




JiHK is licensed under a Creative Commons Atribusi 4.0 Internasional license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

 DOI: 10.46924/jihk.v6i1.193



Restorative Approaches to Managing Children in Conflict with the Law

Iryana Anwar^{1*}, Sapti Prihatmini², Ainul Azizah³, I Gede Widhiana Suarda⁴

^{1,2,3,4}Faculty of Law, Universitas Jember Indonesia

¹Sekolah Tinggi Ilmu Hukum Biak-Papua

Correspondence

Iryana Anwar, Faculty of Law, Universitas Jember Indonesia, Jl. Kalimantan Tegalboto No.37, Krajan Timur, Sumbersari, Kec. Sumbersari, Kabupaten Jember, Jawa Timur 68121, e-mail: iryanaanwar@mail.unej.ac.id

How to cite

Anwar, Iryana., Prihatmini, Sapti., Azizah, Ainul., & Suarda, I Gede Widhiana. 2024. "Restorative Approaches to Managing Children in Conflict with the Law". *Jurnal Ilmu Hukum Kyadiren* 6(1), 37-49. <https://doi.org/10.46924/jihk.v6i1.193>

Original Article

Abstract

This study investigates the regulation of action sanctions through a restorative approach for children in conflict with the law (ABH) within the juvenile criminal justice system in Indonesia. The objective is to analyze the alignment of these regulations with the principles of child protection and restorative justice. Utilizing a normative juridical method that incorporates statutory and conceptual approaches, the findings indicate that Article 82 of the Juvenile Criminal Justice System Law (SPPA Law) embodies a restorative justice approach, striving to balance community protection with the rehabilitation of ABH. However, the implementation is suboptimal, and many ABH continue to receive prison sentences. This suggests that the principles of the best interests of the child, the right to development, and respect for children's views have not been adequately upheld. There is a need for further refinement of action sanctions to better align with restorative justice and address the needs of ABH.

Keywords: *Children in Conflict with The Law, Restorative Justice, Action Sanctions*

Abstrak

Penelitian ini mengkaji pengaturan sanksi tindakan melalui pendekatan restoratif terhadap anak berkonflik dengan hukum (ABH) dalam sistem peradilan pidana anak di Indonesia. Tujuannya untuk menganalisis kesesuaian pengaturan ini dengan prinsip perlindungan anak dan keadilan restoratif. Dengan metode yuridis normatif yang menggunakan pendekatan perundang-undangan dan konseptual, hasil penelitian menunjukkan bahwa Pasal 82 UU SPPA mencerminkan pendekatan keadilan restoratif, berusaha menyeimbangkan perlindungan masyarakat dan rehabilitasi ABH. Meski demikian, penerapannya belum optimal dan banyak ABH masih dijatuhi pidana penjara. Ini menandakan bahwa prinsip kepentingan terbaik bagi anak, hak anak atas perkembangan, dan penghargaan terhadap pendapat anak belum terakomodasi dengan baik. Perlunya pengembangan lebih lanjut terhadap sanksi tindakan agar sejalan dengan keadilan restoratif dan kebutuhan ABH.

Kata kunci: *Anak Berkonflik dengan Hukum, Keadilan Restoratif, Sanksi Tindakan*

1. INTRODUCTION

Children represent the nation's young generation and play a crucial role in the country's development. Therefore, it is incumbent upon society to safeguard children's rights, including addressing the needs of children in conflict with the law—hereafter referred to as ABH—who often face negative stigmatization and unfair treatment within the criminal justice system. Thus, an approach centered on the best interests of the child is essential.¹

ABH are vulnerable to experiencing violations of their rights in the criminal justice process. They often face acts of violence, intimidation, and inhumane treatment during investigation, detention, and trial proceedings.² This condition can negatively impact their physical, psychological, and social development, increasing the risk of recidivism. Additionally, the negative stigma attached to children involved in legal conflicts can hinder their reintegration into society. Children who have served time often encounter rejection and discrimination from their social environment, complicating their ability to continue education, secure employment, and build positive social relationships.

Addressing these issues requires an approach that prioritizes the best interests of children in managing those in conflict with the law. Such an approach must uphold child protection principles, including non-discrimination, the consideration of the child's best interests, the right to life, survival and development, and respect for the child's views.³ Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UUSPPA) provides protection throughout the entire process of resolving juvenile criminal cases, from the initial investigation stage to execution. This protection extends to all children in conflict with the law, not just victims.⁴

The restorative justice approach aligns with child protection principles. By involving the perpetrator, victim, family, and community in the conflict resolution process, restorative justice aims to help children in conflict with the law repair the harm caused by their actions, take responsibility, acknowledge their mistakes, and restore relationships with victims and society. As an alternative to traditional justice processes, this approach prioritizes the restoration of the child's condition and seeks to mitigate the negative effects of formal judicial proceedings.⁵ This method is consistent with internationally recognized

¹ Nur Rochaeti, "Implementasi Keadilan Restoratif Dan Pluralisme Hukum Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Masalah-Masalah Hukum* 44, no. 2 (2015): 150–60, <https://doi.org/10.14710/mmh.44.2.2015.150-160>.

