Restorative Justice as a Form of Legal Protection for Children Involved in Legal Cases in the Juvenile Criminal Justice System in Indonesia

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Abstract. This study discusses the settlement of criminal cases that does not always require punitive sanctions but rather emphasizes direct engagement between the offender and the victim in seeking mutually acceptable solutions. The essence of this approach is to restore the original state through restitution, reconciliation, and the repair of social relations, thereby achieving a more humane and substantive justice. Diversion represents a concrete application of restorative justice principles, aiming primarily to provide more humanistic legal protection for children. Legal protection for children is a shared responsibility of the state, society, and families, and must be carried out comprehensively and sustainably. To examine the implementation of restorative justice as a mechanism for achieving humane, integrative, and effective legal protection for children within the juvenile justice system. This research uses a socio-legal approach through a literature review, analyzing relevant legal frameworks and theoretical perspectives, including Niklas Luhmann's systems theory, which views law as part of an interrelated network of social systems. The study finds that punitive and repressive measures often have detrimental effects on children due to their incomplete psychological, social, and mental maturity. In contrast, restorative justice prioritizes recovery and reconciliation rather than retribution, fostering social harmony through coordination and collaboration among state institutions and civil society. A systemic and integrated (holistic) restorative justice model should become an integral component of the juvenile justice system, not merely an alternative. The implementation of restorative justice must be structured within interrelated systems—such as education, family, economy, and culture—to ensure effective and sustainable child protection.

Keywords: Restorative Justice, Legal Protection, Children, Juvenile Criminal Justice System

1 Introduction

Law cannot be understood only as a normative text that is rigid and static, because in essence law is created to serve the needs of society, not the other way

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around [1]. Therefore, the law should be dynamic, in the sense that it should always adapt to ongoing social developments [2]. Thus, law needs to be studied, analyzed, and developed through progressive approaches in order to achieve its noble goal, namely realizing justice [3]. Within this framework, to criticize or even overturn the law (breaking the law) if the existing law is no longer able to present the substance and essence of its existence, namely create harmony, peace, order and prosperity for society [4].

Law cannot merely be understood as a rigid and static set of normative texts; rather, its essence lies in serving the needs of society. Consequently, law should be dynamic, continuously adapting to the ever-evolving social context. This understanding requires the law to be critically examined, analyzed, and developed through progressive approaches in order to fulfill its ultimate purpose—delivering justice [5]. Within this framework, questioning or even challenging the law is legitimate when existing regulations fail to achieve harmony, peace, order, and welfare within society.

In the context of juvenile criminal justice, the orientation of justice has undergone a fundamental paradigm shift. Whereas traditional models emphasized formal-procedural justice culminating in punishment (retributive justice), a new paradigm has emerged that prioritizes restorative justice. This approach balances the positions of offenders and victims, focusing not only on accountability but also on repairing harm and restoring social relationships. Restorative justice has gained legitimacy within Indonesia's legal system [6]. And is widely recognized as an innovative alternative to punitive responses. It has become increasingly popular among academics, practitioners, and law enforcement officials as an approach that goes beyond retribution and aims at reconciliation [7].

Restorative justice represents a renewal of legal regulation in Indonesia's juvenile justice system, positioning children as central subjects of legal protection. This approach emphasizes fair resolution rather than punishment alone. Notably, legal provisions extend beyond children as offenders to include children as victims or witnesses, thereby broadening the scope of protection within the justice system. The shift reflects a comprehensive orientation toward safeguarding children involved in legal processes.

The implementation of restorative justice in Indonesia is closely tied to the legal framework established by Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) and Law No. 35 of 2014 on Child Protection [8]. These laws mandate the prioritization of restorative approaches, as explicitly outlined in Article 5 of the SPPA, which requires the settlement of juvenile cases to focus on recovery rather than punishment [9]. This orientation underscores the importance of repairing relationships and ensuring the rights of children [10]. Within legal proceedings, a key mechanism for applying restorative justice is diversion, defined under Article 1, paragraph 7 of the SPPA as the transfer of case resolution from criminal proceedings to non-penal processes [11]. The law was enacted in response to earlier practices that often treated children solely as offenders, thus exacerbating their vulnerabilities. Diversion provides a persuasive, dialogue-based resolution outside the courtroom, enabling children to accept re-

sponsibility while avoiding the trauma of detention and trial. This reflects a more holistic and humane approach to juvenile justice [12].

