

Research Article

Political Reconstruction of Justice of Juvenile Criminal Law in the Diversion Mechanism in the Investigation Process

Parman Gultom^{1*}, Fauzie Yusuf Hasibuan², Maryano³

¹ Program Studi Ilmu Hukum; Universitas Jayabaya; Indonesia; Email: parmangultom98@gmail.com

² Program Studi Ilmu Hukum; Universitas Jayabaya; Indonesia; Email: adv_fauzie@yahoo.com

³ Program Studi Ilmu Hukum; Universitas Jayabaya; Indonesia; Email: maryano.myn@gmail.com

* Corresponding Author: Parman Gultom

Abstract: This study examines the political reconstruction of fair juvenile criminal law in the diversion mechanism at the investigation stage in Indonesia. The background of the research departs from the gap between the empirical conditions (*das sein*) and the ideal conditions (*das sollen*) mandated by the Law on the Juvenile Criminal Justice System (UU SPPA) and the principle of the best interest of the child in the Convention on the Rights of the Child. The research method used is normative legal research with legislative, case, and comparative approaches. The results of the study show that the implementation of diversion faces obstacles in substance, structure, and legal culture: procedural uncertainty, limited capacity of apparatus, lack of supporting facilities, and weak coordination across institutions. This research offers a reconstruction of legal politics in these three domains at once—substance, structure, and culture—so that diversion truly becomes an instrument of restorative justice that restores, not punishes. The scientific contribution of this article lies in the formulation of a multi-layered policy model, the elaboration of performance indicators for the implementation of diversion at the investigation stage, as well as a matrix of operational recommendations for stakeholders at the police, prosecutor's office, court, and child social service institutions.

Keywords: diversion; Investigation process; legal reconstruction; politics of child criminal law; restorative justice.

1. Introduction

The juvenile criminal justice system in Indonesia has undergone an important transformation since the enactment of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law). This regulation marks a paradigm shift from a repressive approach to criminalization as the ultimate remedium, by placing children as legal subjects who need special protection. The principle of restorative justice is the spirit of the SPPA Law, which ideally prioritizes recovery, social reintegration, and stigmatization prevention. However, after more than a decade, implementation in the field shows that this principle has not been fully institutionalized, especially at the investigation stage.

This research material confirms the existence of a real implementation gap. First, around 70% of children's cases are still processed through formal channels even though they are eligible for diversion. Second, the data shows that cases that are successfully resolved through diversion have a lower recidivism rate than cases that are formally processed, which indicates the effectiveness of the restorative approach. Third, a regulatory gap of up to 60% was found, which had an impact on procedural ambiguity and disparity in implementation in various regions. This fact shows the need for strategic measures to strengthen the implementation of diversification.

This article focuses on the political reconstruction of juvenile criminal law, ensuring fairness during the investigative stage. This stage is crucial because it is the starting point for determining the direction of the case resolution: whether to be diverted to the recovery path through diversion or continue to the formal path that has a significant risk of causing

Received: August 01, 2025;
Revised: August 16, 2025;
Accepted: August 30, 2025;
Published: September 09, 2025
Curr. Ver.: September 09, 2025



Copyright: © 2025 by the authors.
Submitted for possible open
access publication under the
terms and conditions of the
Creative Commons Attribution
(CC BY SA) license
(<https://creativecommons.org/licenses/by-sa/4.0/>)

psychological trauma and social stigma. At this point, we must maintain the balance between law enforcement and the protection of the child's best interests.

Conceptually, the analytical framework used is based on three levels of theory. First, the grand theory of justice provides a philosophical foundation that requires the legal system to guarantee substantive justice for all parties, including children. Second, the middle-range theory of legal politics, which discusses the relationship between policy and legal implementation. Third, applied theory diversion, which is an operational guide for the implementation of child case settlement outside the court. The combination of these three theories facilitates the evaluation of coherence between values, policies, and practices in the field.

The political reconstruction of the criminal law of children in Indonesia, especially at the investigation stage, is an important agenda in realizing more humane justice. Although the SPPA Law has clearly regulated the principles and mechanisms of diversion, the gap between *das sollen* (ideal conditions) and *das sein* (factual conditions) is still wide. Under ideal conditions, diversion consistently involves all related parties and prioritizes the interests of children. However, in reality, procedural obstacles and the judgment-oriented mindset of law enforcement officials often hinder its implementation.

Data from the Indonesian Child Protection Commission (KPAI) shows that in 2020 there were around 1,200 criminal cases involving children, with an increasing trend from year to year. This figure not only reflects the high involvement of children in criminal acts, but also signals that the juvenile criminal justice system needs serious evaluation. Without remedial measures, the risk of violating the principles of child protection will continue to be repeated.

