective, the

⁴⁴ Nancy Rodriguez. "The role of science in reducing racial and ethnic disparities in the juvenile justice system." *Du Bois Review: Social Science Research on Race* 15, no. 1 (2018): 196.

challenges lie in striking the right balance between protecting the rights of juvenile offenders and maintaining societal expectations of justice. The unique status of juveniles as both rights-bearers and potential threats to public safety adds complexity to the normative considerations, which include analyzing the level of threats and the possible impacts on public safety.⁴⁵ For example, an assault committed by a child might not always happen as a sign of aggression but rather as a result of self-defense from a threat the child is uncomfortable speaking out about. Finding common ground that respects the fundamental rights of juveniles while addressing the concerns of public safety poses a significant challenge for legal systems.

One normative challenge is the tension between the rehabilitative aims of the juvenile justice system and the demands for retribution and deterrence. Critics argue that an overemphasis on procedural rights may undermine the punitive aspects of justice, leading to perceived leniency towards juvenile offenders. This perspective highlights the need to strike a balance that acknowledges the rights and developmental needs of juveniles while considering the expectations of society for accountability and public safety, which goes back to the 1945 Constitution's foundation on the principle of proportionality.⁴⁶ Resolving this normative challenge requires a nuanced approach that integrates rehabilitative measures with appropriate accountability, tailored to the individual circumstances of each case.

Indonesia uses Law No. 11 of 2012 on Juvenile Justice System (Juvenile Justice System Law) as the main legal framework to deal with Juvenile Assault Offenders. Article 1 number 1 of the Juvenile Justice System Law states that "The Juvenile Criminal Justice System is the entire process of resolving cases of children who are in conflict with the law, starting from the investigation stage to the mentoring stage after serving a sentence." This definition of the juvenile justice system is important as it lays out the foundation for ensuring procedural rights, by mentioning the investigation stage to the mentoring stage after serving a sentence, to imply that every process throughout these stages has to be must be carried out in accordance with the rules of this law.

Legal consequences arise when the protection of procedural rights for juvenile offenders leads to potential conflicts with other legal principles or practical considerations. For example, the presumption of innocence and the right to confront witnesses may clash with the need to protect vulnerable victims or maintain confidentiality in certain cases. This issue is governed by Article 90 paragraph (1), which states, "In addition to the rights regulated in

⁴⁵ Jeffrey Sharlein and Malitta Engstrom. "Neighborhood disproportion in juvenile justice contact." *Juvenile and Family Court Journal* 69, no. 4 (2018): 26.

⁴⁶ Gede Marhaendra Wija Atmaja. "Legal pluralism politics towards recognition of social unity in customary law and local regulation." *International journal of social sciences and humanities* 2, no. 2 (2018): 125.

the provisions of the laws and regulations as referred to in Article 89, Child Victims and Child Witness are entitled to medical rehabilitation and social rehabilitation efforts, both within the institution and outside the institution; guarantee of safety, whether physical, mental, or social; and ease of obtaining information about the progress of the case.”

While this fulfills the need to safeguard the interests of victims and witnesses, this provision needs to be balanced with another provision for the side of offenders, particularly on the issue of obtaining information about the progress of the case. The Juvenile Justice System Law unfortunately doesn't have any provision that protects the right of juvenile offenders to get easy access to the information regarding the case that they're in. The failure to address this issue results in legal ambiguity, which is also inconsistent with the principle of proportionality as mentioned by the 1945 Constitution. Another legal challenge is the enforcement of the provision regarding privacy as mentioned in Article 19 of the Juvenile Justice System Law, which states, “(1) The identity of the child, child victim and/or child witness must be kept confidential in reporting in print or electronic media. (2) The identity referred to in paragraph (1) includes the name of the child, the name of the child victim, the name of the child witness, the name of the parents, address, face, and other things that can reveal the identity of the child, child victim and/or child witness.”

The challenge in the enforcement of this provision and balancing public pressure is a complex issue. Assault is often seen as a threat to public safety and will likely heighten public tensions, pressuring the juvenile assault offender even more.⁴⁷ With the rise of social media platforms, this issue becomes even more complex as it can spread quickly with no real repercussions to those who violate this provision. This is the issue with a recent case within the Indonesian legal system, where the assault offender, along with their family members, faced heavy scrutiny from the public with no regard for the child's privacy.⁴⁸ One of the offenders is actually a minor, whose privacy should be protected by the Juvenile Justice System Law. Unfortunately, the identity of the child is now exposed by the school that the child attends and the media.⁴⁹ This also goes against the provision of Article 25 paragraph (2) of Law No. 27 of 2022

⁴⁷ Anton Blok. “The enigma of senseless violence.” In *Meanings of violence*, ed. Jon Abbink and Göran Aijmer (London: Routledge, 2020), 24.

⁴⁸ M. Rosseno Aji. “Korban Penganiayaan Mario Dandy Anak Pejabat Pajak Ajukan Perlindungan ke LPSK.” *Tempo*, 28 February 2023. Retrieved from <https://nasional.tempo.co/read/1696802/korban-penganiayaan-mario-dandy-anak-pejabat-pajak-ajukan-perlindungan-ke-lpsk>.

⁴⁹ Guruh Guruh. “Terungkap, Ini Nama dan Identitas Asli Agnes Pacar Mario Dandy Satriyo.” *Pojoksatu*, 24 February 2023. Retrieved from <https://www.pojoksatu.id/nasional/1081751384/terungkap-ini-nama-dan-identitas-asli-agnes-pacar-mario-dandy-satriyo>.

on Personal Data Protection (PDP Law), which states that "(2) The processing of the child's Personal Data as referred to in paragraph (1) must obtain approval from the child's parents and/or the child's guardian in accordance with the provisions of laws and regulations."

Article 8.1 of the Beijing Rules also echoes the importance of the protection of privacy by stipulating that "In principle, no information that may lead to the identification of a juvenile offender shall be published." The provision adds emphasis to this issue by mentioning the fact that it has been established from many criminology studies that the lasting classification of young individuals as "delinquent" or "criminal" brings about adverse consequences of various natures.

Another legal consequence worth considering is the impact on the efficiency and effectiveness of the juvenile justice system. While the protection of procedural rights is crucial, excessive formalities and cumbersome procedures can impede the timely resolution of cases. Lengthy legal processes may exacerbate the negative consequences of involvement in the justice system for juveniles, hindering their rehabilitation and reintegration. Striking a balance that upholds procedural rights while promoting efficiency is essential to ensure the proper functioning of the juvenile justice system and the realization of its rehabilitative objectives.

D. CONCLUSION

Normative analysis of this research has found that the Indonesian legal framework for the juvenile justice system is problematic as it falls short of fully guaranteeing the implementation of procedural rights for juvenile assault offenders. It also shows the difficulty in enforcing the laws in the face of public scrutiny, which can go against the values and principles set by the 1945 Constitution, other related laws within the Indonesian legal system, and the international standard. The government, through the legislation process, needs to revisit these laws and make sure that it has a more proactive role in ensuring the issues regarding procedural rights, particularly regarding the access to information and the protection of privacy, which are complex matters and might risk creating disharmony within the Indonesian legal system. Ultimately, these findings contribute to the effort to advance the Indonesian legal system by mapping the gaps in the juvenile justice framework and highlighting the issues juvenile assault offenders face in accessing procedural rights in Indonesia, while also advocating for reforms that align with constitutional and international human rights principles, particularly in enhancing procedural protections for juvenile assault offenders.

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