² Yutirsa Yunus, "Analisis Konsep Restorative Justice Melalui Sistem Diversi Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 2, no. 2 (2013): 231–45, <http://dx.doi.org/10.33331/rechtsvinding.v2i2.74>.

³ Lucia Kissia Caroline, "Implementasi Hak Anak Jalanan" (Universitas Atmajaya Yogyakarta, 2012), <http://e-journal.uajy.ac.id/id/eprint/1151>.

⁴ Vito Sheridan Prayitno, Fanny Tanuwijaya, and Sapti Prihatmini, "Pertanggungjawaban Pidana Pencantuman Identitas Anak Dalam Putusan Pengadilan Oleh Aparat Penegak Hukum," *Realism: Law Review* 1, no. 3 (2023): 17–36, <https://journal.sabtida.com/index.php/rlr/article/view/21>.

⁵ Dina Desvita Pramesti Putri, "Sounding the Justice for Child: Does Restorative Justice Matters?," *Law Reform in Indonesia: Finding Justice in Various Context* 4, no. 3 (2023): 303–24, <https://doi.org/10.15294/jllr.v4i3.68106>.

principles of child protection and restorative justice, as outlined in the Convention on the Rights of the Child and the Beijing Rules.⁶

In Indonesia, the regulation of sanctions through a restorative approach for children in conflict with the law is outlined in several laws and regulations, including Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (hereinafter referred to as UUSPPA), and Law Number 35 of 2014 amending Law Number 23 of 2002 on Child Protection (hereinafter referred to as UUPA). Despite these provisions, implementation remains challenged by various obstacles and is not yet fully optimal.⁷ Applying a restorative approach to children in legal conflicts necessitates support from multiple stakeholders, including families, the community, and law enforcement officials. Families play a crucial role in providing assistance and emotional support to children throughout the justice process and social reintegration.⁸ Likewise, the community must be involved in the recovery and reintegration of children who have served time, fostering an environment conducive to their development.

Article 82 of the Juvenile Criminal Justice System Law (UUSPPA) specifies several alternative legal sanctions for children in conflict with the law, including:

- 1) Returning the child to their parents, guardians, or foster parents for further guidance and supervision within the family environment.
- 2) Transferring the child to state care to participate in educational, coaching, and vocational training programs provided by relevant institutions, with the goal of equipping the child with beneficial skills and knowledge for their future.
- 3) Placing the child in a Special Child Development Institute (LPKA) for more intensive development over a specified period. The LPKA is a specialized institution designed for the guidance and rehabilitation of children in legal conflict.

These alternative sanctions aim to prioritize the best interests of the child, considering factors such as age, psychological condition, family background, and the severity of the offense committed. This approach emphasizes rehabilitation and reintegration over purely punitive measures, seeking to restore and integrate children into society.⁹

By prioritizing the best interests of children and adopting a restorative approach in managing children in legal conflicts, we aim to minimize the adverse effects of the criminal justice process, restore relationships between children, victims, and society, and facilitate ongoing social reintegration of children. This approach aligns with Indonesia's

⁶ Ursula Kilkelly and Stefaan Pleysier, "Rights of the Child in the Child Justice System," *Youth Justice* 23, no. 2 (2023): 135–39, <https://doi.org/10.1177/14732254231185820>.

⁷ Azhary Ramadhan, Kamarusdiana Kamarusdiana, and Soefyanto Soefyanto, "Penyelesaian Kasus Tindak Pidana Anak Melalui Diversi Dalam Perspektif Sistem Peradilan Pidana Anak," *Journal of Legal Reserch* 3, no. 1 (2021): 129–44, <https://doi.org/10.15408/jlr.v3i1.19581>.

⁸ Mahendra Ridwanul Ghoni and Pujiyono Pujiyono, "Perlindungan Hukum Terhadap Anak Yang Berhadapan Dengan Hukum Melalui Implementasi Diversi Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (2020): 331–42, <https://doi.org/10.14710/jphi.v2i3.331-342>.

⁹ Rusli Muhammad, *Sistem Peradilan Pidana Anak Indonesia*, 1st ed. (Yogyakarta: Fakultas Hukum UII Press, 2020).

commitment to protecting and fulfilling children's rights, as mandated by the Convention on the Rights of the Child and national legislation.¹⁰

This research seeks to examine the regulation of action sanctions through a restorative approach for children in conflict with the law within the juvenile criminal justice system, and to analyze its alignment with the principles of child protection and restorative justice. The findings are expected to provide recommendations for enhancing the regulation and application of sanctions through a restorative approach, thereby advancing the protection and best interests of children in legal conflict in Indonesia.