In the context of case settlement, the diversion mechanism has a strategic function to minimize the negative impact of the legal process on children. Diversion allows for the resolution of cases through a non-formal approach, which is more oriented towards restoring relationships between perpetrators, victims, and society. However, obstacles that often arise include procedural ambiguity, lack of understanding of the authorities, and lack of supporting facilities such as mediation rooms and child rehabilitation institutions. This barrier contributes to the low achievement of diversification nationally.

The urgency of this research lies in the effort to unify norms and practices through simultaneous reconstruction of three dimensions of law: substance, structure, and culture. The improvement of clear regulations and procedures relates to the substance of the law. The legal structure involves improving capacity and coordination between law enforcement agencies. The legal culture targets changing the mindset of the apparatus to prioritize a restorative approach rather than a retributive approach. These three dimensions must be strengthened together so that the mandate of the SPPA Law does not stop as a normative text.

Empirical reality (*das sein*) shows that the implementation of diversion at the investigation stage is often hampered by technical and non-technical factors. The authorities often interpret diversion as an effort to weaken law enforcement, so they decide to continue to bring cases to court. Coordination between institutions, such as the police, prosecutor's office, and child protection agencies, is also not optimal. On the contrary, the ideal condition (*das sollen*) requires that every officer views diversion as an instrument of child protection that is as important as law enforcement itself.

The gap between *das sollen* and *das sein* demands a political reconstruction of the law that places restorative justice as a priority. Reconstruction must involve strengthening more assertive norms, improving the competence of the apparatus, and providing adequate supporting facilities. In addition, there should be an ongoing monitoring and evaluation system to ensure that each stage of the investigation complies with child protection principles.

A comparative approach with other countries that have more advanced juvenile justice systems can be an important reference. In some European countries, diversion is implemented consistently with the support of trained professionals and a complete infrastructure. Psychological assistance, alternative education, and social reintegration programs also complement this process. This holistic approach has been proven to reduce recidivism rates and minimize negative impacts on child development.

The implementation of the principles of the Convention on the Rights of the Child in Indonesia still needs strengthening, especially in operational aspects. The principle of

the best interests of the child must be the main parameter of every investigation decision. This requires a paradigm shift among the authorities, from simply enforcing the law to ensuring the sustainability of the future of children in conflict with the law.

In addition to regulatory support, community involvement is also important in strengthening the implementation of diversion. Educational institutions, civil society organizations, and families can play a role in the mediation and recovery process. Active participation from the surrounding environment will help children recover faster from their adverse experiences and return to a positive path.

System improvement also requires data integration between institutions so that the implementation of diversion can be monitored transparently. An integrated information system will make it easier to evaluate achievements, identify barriers, and design appropriate interventions. Without accurate data, reconstruction efforts will be difficult to measure their success.

Thus, the political reconstruction of the juvenile criminal law at the investigation stage is not only a matter of improving procedures, but also the transformation of the values and paradigm of law enforcement. Diversion should be seen not as a legal leniency, but rather as a long-term investment to prevent repeated criminalization and build a productive young generation.

2. Normative Legal Research Methods

This research is based on a normative legal approach that focuses on the study of written legal norms, both in laws and regulations and other legal documents. Within this framework, the primary legal materials used include the 1945 Constitution of the Republic of Indonesia as the highest source of law, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) as the main regulation, as well as relevant implementing regulations such as Government Regulations and Ministerial Regulations. Secondary legal materials include academic literature, previous research results, academic manuscripts, and expert opinions that provide theoretical and practical perspectives related to juvenile criminal justice. Meanwhile, tertiary legal materials such as legal dictionaries and encyclopedias are used to strengthen the understanding of terms and concepts that are the basis of argumentation.

The reasoning method chosen is deductive, which is to start an analysis of general legal norms and then condense to the concrete case at hand. The steps include identification of relevant norms, systematic interpretation to understand the relationship between rules, and argumentative construction to formulate policy reconstruction. This process allows researchers to assess whether existing normative provisions are in line with the principles of restorative justice, particularly in the context of diversion mechanisms at the investigative stage.

This study integrates three approaches cumulatively. First, the statute approach is used to assess the coherence, consistency, and completeness of legal norms related to child protection in the criminal justice system. Second, the case approach is applied to map the pattern of the application of diversion in court decisions that have permanent legal force, so that it can be seen to what extent the principles of the SPPA Law are implemented in the field. Third, a comparative approach is carried out by reviewing the juvenile criminal justice system in other countries that are more established in implementing restorative justice, with the aim of drawing lessons and recommendations that are relevant to the Indonesian context.

We systematically collect legal materials and data from various reliable sources. The SPPA Law is the main legal framework that serves as a reference in all stages of research. In addition, the Convention on the Rights of the Child who has been ratified by Indonesia is an important foothold because it affirms the principle of the best interest of the child as a guideline in every legal process involving children. We also review policy documents, state agency reports, and the results of relevant academic studies to supplement the normative and empirical mapping.