Restorative justice acknowledges that not all children who engage in unlawful acts do so out of delinquency alone. Many are influenced by external factors such as poverty, lack of education, imitation of adult behaviors, or inadequate family support. By emphasizing restoration rather than retribution, restorative justice offers a mechanism that addresses underlying causes, provides opportunities for rehabilitation, and reduces the caseload of courts. In this way, restorative justice not only protects children's rights but also contributes to broader social stability [13].

This study situates restorative justice within the broader framework of progressive law, which views law as an evolving social instrument rather than a fixed system. By promoting dialogue, accountability, and reconciliation, restorative justice offers a child- friendly legal process that aligns with international standards on children's rights [14]. It underscores the urgent need to reform punitive practices and embrace a model that prioritizes the best interests of children while ensuring substantive justice [15].

2 Methods

This study employed a normative legal research method, which focuses on examining the norms and legal provisions that are applicable within the Indonesian legal system. Normative legal research is primarily conducted through the analysis of legal texts, doctrines, and academic literature, and is therefore often referred to as doctrinal or library research. The essential characteristic of this approach lies in its reliance on secondary data sources, particularly legislation, legal theories, and scholarly works, as the foundation for legal analysis [16].

As noted by Bahder Johan Nasution, normative legal research requires the researcher to carefully formulate the research problem, select an appropriate methodological framework, and construct a theoretical basis upon which the analysis is built. Accordingly, this study applied a combination of approaches designed to ensure both comprehensiveness and contextual accuracy [17].

First, a statutory approach was utilized to examine the relevant laws and regulations governing restorative justice and juvenile criminal justice in Indonesia, particularly the provisions of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) and related legal instruments. Second, a case approach was employed to analyze judicial practices and case precedents in which restorative justice and diversion mechanisms were applied to children in conflict with the law. Third, a historical approach was adopted to trace the evolution of legal norms and the development of restorative justice as an alternative paradigm within the Indonesian justice system. Finally, a conceptual approach was applied, engaging with legal doctrines, theoretical perspectives, and conceptual debates surrounding restorative justice in both national and international scholarship.

The sources of data in this study consisted of:

- Primary legal materials, including statutory provisions, government regulations, and formal legal documents;
- Secondary legal materials, such as academic books, journal articles, and prior research relevant to restorative justice and child protection law; and
- Tertiary materials, such as legal dictionaries, media publications, and online resources that provide contextual support for the analysis [18].

The use of these materials enabled a structured and critical assessment of restorative justice within the framework of Indonesia's juvenile justice system. Through this methodology, the study provides not only a normative analysis of restorative justice as a legal concept but also a contextual understanding of its implementation challenges and opportunities [19].

3 Results

The findings of this study highlight the central role of restorative justice in addressing cases involving children in conflict with the law. This approach recognizes that children, as individuals in developmental stages, should not be subjected to purely retributive measures that emphasize punishment. Such measures often result in trauma and hinder the child's mental, emotional, and social growth. Instead, restorative justice offers a child-friendly legal process that emphasizes accountability, rehabilitation, and reconciliation.

Through restorative justice, children are encouraged to understand the consequences of their actions, accept responsibility, and be given the opportunity to make amends in constructive ways. Victims, in turn, are provided space to articulate their losses and participate actively in determining forms of redress. This framework promotes a more balanced form of justice that accommodates the needs of both victims and offenders while safeguarding the child's rights.

The findings also reveal that the implementation of restorative justice within Indonesia's juvenile justice system has not yet reached optimal effectiveness [20]. Despite clear provisions in the Juvenile Criminal Justice System Law (SPPA) mandating restorative approaches, in practice, criminal proceedings often continue to focus predominantly on formal legal enforcement. This tendency places children at risk of harm, as the emphasis remains on punitive measures rather than the best interests of the child.

