




Child Protection in Criminal Offenses: An Analysis of Policies and Sanctions in the Indonesian Justice System

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Article Info	ABSTRACT
Keywords: Child protection Juvenile criminal justice system Legal reform Restorative approach Rehabilitation Social reintegration Indonesian law	This study examines the implementation of legal protection for children as perpetrators of criminal offenses in Indonesia's juvenile criminal justice system. The main focus of the study is to analyze the application of sanctions and protection provided to children involved in criminal acts, as well as evaluating the effectiveness of their rehabilitation and reintegration into society. The method used is Normative Juridical, with primary data analysis from relevant legislation and secondary data from related literature. The results show that there are large discrepancies between legal provisions and practices in the field, often resulting in a more punitive than restorative approach to child offenders. The research recommends policy reforms oriented towards education and psychological and social support, rather than just punishment.
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INTRODUCTION

In Indonesia, legal protection for children involved in criminal offenses is often not implemented effectively. Children are considered the future of the nation, yet when they make mistakes, the legal protection they should receive often fails to be provided (M. E. , Safira & El-Yunusi, 2023). This leads to these children not getting adequate rehabilitation opportunities, which should be the focus of the juvenile criminal justice system. Many of these children end up in correctional institutions, where they risk prolonged stigmatization and social exclusion.

Indonesia's juvenile criminal justice system has clear rules regarding the handling of children in conflict with the law, as mandated by Law Number 11 Year 2012 on the Juvenile Criminal Justice System. However, the reality on the ground is often far from what is mandated by the law. This inconsistent protection creates serious problems in the application of the principles of justice and child protection (M. E. Safira, 2023). Children involved in criminal offenses are often treated more as perpetrators than as victims of circumstances they do not fully understand.

Children involved in criminal offenses often do not have sufficient understanding of the consequences of their actions (Muhaimin & Ridhanie, 2024). The lack of education and legal awareness among these children exacerbates the situation, making them vulnerable to

behaviors that could bring them into the criminal justice system (Putri & Masnawati, 2024). Environmental and social factors, such as poverty, unhealthy socialization, and lack of parental supervision, contribute greatly to the increasing number of children involved in criminal offenses.

In addition, legal process involving children are often inadequate to provide legal representation and psychological support. This can negatively impact their understanding of the legal process and their rights as children. This lack of support often leaves children feeling isolated and not understood, which can affect the outcome of the legal process and their rehabilitation.

The social stigma attached to children who have been in conflict with the law is one of the biggest challenges in their reintegration into society (Wartawan, 2024). This stigma comes from the general public, and possibly from educational institutions and even from the family environment. As a result, these children often have difficulty continuing their education and finding employment, which exacerbates the cycle of crime and poverty.

Inconsistent law enforcement and lack of resources are also serious problems in the juvenile criminal justice system. The lack of specialized training for judges, prosecutors and other law enforcement on how best to handle cases involving children often results in ineffective and inhumane handling of cases. These conditions point to an urgent need for systemic reform in Indonesia's juvenile criminal justice system.

The purpose of this study is to review the legal framework and sanctions in the protection of juvenile offenders, and analyze how sanctions are imposed on juvenile offenders. This study aims to identify and understand various legal aspects related to the handling of children in the criminal justice system, as well as the impact of legal sanctions on their rehabilitation and reintegration into society.

METHODS

In this study, the method used is Normative Juridical, which focuses on theoretical analysis of relevant regulations and identified legal issues. This involves using a normative approach to evaluate and interpret laws and regulations as well as collecting relevant documents from libraries. This research utilizes primary data sources consisting of relevant laws and regulations. These sources are the main basis for data collection, while secondary legal materials such as scholarly publications, newspapers, law books, and other sources support the understanding of the primary legal materials.

Data collection in this research was carried out through a literature study that collected secondary materials by conducting activities such as reading, analyzing, quoting, and documenting relevant information related to the research topic. All data collected was analyzed qualitatively.