The case approach becomes an effective analytical instrument to uncover the gap between norms and practices. Through a review of several court rulings, researchers found significant variations in the application of diversion, ranging from practices that are in accordance with the principles of restorative justice to those that tend to ignore them. This

case study also allows the identification of inhibiting factors, such as lack of understanding of law enforcement officials, procedural ambiguity, or limited support facilities.

The comparative approach provides an additional dimension in this study. By studying the model of juvenile criminal justice in countries that have successfully institutionalized restorative justice, researchers gained insights into effective mechanisms, the role of professional authorities, and adequate infrastructure support. The findings of this comparison are the basis for formulating policy recommendations that are contextual but adaptive to international best practices.

The combination of these three approaches creates a comprehensive analytical framework, as it looks not only at the norms in writing, but also the patterns of their application in the field, as well as comparing them with best practice standards in other countries. The result is a comprehensive picture of the extent to which the Indonesian legal system has been operating in accordance with the principles of restorative justice and where there are points that require substantive and procedural improvements.

Thus, this research not only produces normative analysis that is conceptual, but also operational recommendations. The proposed policy reconstruction is directed at strengthening the implementation of diversion at the investigation stage, increasing the capacity of law enforcement officials, and harmonizing regulations so as not to cause disparities in implementation. This normative legal approach complemented by case analysis and comparison is expected to make a real contribution to the development of a more humane and fair juvenile criminal justice system in Indonesia.

3. Problem Formulation

- i. How is the political application of fair child criminal law in the diversion mechanism in the investigation process?
- ii. How is the political reconstruction of juvenile criminal law in the diversion mechanism in the investigation process?

4. Result and Discussion

In conducting the analysis, the researcher collected various data sources, including laws and regulations, policy documents, and relevant research reports. One of the main sources is the SPPA Law which provides a legal framework Child protection in the criminal justice system is one of the important issues that requires serious attention from various parties, ranging from policymakers to law enforcement in the field. This system is expected to provide justice that is not only punishment-oriented, but also considers the best interests of the child as mandated by the Convention on the Rights of the Child. The principle of "the best interests of the child" must be the main guideline in every stage of the legal process, from investigation, investigation, prosecution, to court decisions. This is so that the legal process does not actually harm the physical, psychological, and social development of children.

The application of the diversion mechanism is one of the important instruments in child protection in the Indonesian criminal justice system. Diversion, which is regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), allows the transfer of the settlement of children's cases from the BNM and formal and informal channels to a more restorative non-litigation mechanism. Through diversion, children involved in criminal cases can avoid stigma and trauma due to the formal justice process, and are given the opportunity to improve themselves through guidance, coaching, or mediation. However, the implementation of this policy does not always go smoothly in the field.

Case studies are an important method in analyzing the implementation of diversion in Indonesia. For example, there is a case of a 15-year-old child who was involved in theft and met the diversion requirements, but was still brought to court by the police. The reason given is to provide a deterrent effect, but this decision ignores the principle of restorative justice and has the potential to damage the child's psychology. This case illustrates the gap between the concept of child protection in regulations and law enforcement practices that are still predominantly punishment-oriented.

Data from the Indonesian Child Protection Institute (LPAI) in 2022 shows that only about 40% of cases of children who meet diversion requirements actually undergo the process. This figure indicates the weak understanding and commitment of law enforcement officials to the diversion policy. In fact, the SPPA Law has provided a clear legal basis. This emphasizes the need for capacity building, training, and socialization for law enforcement officials to understand the value and purpose of diversion, and not to ignore the principle of children's best interests.

In addition to the human resource factor, limited facilities and infrastructure are also significant obstacles. Many regions in Indonesia do not have adequate facilities to carry out diversion programs, such as mediation rooms or child rehabilitation institutions. As a result, the diversion process cannot be carried out optimally and children who should receive protection still enter the formal judicial process. This situation shows the need for more serious policy interventions to provide supporting infrastructure at the regional level.

Learning from other countries that have more advanced juvenile criminal justice systems can provide inspiration and recommendations for improvement. For instance, trained professionals and comprehensive facilities consistently support the diversion process in some European countries. Children involved in criminal cases receive psychological assistance services, alternative education, and social guidance. Research demonstrates that this approach is more effective in reducing recidivism rates and restoring children's social relationships with their environment.

The application of the principles of the Convention on the Rights of the Child in the criminal justice system requires cross-sectoral integration. In addition to law enforcement officials, the role of family, school, and community is also very important. Legal education for parents and children needs to be improved so that they understand their rights in the legal process. Educational institutions can be strategic partners in fostering children's behavior and preventing their involvement in criminal acts. This collaboration is expected to create a safe and conducive environment for children's growth and development.

The future of child protection in Indonesia's criminal justice system must focus on enhancing the concept of true restorative justice. Consistent implementation, adequate infrastructure, and increased capacity of law enforcement officials are necessary to support existing policies and regulations. Thus, the main goals of the juvenile criminal justice system—rehabilitation, social reintegration, and the protection of the best interests of children—can be optimally achieved, while forming a better and responsible young generation.