Several challenges hinder the effective application of restorative justice. First, many law enforcement officers demonstrate limited understanding of the principles and mechanisms of restorative justice and diversion. Their perception of law as primarily punitive continues to dominate practice, reducing opportunities for restorative approaches to be applied consistently. Second, the lack of adequate facilities and infrastructure—such as specialized mediation rooms for children, trained social workers, and professional community supervisors—poses significant barriers to implementation. In many regions, diversion processes are not fully functional due to weak coordination between institutions.

Another challenge concerns the participation of victims and their families. Not all victims are willing to engage in restorative processes, often due to lack of

awareness, dissatisfaction with the system, or mistrust of legal institutions. This underlines the need for greater public education on the benefits and objectives of restorative justice.

Furthermore, the study reveals that many children commit unlawful acts not solely due to delinquency but as a result of structural and social factors, including poverty, lack of education, imitation of adult behavior, and unmet basic needs. This context reinforces the importance of restorative justice as it allows for a more comprehensive response to the root causes of juvenile offending.

In practice, restorative justice is carried out through dialogue and mediation, where offenders, victims, families, and communities collaborate to reach a fair resolution. This model not only reduces the psychological burden on children but also alleviates the caseload of courts by offering non-litigation solutions. The ultimate aim is to achieve legal certainty while maintaining fairness, ensuring recovery for victims, rehabilitation for offenders, and the restoration of disrupted social relationships.

Taken together, the results demonstrate that while restorative justice holds significant potential as a paradigm for juvenile justice in Indonesia, substantial efforts are required to overcome institutional, cultural, and structural barriers. The effective implementation of this model necessitates improved legal understanding among law enforcement, enhanced institutional capacity, and stronger community engagement to ensure that restorative justice truly fulfills its promise of protecting children in conflict with the law.

4 Discussion

4.1 Legal Regulation of Restorative Justice as a Form of Legal Protection for Children Involved in Criminal Cases within the Juvenile Justice System in Indonesia

The regulation of restorative justice within Indonesia's juvenile justice system is firmly established in the Juvenile Criminal Justice System Law (SPPA). Restorative justice is defined as a mechanism that brings together the offender, the victim, their families, and other relevant stakeholders to jointly seek solutions that are fair and mutually acceptable. The primary orientation of this approach is not punishment or retribution, but rather restoration—repairing harm, restoring relationships, and ensuring that justice is achieved in a humane and constructive manner.

Within this framework, diversion serves as the most prominent and practical embodiment of restorative justice. Diversion refers to the transfer of juvenile cases from formal judicial proceedings to alternative methods of resolution outside the courtroom. This mechanism is designed to ensure that children are not treated solely as offenders but as developing individuals whose rights and dignity must be protected. Such protection is rooted in the principle of the best interests of the child, which guides every stage of the juvenile justice process.

Indonesian legislation explicitly mandates this orientation. Article 5 of the SPPA requires that the administration of juvenile criminal justice prioritize

restorative justice principles. Article 7 further provides for diversion as the key procedural instrument for implementing restorative justice, shifting case resolution away from formal adjudication toward non-penal solutions. Through this legal framework, restorative justice becomes a normative obligation rather than a discretionary alternative, signaling a transformative shift in how the state addresses juvenile crime.

In practice, this regulatory design ensures that children involved in legal proceedings are entitled to distinctive protections. They must be treated in accordance with their developmental capacities, separated from adult offenders during legal processes, shielded from degrading treatment, and detained only as a last resort. Furthermore, children have the right to receive legal assistance, education, healthcare, and the protection of their identity from public exposure. These safeguards underline the state's commitment to upholding children's rights while simultaneously promoting a justice system that is more restorative than punitive.