The analysis was conducted through descriptive techniques, providing a detailed narrative of the data collected, linking the evidence found, and making inductive inferences. This research explores the established normative or legally significant variables, with the aim of generating a deeper understanding of the legal aspects under study.

RESULTS AND DISCUSSION

Legal Framework and Sanctions for the Protection of Juvenile Offenders

Legal protection of children aims to establish a structure that ensures every child has the opportunity to grow and develop physically, mentally, and socially in a healthy environment. According to (Ferdiansya & Suherman, 2024), members of society each have a role to play in providing this protection to children, according to their abilities in various conditions. According to Statute 2 of the Child Protection Law, guidelines for child protection must be based on the values of Pancasila and the 1945 Constitution, and follow the principles applied in the Convention on the Rights of the Child, which include the prohibition of discrimination, the fulfillment of the best needs of the child, and the guarantee of the right to life and optimal development.

Children can be involved in criminal acts due to various factors, often leading to their incarceration. The legal processing of children involved in criminal acts requires a different approach compared to adults, given the internal and external factors such as their family, education, and social environment that can influence their behavior (Ferdiansya & Suherman, 2024). Sometimes, external motivations such as influences from school or the media also play a role (Masfufah & Darmawan, 2023); (Wanti & Darmawan, 2024). Therefore, children may break the law in varied situations, and these actions of theirs are considered as lawlessness or criminal offenses (Haniyah, 2024).

In accordance with what is stipulated in Statute 1 Clause 2 of Law Number 3 Year 1997 concerning the juvenile justice system, it is stated that every child involved in a crime is categorized as a perpetrator of a criminal offense and the act is prohibited by this law or other applicable laws in Indonesia. This regulation specifically regulates the process of handling criminal cases involving children. Law Number 11 Year 2012 on the Juvenile Criminal Justice System and Law Number 3 Year 1997 on Juvenile Justice provide the legal framework for such handling.

Furthermore, Law Number 35 Year 2014 concerning the second amendment to Law Number 23 Year 2002 concerning Child Protection, was converted into law through Government Regulation in Lieu of Law (Perppu) Number 1 Year 2016. There is also Government Regulation Number 65 Year 2015 that stipulates guidelines for the implementation of diversion and handling of children under 12 years of age, as well as Supreme Court Regulation of the Republic of Indonesia Number 4 Year 2014 and Attorney General Regulation of the Republic of Indonesia Number 06/A J.A/04/2015 that regulate the implementation of diversion in the juvenile criminal justice system.

The juvenile criminal justice system provides protection to children who violate the law. The importance of a thorough understanding of the system goes beyond childcare; it also aims to uncover the causes of crimes committed by children and find ways to prevent them (Bachtiar & Sjaifurrachman, 2024). It also aims to address the various issues that children face in the legal system, including their interactions with the police, the judicial process, conditions of detention, and repetition of trials, as well as ensuring their social inclusion and engagement in the legal system. Therefore, the term “juvenile criminal justice system” refers to the set of laws, customs, guidelines, protocols, systems, and structures, as well as organizations and entities specifically designed to manage legal proceedings against children involved in crime.

Based on the provisions of Statute 1 Clause 1 and Statute 2 of the Law on Juvenile Criminal Justice System (UU SPPA), the juvenile criminal justice system is a series of legal handling processes involving children who are suspected of violating the law. This process includes investigating the circumstances and providing direction after the offense based on the principles of protection, justice, respect for children's rights, and their harmonious and sustainable growth and development. In addition, this legal process includes investigation, arrest, detention, prosecution, trial, and rehabilitation, all of which aim to protect the rights of children under the criminal justice system in Indonesia. The SPPA Law mandates that this entire process must refer to the needs of children and their growth and development mentally, physically, and socially, while also taking into account the general interests of society.