4.1 Theoretical Framework: Justice, Legal Politics, and Diversion

In conducting the analysis, this research relies on a variety of data sources that include laws and regulations, policy documents, and relevant research reports. One of the main references is Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), which provides a comprehensive legal framework to protect children in the criminal justice process. The researcher also referred to the Convention on the Rights of the Child that has been ratified by Indonesia, which affirms the principle of "the best interests of the child" as the main foundation in every stage of the legal process. This principle outlines that the physical, psychological, and social protection of children must be a priority, so that the legal process does not cause greater harm than the expected benefits.

The diversion mechanism is one of the most important instruments in child protection within the criminal justice system. Diversion allows for the transfer of case settlement from the formal judicial channel to a non-litigation process that is restorative in nature. The goal is to prevent children from negative stigma and trauma due to the court process, while providing opportunities to improve behavior through guidance, coaching, or mediation. Although it is clearly regulated in the SPPA Law, its implementation still encounters many obstacles, both in terms of understanding of law enforcement officials and limited infrastructure support.

The case study approach becomes important to understand the gap between legal norms and practice in the field. For example, the case of a 15-year-old child who was involved in theft and met the diversion requirements, but was still brought to court by the police on the grounds of "deterrent effect." This decision goes against the principles of

restorative justice and has the potential to cause long-term psychological damage to the child. This phenomenon indicates that the punishment-oriented law enforcement paradigm is still dominant compared to the recovery approach.

In addition to constraints on human resources, limited facilities and infrastructure are also crucial obstacles. Many regions in Indonesia do not have adequate facilities such as mediation rooms or child rehabilitation institutions. The absence of this infrastructure makes the diversion process difficult to carry out optimally, so that children who should be protected are trapped in a formal process that is full of the risk of stigmatization. This condition confirms the need for policy intervention from the central and regional governments to expand and strengthen the infrastructure to support the implementation of diversion.

Learning from the practices of other countries can provide strategic inspiration to improve existing systems. In several European countries, diversion is carried out consistently with the support of professionals who have specialized training in restorative justice, plus adequate facilities. Children involved in criminal cases have access to psychological assistance, alternative education, and ongoing social guidance. This approach has been proven not only to reduce the number of repeat offenses, but also to accelerate the process of social reintegration of children into the community.

Stronger cross-sectoral integration is required for the implementation of the principles of the Convention on the Rights of the Child in Indonesia. Law enforcement officials, families, educational institutions, and the community must work together to create a holistic protection ecosystem. Legal education for children and parents is very important so that they understand their rights and obligations in the legal process. Educational institutions, for example, can play an active role in children's prevention and moral development programs, so that the potential for children's involvement in criminal acts can be suppressed from an early age.

The future of child protection in the criminal justice system in Indonesia must strengthen the paradigm of true restorative justice. This means that existing policies and regulations do not only stop at the normative level, but are also applied consistently in practice. Law enforcement officials must be equipped with adequate capacity, both in legal knowledge and mediation skills. Physical and non-physical infrastructure must be prepared to support the effective diversion process.

In addition, it is necessary to build a transparent monitoring and evaluation system to assess the effectiveness of the implementation of diversion in all regions of Indonesia. This system can help identify obstacles, measure success, and ensure that the principles of the child's best interests are truly the guideline in each case. Without continuous monitoring, the risk of irregularities or inconsistencies in policy implementation will remain high.

These steps can realize the ideals of the SPPA Law, which aims to create a humane and fair juvenile criminal justice system. Consistent implementation of diversion, infrastructure support, capacity building of officials, and active participation of the community will be a solid foundation for effective child protection. Ultimately, the success of this system is measured not only by the reduction in the number of children entering the formal justice system, but also by the ability of the state and society to ensure that every child who has ever come into conflict with the law has a fair chance to improve themselves and build a better future.

4.2 Portrait of Das Sein: Obstacles to Implementation at the Investigation Stage

Investigation is the main gate that determines the direction of a child case in the criminal justice system. In this phase, investigators have the authority to decide whether the case will be transferred through the diversion mechanism or forwarded to the formal judicial channels. Normatively, the Law on the Juvenile Criminal Justice System (SPPA Law) mandates that diversion must be prioritized as long as the case meets the requirements. However, in practice, various empirical barriers stand in the way of optimizing these decisions. Choices that should be oriented to the best interests of children are often displaced by technical considerations and structural weaknesses in the field, so that the principle of restorative justice is difficult to realize consistently.

The first obstacle lies in the understanding and capacity of law enforcement officials, especially investigators. Restorative justice requires not only an understanding of

the law, but also specific competencies such as empathic communication skills, restorative mediation techniques, the ability to assess the child's risks and needs, and the management of the relationship between victim and perpetrator. Without this competence, the implementation of diversion tends to be reduced to just an administrative formality. This makes the process that is supposed to be recovering mechanical and does not touch the psychological or social aspects of the child.