The incorporation of restorative justice into the statutory framework reflects a broader paradigm shift in Indonesia's criminal justice system. By embedding restorative practices as mandatory provisions, the law recognizes that punitive measures often exacerbate the vulnerability of children and fail to address the root causes of juvenile delinquency. Restorative justice, by contrast, enables a participatory process that empowers victims, holds offenders accountable in constructive ways, and facilitates community involvement in conflict resolution.

From a theoretical standpoint, this regulatory framework aligns with the principles of progressive law, which view legal systems as dynamic instruments for achieving social justice rather than static mechanisms of punishment. Restorative justice thereby serves as a bridge between the legal mandate of child protection and the practical need to resolve conflicts in ways that strengthen social cohesion and rehabilitation.

In sum, the legal regulation of restorative justice in Indonesia represents a decisive step toward ensuring that children in conflict with the law are not subjected to punitive systems that undermine their development. Instead, it provides a child-centered justice mechanism that integrates legal norms with broader social protections, thereby reinforcing Indonesia's commitment to safeguarding children's rights in line with both national legislation and international standards [21].

4.2 Restorative Justice as a Means of Providing Legal Protection for Children in Conflict with the Law

Children who become involved in criminal cases occupy a particularly vulnerable position, as they are still in the process of physical, psychological, and social development. Conventional retributive justice systems often fail to guarantee the comprehensive protection of children's rights, instead subjecting them to processes that may cause trauma, stigmatization, and long-term harm. Restorative justice offers an alternative paradigm that prioritizes mediation, dialogue, and

active participation from all parties in resolving legal conflicts, including cases involving children.

The Juvenile Criminal Justice System Law (SPPA) provides a clear legal basis for this approach. Article 1 defines children in conflict with the law as including offenders, victims, and witnesses, while also stipulating that children aged 12 to under 18 who are alleged to have committed criminal acts require specific protections. This legal framework reflects the principle that children must be treated differently from adults in legal processes, with attention to their incomplete psychological and social maturity.

Restorative justice addresses this need by shifting focus away from punitive sanctions and toward recovery and rehabilitation. Instead of perceiving children merely as offenders, it views them as individuals capable of learning, improving, and reintegrating into society [22]. Minor offenses, such as petty theft under Article 364 of the Criminal Code, should not automatically lead to harsh penal consequences. Rather, restorative mechanisms provide opportunities for children to take responsibility, acknowledge their mistakes, and restore harm without being subjected to imprisonment.

In practice, restorative justice minimizes the risk of stigmatization by ensuring that children's identities remain protected during non-litigation resolutions, such as diversion. This prevents long-lasting negative labeling that could hinder the child's future. By resolving cases through restorative dialogue and agreements, both offenders and victims can reach fair and constructive solutions, while society benefits from reduced recidivism and stronger social cohesion.

From a restorative justice perspective, children involved in legal problems are not positioned solely as perpetrators who must be punished, but rather as individuals who need to be guided and trained to improve themselves. The primary orientation of this approach is restoration, namely returning the situation to its original state and providing the child with the opportunity to take responsibility for their actions. The implementation of restorative justice requires a progressive policy from law enforcement officials, particularly the police, through the use of discretionary authority in assessing whether a child's case is worthy of being continued to the judicial process or can be dropped. Unfortunately, in practice, many cases of minor theft committed by children, even though they can be resolved through restorative justice-based mediation, are still processed formally simply because there is sufficient evidence, without proportional consideration of the child's rights [23]. The implementation of restorative justice in the juvenile criminal justice system plays a central role in reducing and preventing stigmatization against children. Restorative justice emphasizes the restoration of social relationships and conflict resolution through the active participation of perpetrators, victims, and the community, rather than through formal punishment. By resolving cases outside the judicial system through diversion, for example, the child's identity will not be widely exposed, thus preventing the possibility of lasting social stigmatization [24]. Protection against stigmatization of children who violate the law is an essential part of the child legal protection system. The implementation of restorative justice through diversion mechanisms and guar-

antees of child identity confidentiality are concrete steps to prevent negative labeling. The state and society share a shared responsibility to build a legal system and social environment that not only punishes but also heals and restores children so they can grow into responsible citizens.