Law Number 3 Year 1997 on Juvenile Courts contains specific rules that deviate from the generally applicable Criminal Code, by providing special provisions for children involved in criminal offenses. According to Statute 18 of the Child Protection Law, every child involved as a victim or perpetrator in a criminal offense has the right to receive legal aid and other assistance in accordance with their needs. The legal treatment of children who commit criminal offenses must be different from the treatment of adults who commit similar acts. Children who are 12 years old until they have not reached 18 years old and are involved in a criminal offense, will be treated in accordance with the juvenile criminal justice system, in accordance with Law Number 11 Year 2012. According to the law, minors who have reached 18 years of age but not yet 21 years of age will still be brought before the juvenile court. This indicates a legal policy that urges the need for a court process that is different from adults, intended to provide adequate protection to the psychological development of children so that they are protected from negative stigma that could impact their future.

As stipulated in Statute 3 of the Juvenile Criminal Justice System Law (UU SPPA), every child involved in the criminal justice process must receive treatment that respects their dignity and humanity, taking into account their age-appropriate needs. Children must be separated from adult detainees and given access to effective legal assistance, opportunities to participate in recreational activities, and protected from torture or degrading treatment. They are also guaranteed by law not to be sentenced to death or life imprisonment and to be detained only as a last resort and for a short period of time. Children are entitled to an objective and impartial trial in a court closed to the public, without publication of their identity. They are also entitled to support from parents or guardians and social advocacy, and have the right to privacy, accessibility for disabled children, education, and health services in accordance with the law.

Furthermore, Statute 4 of the SPPA Law states that children who are serving sentences are entitled to various forms of legal protection such as remission, assimilation, leave to visit family, parole, and other rights guaranteed by law.

Protection for children involved in criminal offenses is not limited to the judicial process alone, but also through the criminal justice system which includes diversion. Diversion is the process by which juvenile cases are diverted from the criminal justice system to alternatives that favor restoration and rehabilitation. This approach, known as restorative justice, aims to restore conditions to what they were rather than simply imposing punishment. Statute 1 Clause 7 of the SPPA Law defines diversion as the transfer of juvenile cases from the criminal

justice system to other alternatives. Diversion should be applied when dealing with cases with a maximum sentence of under seven years imprisonment and does not constitute a repeat crime (Mevia et al., 2024).

The importance of the juvenile criminal justice system is to ensure that every child receives fair treatment and that their welfare is a top priority in the legal system. The handling of children in this system should be carried out by professionals who are specially trained to work with children, including investigators, prosecutors, judges, and staff of juvenile correctional institutions. This is to ensure that decisions taken in the legal process support the welfare of the child without compromising societal values or ignoring the rule of law, with the ultimate goal being truth, justice and the welfare of the child.

The Role of the Law in Dealing with Juvenile Offenders

In the broader scope of crime and punishment, the punishment system can be viewed as a comprehensive entity because it involves considerations about the type, duration, and severity of sanctions, as well as about the way in which sanctions are formulated by criminal law (Rahmayanti et al., 2024). According to (Ferdiansya & Suherman, 2024), the criminal responsibility system adopted by the Criminal Code is a system that stipulates that every mentally healthy child is considered to have the capacity to be responsible and can be tried. This can be seen from the provisions contained in Statute 45 of the Criminal Code. When a child under the age of eight commits certain criminal offenses in accordance with Law Number 3 Year 1997, there are several options provided: first, the child can be returned to his/her parents, guardians, or adoptive parents if the condition is still possible. The second alternative is that if the child cannot be cared for by the parents, guardians or adoptive parents, then the child can be handed over to the Department of Social Affairs. However, to decide what is best for the child, the judge may choose to place the child in a social institution, social organization, or Islamic boarding school, while considering the religion of the child. In addition, the principle of protection stated in the SPPA Law also includes the application of sanctions. There are two types of sanctions available for children in conflict with the law: action sanctions that apply to offenders under the age of fourteen and criminal sanctions stipulated in Statute 69 of the SPPA Law, which include specific penalties.