The second obstacle pertains to the uneven distribution of facilities and infrastructure throughout the region. There is still a lack of child-friendly mediation facilities, psychosocial assessors, and social service support. This inequality causes investigators in areas with minimal facilities to tend to choose a formal path that is more procedurally established, although normatively diversion is more recommended. This limited infrastructure not only slows down the diversion process, but also reduces the quality of the results because it is not supported by an environment conducive to child recovery.

The third obstacle lies in governance and coordination between institutions. Diversion demands close cooperation between the police, prosecutor's office, courts, correctional centers, social services, and community service institutions. Unfortunately, there is no uniform referral protocol, integrated information system, and clear turnaround time standards. The absence of an effective coordination mechanism often results in a protracted process and a decrease in the quality of diversion decisions. Without adequate coordination, the implementation of diversion becomes asynchronous and prone to cause dissatisfaction for all parties.

The fourth obstacle relates to the regulatory gap. The SPPA Law has indeed regulated the principle of diversion, but the operational definition, feasibility indicators, roles of each institution, and post-agreement monitoring mechanism are still unclear. This uncertainty opens up space for significant differences in interpretation between regions, so that the practice of diversion becomes very varied. This disparity not only complicates evaluation, but also reduces the credibility of the juvenile criminal justice system as a whole.

In addition to structural barriers, there are also substantive barriers that affect the implementation of diversification. One of them is procedural ambiguity in implementation. Even though the SPPA Law contains the basic rules, many law enforcement officials do not understand the details of diversion measures. This condition causes sharp variations in implementation between regions. In certain areas, diversion can be effective, while in others it is almost not done at all.

The lack of practical and easily accessible operational guidelines is an additional problem. A University of Indonesia study (2023) found that 60% of law enforcement officials do not know the proper procedures for carrying out diversion. These findings confirm that without comprehensive guidance and adequate training, the apparatus will find it difficult to carry out the mandate of the SPPA Law consistently. Clear guidelines will minimize differences in interpretation and speed up the decision-making process at the investigation stage.

Another substantive obstacle is the lack of understanding of the principles of restorative justice among law enforcement officials. Many investigators and public prosecutors are still trapped in the retributive paradigm, where punishment is considered the main goal. In fact, restorative justice views the restoration of relationships between perpetrators, victims, and society as the core of resolving children's cases. This paradigm shift requires intervention through continuous education, training, and socialization so that the authorities can put the interests of children above retributive considerations.

To overcome these obstacles, a comprehensive strategy is needed that includes improving regulations, increasing the capacity of the apparatus, building supporting infrastructure, and strengthening cross-sector coordination. An integrated information system, clear referral protocols, and standard handling time can help ensure that the diversion process runs according to the mandate of the SPPA Law. In addition, the preparation of simple but complete operational guidelines will make it easier for officials at all levels to carry out their duties consistently.

Finally, the success of diversion at the investigation stage depends on the synergy between normative understanding, structural support, and moral commitment from the implementers. Diversion is not a legal leniency, but rather a child protection instrument

designed to rehabilitate, not punish. If all these obstacles can be overcome through an integrated approach, then the juvenile criminal justice system in Indonesia can move closer to the ideal of true restorative justice, where the best interests of the child are truly at the center of every legal decision.

4.3 Legal Culture: Shifting the Paradigm from Punishment to Restorative

The discussion of juvenile criminal justice system reform often overlooks the latent variable of legal culture. In fact, legal culture has a significant role in shaping how law enforcement officials and the wider community think, behave, and act towards children who are in conflict with the law. The sentencing orientation that has taken root in our legal system rests on the belief that criminality is the main instrument to create a deterrent effect. In practice, this paradigm has not only proven to be less effective in preventing the repetition of criminal acts by children, but it is also often counterproductive because it adds to the psychological and social burden that hinders the process of reintegrating children into society.

The negative effects of the paradigm of punishment against children can be seen in the high rates of stigma and discrimination experienced by children after the judicial process. Handling children's cases with a focus on retaliation or deterrence overlooks opportunities to foster moral awareness and social responsibility. Instead of providing space for children to self-improve, punishment-oriented systems place children in a position of isolation from their environment, increasing the risk of recidivism. Therefore, we cannot ignore the strategic step of reconstructing the legal culture to achieve true restorative justice.

The reconstruction of the legal culture requires a targeted and sustainable public communication strategy. This public communication must be able to educate the public that children who violate the law still have the right to protection, education, and the opportunity to change. This message needs to be conveyed through mass media, social campaigns, and community activities involving law enforcement officials, community leaders, academics, and civil society organizations. The goal is to form a collective perception that the resolution of child cases should focus on rehabilitation, not just punishment.