The implementation of restorative justice also requires progressive use of discretionary powers by law enforcement, especially the police, to determine whether cases involving children are appropriate for diversion rather than formal prosecution. Unfortunately, many cases of minor juvenile offenses are still processed through conventional courts despite the availability of restorative mechanisms. This gap highlights the need for stronger commitment and consistency in applying restorative justice principles.

Fundamentally, restorative justice not only protects children from unnecessary exposure to punitive systems but also fosters accountability, reconciliation, and community involvement. By emphasizing restoration over punishment, it ensures that children have the opportunity to repair relationships, reintegrate into society, and develop into responsible citizens. This approach positions legal protection not merely as the avoidance of punishment, but as an active effort to safeguard children's dignity and future.

In conclusion, restorative justice serves as a vital instrument of legal protection for children in conflict with the law. It reduces the risks of stigmatization, promotes rehabilitation, and prioritizes the child's best interests, while simultaneously maintaining justice for victims and society. Its application represents a necessary and progressive step toward creating a more humane and balanced juvenile justice system in Indonesia.

4.3 The Ideal Concept for Ensuring Legal Protection of Children in Conflict with the Law in Indonesia.

The urgency of implementing an ideal restorative justice (RJ) model in Indonesia's juvenile justice system can be understood within the framework of progressive law, which positions law not merely as a set of rigid normative rules but as an instrument of social reconstruction. Restorative justice embodies this progressive vision by emphasizing participation, humanity, and social justice, especially for vulnerable groups such as children [25]. The ideal concept of restorative justice exists as a corrective to the shortcomings of this system. This approach not only seeks to repair the victim's losses but also restores the dignity and social identity of the child perpetrator. This concept creates space for resolving cases through restorative dialogue, allowing the child to voluntarily acknowledge their wrongdoing, understand the impact of their actions on the victim and the community, and build a shared commitment to improving the situation [26]. The ideal concept of restorative justice in Indonesia's juvenile justice system is holistic, integrated, and oriented toward rehabilitation, not punishment. It provides a concrete manifestation of legal guarantees for children and a means of reforming national criminal law to be more humane, responsive, and just.

Thus, the application of the ideal concept of restorative justice for children is not only normative but also has strategic value in realizing a responsive,

efficient, and equitable juvenile criminal justice system. The state must make this approach a priority in legal policy, through improving regulations, strengthening the capacity of law enforcement, and empowering communities in restorative case resolution mechanisms. In this regard, restorative justice is not only a legal instrument but also a means to build a legal civilization that is socially just and dignified. The ideal concept of RJ for children is an inevitability in the legal system.

Modern justice is oriented toward protection and restoration. This approach stems from a critical awareness of the weaknesses of juvenile justice mechanisms that emphasize punishment, which often fails to deliver substantive justice and instead has long-term negative impacts on child development.

Restorative justice promotes a more humanistic, participatory, and transformative legal paradigm. In the context of children, this concept not only prioritizes peaceful and voluntary resolution of cases but also guarantees the full protection of children's rights, from respect for their dignity and prevention of stigmatization to comprehensive social reintegration efforts. By involving suspects, victims, families, and the community in resolving legal issues, the restorative justice approach can create a just and morally and socially just restorative space.

The application of this ideal concept also has a strong legal basis, both constitutionally and through the entire legal framework, from national legislation and international legal instruments, affirming the fundamental principle of child protection. Sociologically and criminologically, restorative justice is better able to address the root causes of children in contact with the law, which are generally driven by structural and social factors. By prioritizing dialogue, responsibility, and restoration, this approach offers a more contextual and constructive solution and can avoid the destructive effects of the formal criminal justice system.

The ideal concept of restorative justice involves creating space for restorative dialogue in which children voluntarily acknowledge their wrongdoing, comprehend its impact on victims and the community, and commit to repairing the harm caused. This model envisions a holistic, integrated, and rehabilitative approach rather than a punitive one. It serves as both a legal guarantee for children and a vehicle for reforming Indonesia's criminal justice system into one that is more humane, responsive, and equitable.