In the application of sanctions regulated by the Child Criminal Justice System Law (UU SPPA), there are two categories of sanctions that can be given to children who commit criminal offenses, namely:

1. Action sanctions, which include various forms of intervention such as returning the child to parents or guardians, placing the child with certain individuals, treatment in a mental health facility, treatment in a Special Correctional Institution for Children (LPKS), and requiring the child to attend formal education or training organized by government or private institutions. These sanctions can also include revocation of driving licenses and corrective actions related to the criminal offense committed by the child, as explained in Statute 82 of the SPPA Law.
2. Criminal sanctions, which are divided into main punishment and additional punishment as stipulated in Statute 71 of the SPPA Law:
 - a. Basic punishment includes a warning sentence, conditional punishment involving training outside correctional institutions, community service, or supervision, as well

as vocational training and training in correctional institutions including imprisonment.

- b. Additional punishments include forfeiture of benefits obtained from the violation of the law or customary obligations that must be fulfilled by the perpetrator.
- c. Replacement of death penalty with a maximum sentence of 15 years as a form of adjustment to legal provisions related to children.

Both types of sanctions are designed to provide an appropriate response to the conditions and needs of children in conflict with the law, while ensuring that the measures taken are based on the principles of justice and effective protection of their development.

The frequency with which violent or criminal cases are addressed through the justice system often does not yield optimal results, and the punitive approach to minors under Indonesian legal regulations tends to have a negative impact on their psychological health (Khairunnisa & Rasji, 2024). Recognition needs to be given that policies related to child protection within the national legal framework still lack community support. Judges often consider involving the Corrections Agency (Bapas) as well as integrating non-judicial activities to make decisions regarding children in legal trouble.

To support a deeper understanding of solutions in Indonesia's juvenile justice system, it is important to further explore the psychological impact of punishment on children and alternative approaches that can be taken. The involvement of the Corrections Agency (Bapas) as well as non-judicial activities are often geared towards reducing the negative impact of the criminal justice system on children. As such, a restorative approach that includes social development and education may be a more beneficial alternative. Through this approach, it will prevent the stigmatization of children, and support their rehabilitation and reintegration into society in a healthier and more productive way (Mita & Prameswari, 2023).

The importance of implementing policies that focus on the specific needs of children in the justice process is crucial. This involves adjustments in sentencing that are more oriented towards education and character development rather than mere punishment (Pungkas et al., 2024). This change in legal approach is expected to encourage positive transformation in children in conflict with the law, by giving them a second chance to improve themselves and develop their potential in the future. Education and training organized by government or private institutions should be effectively integrated in the punishment system to support this aspect (Sutanto & Rahaditya, 2024).

Finally, it is important to raise public awareness about the importance of child protection in the legal system. Increased public support can strengthen the implementation of child protection policies and reduce the stigmatization of children who have been in conflict with the law. Through strong advocacy and public education, the public can better understand that rehabilitation and character building are key to addressing the problem of criminality among children. Thus, cooperation between government agencies, the private sector, and the wider community is expected to bring significant changes in Indonesia's juvenile criminal justice system, which is fair and supports the proper growth and development of children.

CONCLUSION

An analysis of the implementation of the legal protection system for children as perpetrators of criminal offenses shows that there is still room for improvement. The law has outlined clear procedures for handling children in the criminal justice system, but implementation in the field is often inconsistent with what is mandated by the law. This points to the need for better oversight and strengthening of existing policies to ensure that all children involved in criminal offenses are given fair opportunities for rehabilitation, in line with their rights as children.

To address the problems that exist within the juvenile criminal justice system, a more structured and organized approach is needed. Increased training for legal professionals handling juvenile cases, such as judges and prosecutors, is essential to ensure that they can apply the law in a more empathetic and effective manner. In addition, the improvement of rehabilitation facilities and social reintegration programs specifically designed for children should be a priority, to support them in the recovery process and prevention of returning to criminal pathways and advocacy is needed to raise public awareness about the importance of supporting the reintegration of these children, to help reduce stigma and support their development into productive individuals.

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