In addition, the legal education curriculum in universities, police academies, and law enforcement education institutions needs to be directed to mainstream restorative justice. The learning material not only focuses on positive legal norms, but also on practical philosophies, values, and techniques in restorative resolution of children's cases. This briefing is important so that prospective law enforcement officers have a balanced perspective between law enforcement and the protection of children's rights.

The role of community leaders is crucial in the process of reconstructing the legal culture. Religious leaders, customs, and community leaders have great moral and social influence to change the way society views children of criminal offenders. Through an approach based on local values and traditional wisdom, community leaders can help remove stigma, encourage the mediation process, and facilitate the reintegration of children into their social environment. Their support can create an ecosystem that is more conducive to the implementation of restorative justice.

The narrative built within the framework of the reconstruction of the legal culture must focus on responsibility and recovery. Children who make mistakes must be held accountable for their actions, but the community also bears a collective responsibility to restore and guarantee the child's future. This perspective shifts the orientation of handling children's cases from a revenge paradigm to a reconciliation paradigm, where the relationship between perpetrators, victims, and communities is improved through dialogue, understanding, and cooperation.

This narrative approach has far-reaching implications in legal practice. By prioritizing reconciliation, the process of resolving children's cases can be designed to bring the child together with the victim or the victim's family in a safe and controlled atmosphere, so that both parties can understand the impact of the act and find a mutually beneficial solution. The result is not only the recovery of victims' losses, but also the development of a sense of responsibility for children and the strengthening of social cohesion.

The implementation of the accountability and recovery narrative also requires consistent public policy support. Central and local governments need to ensure that child protection policies in the criminal justice system facilitate the implementation of affordable rehabilitation, social guidance, and education programs for all children in conflict with the law. Without adequate policy support, a change in the legal culture will only become a discourse without real impetus on the ground.

In addition to policies, a measurable evaluation system must also be built to monitor changes in legal culture. Indicators such as the level of implementation of diversion, the level of child recidivism, and public perception of children of criminal offenders can be used to assess the success of legal cultural transformation. We can adjust communication, education, and community empowerment strategies with accurate data to ensure sustainable change.

Thus, the reconstruction of legal culture is not only a matter of changing rules or procedures, but also changing the perspective and attitude of all elements of society towards children who are in conflict with the law. The paradigm shift from sentencing to restoration requires synergy between public communication, legal education, the role of community leaders, and policies that favor restorative justice. If all these components run in harmony, then the juvenile criminal justice system in Indonesia can truly become a means of coaching, rehabilitating, and protecting the future of children, not just a tool of punishment.

4.4 Risk and Ethics Analysis: Safeguarding Victims' Rights and Preventing Misuse

The reconstruction of diversion policies and practices in the juvenile criminal justice system must be carried out with a careful balance between the protection of the rights of the child perpetrator and the rights of the victim. The principle of restorative justice cannot be carried out by ignoring the interests of the victim, because the victim is also a party directly affected by the crime. Restorative-oriented diversions must ensure that victims have the right to a full hearing, get a proper form of redress, and are protected from any form of intimidation or pressure, either directly or indirectly. Without these protections, the diversion process risks losing moral and legal legitimacy.

One of the crucial elements is to ensure that there is a safe space for victims to express their views and needs in the mediation process or restorative meetings. Facilitators or mediators must have the capacity to manage the power imbalance between victims and perpetrators, considering that the victim's position is often more vulnerable psychologically and socially. Unanticipated power inequality can result in unequal agreements or even harm victims, thus eliminating the essence of restorative justice itself.

The principle of "free and informed consent" is an ethical standard that must be held in every diversion process. We must provide victims with clear, complete, and honest information about the legal and social consequences of the proposed deal. The victim must also have complete freedom to agree or reject the agreement without coercion, emotional pressure, or manipulative persuasion.

The risk of misuse in the implementation of diversion is a real threat to the integrity of the juvenile criminal justice system. One form of misuse that often appears is the practice of "buying and selling" agreements, where diversion decisions are influenced by non-legal considerations such as gratuities or personal relationships. Another practice is informal pressure on victims to accept diversion for the benefit of certain parties, including law enforcement officials or the perpetrator's family.

To anticipate these risks, the detailed and transparent recording of processes is a very important first step. Each stage of mediation or negotiations should be well documented, including who was present, the statements made, and the agreements reached. This documentation serves not only as a legal record, but also as a tool of public accountability if a dispute or allegation of procedural violations arise.

The presence of companions, both for victims and perpetrators, is also an effective surveillance instrument. A companion can come from a family, legal aid organization, or victim protection institution that has competence in restorative mediation. Facilitators ensure that all parties understand their rights, have equal opportunity to speak, and are not harmed by the process or outcome.

In addition, an independent complaint channel should be provided to accommodate reports of violations or irregularities during the diversion process. These

channels should be easily accessible, provide a guarantee of confidentiality, and have a clear follow-up mechanism. With a credible complaint channel, the parties have the means to correct or cancel agreements obtained through unauthorized means.