Several core elements should underpin the ideal restorative justice framework for children:

1. Non-litigation settlement through diversion beginning at the investigation stage, preventing unnecessary exposure to formal courts.
2. Active participation of all stakeholders, including children, victims, families, communities, and state institutions, in shaping fair resolutions.
3. Voluntary restitution for victims, achieved without coercion or punitive intent.
4. Acknowledgment of responsibility by child offenders in a conscious and pressure-free manner.
5. Social reintegration of children through educational and rehabilitative programs rather than punitive sanctions.

These elements must be anchored in the principle of the best interests of the child, as stipulated in both international frameworks such as the Convention on the Rights of the Child and national legislation such as Law No. 11 of 2012 on the Juvenile Criminal Justice System. This principle requires that every decision or action in the justice process prioritizes the protection of children's rights, minimizes contact with correctional facilities, and prevents stigma and recidivism.

Implementing the ideal concept also necessitates structural and cultural reforms. These include strengthening the capacity of law enforcement officers to apply restorative approaches, establishing standardized operating procedures, and building community-based support systems such as correctional service centers, child protection agencies, and mediation facilitators. Expanding the scope of cases eligible for restorative resolution is also crucial to maximize its protective function for children.

From a socio-legal perspective, restorative justice is better equipped to address the root causes of juvenile offending, which often stem from structural issues such as poverty, limited educational opportunities, and social marginalization. By prioritizing dialogue, accountability, and reintegration, the ideal model provides contextually sensitive and constructive solutions while avoiding the destructive consequences of punitive measures.

In sum, the ideal concept of restorative justice in Indonesia must be holistic, integrated, and rehabilitative in orientation. It envisions children not merely as offenders but as rights-bearing individuals in need of guidance, protection, and reintegration into society. This approach shifts the paradigm of justice from retribution toward restoration, ensuring that children's legal protection is substantive, sustainable, and consistent with both national values and international human rights standards.

5 Conclusion

Restorative justice represents a transformative paradigm in addressing cases involving children in conflict with the law, prioritizing recovery and protection over retribution. This approach emphasizes active participation by all parties—offenders, victims, families, and communities—in conflict resolution, ensuring that outcomes are not only legally valid but also socially meaningful. By adopting restorative practices, children are given the opportunity to recognize their mistakes, take responsibility, and pursue rehabilitation without being subjected to the harshness of punitive systems.

A key embodiment of this principle is the diversion mechanism, which redirects cases away from formal litigationtoward non-penal, dialogue-based resolutions. Diversion provides space for children to engage in moral learning and reconciliation while avoiding the stigmatization, trauma, and marginalization often associated with criminal trials and incarceration. This mechanism underscores a justice system that is child-friendly, humane, and aligned with the principle of the best interests of the child.

The study further affirms that child protection is a shared responsibility of the state, society, and families, and must be implemented comprehensively and sustainably. Restorative justice contributes to this responsibility by offering a model of justice that is preventive, rehabilitative, and restorative in orientation. It ensures not only that the rights of children are safeguarded, but also that victims and communities achieve meaningful redress and social harmony is restored.

Ultimately, the effective application of restorative justice requires a systemic and integrated (holistic) approach in which state institutions and civil society coordinate within a unified framework. Such collaboration is vital to ensure that restorative justice becomes a mainstream and binding practice rather than a discretionary alternative. This integrated model reflects Niklas Luhmann's systems theory, emphasizing that law operates within broader networks of family, education, economy, and culture.

In conclusion, restorative justice must be institutionalized as a substantive, normative, and practical necessity in Indonesia's juvenile justice system. Its consistent implementation promises not only to protect children more effectively but also to transform the justice system into one that is more humane, socially responsive, and sustainable. By shifting the paradigm from punishment to restoration, Indonesia affirms its commitment to protecting children's rights and fostering a justice system that strengthens both individual dignity and social harmony.

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