Enforcing ethical and administrative sanctions against perpetrators of diversion procedure violations is crucial for maintaining the integrity of the system. Strict consequences must apply to law enforcement officials, facilitators, or other parties proven to have engaged in pressure, manipulation, or unprofessional actions. This sanction not only aims to provide a deterrent effect, but also to build public trust in the diversion mechanism.

By implementing such oversight and protection measures, diversion can truly serve as an instrument of restorative justice that restores all parties involved, not just as a quick resolution to reduce the burden of litigation in court. Diversion that is carried out in a transparent, ethical, and accountable manner will strengthen the position of the victim, while ensuring that the perpetrator's child receives effective coaching.

In the end, the success of diversion reconstruction will be largely determined by the consistency of the application of victim protection principles, the professionalism of the authorities, and the commitment of all parties to place the legal process as a means of recovery, not just an administrative settlement. If this balance is achieved, Indonesia's juvenile criminal justice system will be able to realize the ideals of true restorative justice, where the rights of children and victims are equally protected, and the legal process is truly a path to social recovery and reintegration.

5. Conclusion

First, there is a fairly wide gap between the normative mandate of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) and the practice of implementing diversion at the investigation stage. The SPPA Law expressly prioritizes the principle of restorative justice and establishes diversion as the main step in resolving cases of eligible children. However, in practice, its implementation is often hampered by obstacles that are substantive, structural, and cultural in nature. Substantive obstacles can be seen from the unclear technical rules and operational procedures, structural obstacles include weak coordination between institutions and limited resources, while cultural obstacles are related to the paradigm of law enforcement officials and the community that is still dominant in nature retributive. Second, diversion has been proven theoretically and empirically as an important instrument for restoring the relationship between perpetrators, victims, and society, while preventing the negative impact of formal justice processes on children. Diversion is able to reduce the risk of stigmatization, minimize psychological trauma, and encourage the social reintegration of children. However, its effectiveness cannot be achieved only on a legal basis, but requires operational policy design, the support of implementers who have adequate capacity and skills, and social legitimacy that ensures public acceptance of this mechanism. Third, the reconstruction of legal politics that is layered in the dimensions of legal substance, structure, and culture is an absolute prerequisite for diversion to truly function as a *default option* in handling children's cases. In the substance dimension, it is necessary to prepare detailed and applicable implementing regulations. We need strong institutions, infrastructure support, and competent human resources in the structural dimension. Meanwhile, in the cultural dimension, it is necessary to change the paradigm of law enforcement that prioritizes the best interests of children and puts recovery above retribution. One of the main recommendations is to prepare a comprehensive diversion implementing regulation, containing case feasibility criteria, standard operating procedures (SOPs), and monitoring and evaluation mechanisms (Monev). This regulation will serve as a technical guide for all law enforcement officials, reduce disparities in implementation in the field, and ensure that the diversion process runs according to the principles of restorative justice. Regulatory clarity will also strengthen accountability and prevent the abuse of procedures. The second recommendation is to build a Diversion Service Unit at the investigation level equipped with the support of social workers and psychologists. This unit will be the center for the coordination and implementation of restorative mediation, provide psychosocial assessments, and facilitate communication between perpetrators, victims, and related parties. The presence of non-law enforcement professionals in this unit will help ensure a more humane approach and appropriate to the needs of children. Third, tiered training and

competency certification for law enforcement officials are absolutely necessary to improve the quality of the implementation of diversion. This training should include mediation techniques, empathic communication, conflict management, and risk assessment, as well as an in-depth understanding of the principles of restorative justice. Competency certification will be a quality standard and provide a guarantee of professionalism in handling children's cases. Fourth, the operation of the Integrated Diversion Information System will strengthen the transparency and accountability of the diversion process. The Integrated Diversion Information System serves as a national database, containing information about cases that meet the diversion requirements, the processes carried out, the results of the agreement, and post-agreement follow-up. This system enhances the effectiveness of public oversight and policy evaluation by providing accurate data. Fifth, public education and the mainstreaming of a legal curriculum oriented towards restorative justice are strategic steps to form a legal culture that supports diversion. This education must reach the general public, educational institutions, and prospective law enforcement officials. The goal is to build a collective understanding that handling of children's cases should focus on recovery, not retaliation. Sixth, the protection of victims' rights in the diversion process must be guaranteed through clear ethical guidelines and independent complaint channels. This code of ethics governs the principles of victim protection, including the right to be heard, the right to a proper remedy, and protection from intimidation. An independent complaint channel provides a space for victims or other parties to report violations or non-compliance with procedures without fear of negative repercussions. With the consistent implementation of these recommendations, diversion can be transformed into an effective, fair, and sustainable main mechanism in the juvenile criminal justice system in Indonesia. Reconstruction that touches on aspects of legal substance, structure, and culture will ensure that the principles of the best interests of children are truly implemented, while maintaining the rights and dignity of victims in every case settlement process.

Reference

- Azizah, R. F. A. R. F. (2024). The application of human rights to children as perpetrators of criminal acts in the juvenile criminal justice system based on Law No. 11 of 2012. *Journal of Education Law Motivation and Hope Language*, 2(2).
- Bachmid, A. A. (2025). Child protection in the juvenile criminal justice system: Policy and implementation in Indonesia. *Juris Studia: Journal of Legal Studies*, 6(1).
- Barus, U. M., & Siregar, T. (2018). Legal analysis of diversion policies for handling child cases where the children are perpetrators of criminal acts, specifically focusing on the Sunggal Sector Police.
- Budiaulia, M. F., & Ahmad, S. (2024). Implementation of diversion of children who are facing the law: (Study of Decision No. 6/Pid. Sus. Anak/2019/PN Sdr). *Journal of Imperative Syntax: Journal of Social Sciences and Education*, 5(2).
- Chalis, M., Jamhir, J., & Eriyanti, N. (2025). Diversion obstacles for children who commit theft crimes at the Banda Aceh Police. *Syntax Idea*, 7(6). <https://doi.org/10.46799/syntaxidea.v7i6.13117>
- Daufiansah, M. A. (n.d.). *Legal assistance from the Indonesian Child Protection Commission in dealing with violence against street children* (Bachelor's thesis). Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta.
- Erdianti, R. N. (2020). *Child protection law in Indonesia* (Vol. 1). UMMPress.
- Female, K. P., et al. (2020). *Beijing Platform for Action (BPfA) + 25 Indonesia Report 2014–2019*.
- Irawan, E. P., Minarsi, A., Rianty, E., Halim, B., Putri, R. N. I., & Juansa, A. (2025). *Public service communication*. Star Digital Publishing.
- Luhludy, A. P. (2024). *Investigation of children as perpetrators of criminal acts of carrying sharp weapons in the juvenile criminal justice system (Case study at the Banyumas City Resort Police)* (Doctoral dissertation). Sultan Agung Islamic University Semarang.
- Mahanani, A. E. E. (2019). Reconstruction of the legal culture with the dimension of Pancasila in law enforcement efforts in Indonesia. *Journal of Justice: Media of Law and Justice*, 22(1), 1–10.
- Maurinka, T. (2023). *Reconstruction of the implementation of diversion based on Pancasila values* (Doctoral dissertation). Atma Jaya University Yogyakarta.

- Nurusshobah, S. F. (2019). Convention on the Rights of the Child and its implementation in Indonesia. *Scientific Journal of Social Work Policy and Services*, 1(2).
- Piternalis, C. C., & Hariyanto, D. R. S. (2024). Coherence of the implementation of normative approaches to criminal justice in Indonesia. *Ethics and Law Journal: Business and Notary*, 2(3). <https://doi.org/10.61292/eljbn.226>
- Purba, Y. Y., Silalahi, J. A. S., Nasution, M. F., & Purba, V. L. (2025). The role of restorative justice in the settlement of child crime cases in Indonesia. *PESHUM: Journal of Education, Social and Humanities*, 4(2).
- Purnama, P. C. (2016). *The implementation of diversion at the court level based on Law Number 11 of 2012 concerning the juvenile criminal justice system* (Doctoral dissertation). Univ. Muhammadiyah Magelang.
- Risal, M. C. (2023). Critical analysis of the implementation of restorative justice in the criminal justice system. *Al Tasyri'Iyyah Journal*.
- Septiantoputra, R. (2023). *Implementation of the principles of child protection in the convention on the rights of children victims of domestic violence* (Doctoral dissertation). Sultan Agung Islamic University, Semarang.
- Siboro, S. N. (2024). *Legal analysis of the effectiveness of the implementation of principal criminal decisions against children in conflict with the law (Case study at the Amurang District Court)* (Doctoral dissertation). Sultan Agung Islamic University Semarang.
- Sitanggang, R. R. B., Komachi, T., Irawan, D. F., & Novellya, C. (2024). Application of the principle of ultimum remedium in criminal law: Effectiveness, challenges, and development perspectives in Indonesia. *Journal of the Hope Education Law Society*, 2(1).
- Tampubolon, S., & Jamba, P. (2020). The juvenile criminal justice system reviews the juridical analysis of diversion's implementation at the police investigation stage. *Encyclopedia Social Review*, 2(2).
- Taqiuddin, H. U. (2017). Legal reasoning in judge's decision. *Journal of Social Sciences and Education*, 1(2).
- Vitaloka, I. D., Dewi, A. A. S. L., & Suryani, L. P. (2023). Accountability of the police as investigators in narcotics crimes. *Journal of Legal Construction*, 4(3).
- Wiratny, N. K. (2018). The juvenile criminal justice system incorporates the principle of children's best interests in diversion. *Raad Kertha Scientific Journal*, 1(1).