2. RESEARCH METHODOLOGY

This research employs normative juridical methods, a legal research approach that involves reviewing and analyzing various sources of legal literature and other secondary data. The research adopts two primary approaches: the statutory approach, which focuses on examining the provisions in relevant laws and regulations, and the conceptual approach, which explores and elaborates on legal concepts pertinent to the research topic.¹¹ The study utilizes diverse types of legal materials categorized into three main groups: primary, secondary, and tertiary. Primary legal materials include laws and regulations directly related to the research subject, such as Law No. 11 of 2012 concerning the Juvenile Criminal Justice System and Law No. 35 of 2014 amending Law No. 23 of 2002 concerning Child Protection. Secondary legal materials consist of various literary sources, including books, scholarly articles published in journals, and research reports that discuss action sanctions, restorative approaches, and children in conflict with the law. Tertiary legal materials encompass supporting references, such as legal dictionaries and encyclopedias, which provide clarification of the legal terminology used throughout this research.

3. RESEARCH RESULTS AND DISCUSSION

3.1 Arrangement of Sanctions through a Restorative Approach to Children in Conflict with The Law

The restorative justice approach represents a new paradigm in criminal law reform, shifting the focus from punitive measures to recovery. Howard Zehr's theory of restorative justice emphasizes involving victims, offenders, and the community in the resolution of criminal cases, aiming to repair the harm caused by criminal acts and rebuild social relationships disrupted by crime.¹² This approach aligns with Aristotle's theory of corrective justice, which posits that justice is achieved through efforts to restore the losses suffered by victims

¹⁰ Tofik Yanuar Chandra, "Penerapan Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 11, no. 1 (2023): 61–78, <https://doi.org/10.30868/am.v11i01.3827>.

¹¹ Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*, 3rd ed. (Jakarta: Kencana, 2019).

¹² Howard Zehr, *The Little Book of Restorative Justice*, 1st ed. (Philadelphia: Good Books, 2002).

and rebuild relationships between offenders and victims.¹³ Additionally, John Braithwaite's reintegrative shaming theory supports the restorative justice approach by advocating for the restoration of relationships among perpetrators, victims, and the community to prevent future criminal behavior.¹⁴

In Indonesia, the application of restorative justice in criminal law reform is codified in several regulations, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and the Republic of Indonesia Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. These regulations demonstrate efforts to incorporate restorative justice into the Indonesian criminal law system.

By adopting a restorative justice approach in criminal law reform, it is anticipated that a more humane, fair, and recovery-oriented criminal justice system can be established, mitigating the adverse effects of repressive criminal law. This aligns with the broader goal of criminal law reform, which aims to create a legal framework that is more responsive to societal developments and protective of the individual rights of all parties involved, including children, victims, and perpetrators.

Children facing legal issues require care and protection that differ from those needed by adults, grounded in the principle of the best interests of the child and the right to optimal physical, mental, and social development. Consequently, an approach prioritizing rehabilitation and social reintegration is essential for addressing children in conflict with the law. Implementing sanctions through a restorative approach is one way to achieve this objective.

Several Indonesian laws and regulations address sanctions for children in conflict with the law through restorative measures. Law Number 35 of 2014 amending Law Number 23 of 2002 on Child Protection provides special protections for children involved in legal conflicts. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) establishes the framework for handling such children, emphasizing a restorative justice approach. Key provisions in Law Number 11 of 2012 (UU SPPA) regarding sanctions for children in conflict with the law include:

- 1) Article 69, Paragraph (1): Specifies types of sanctions that may be imposed for violations, including:
 - a. Returning the child to parents or guardians.
 - b. Placing the child in the care of another individual.
 - c. Providing treatment in a mental hospital.
 - d. Offering treatment at the Special Development Institution for Children (LPKS).
 - e. Mandating attendance in formal education and/or training provided by the government or private entities.

¹³ Aristotle Aristotle, *Nicomachean Ethics*, ed. John Alexander Smith, trans. Drummond Percy Chase (Chicago: Independently Published, 2016).

¹⁴ John Braithwaite, *Crime, Shame, and Reintegration* (New York: Cambridge University Press, 1989).

- f. Revoking or removing the driver's license.
 - g. Ordering reparations for the harm caused by criminal acts.
- 2) Article 82, Paragraph (1): Details actions for children under 14 years old, such as:
- a. Returning to parents/guardians.
 - b. Placing in the care of another individual.
 - c. Providing treatment in a mental hospital.
 - d. Offering treatment at LPKS.
 - e. Mandating attendance in formal education and/or training provided by government or private entities.
 - f. Providing remedies for harm caused by criminal acts.
- 3) Article 82, Paragraph (2): Limits the actions specified in Paragraph (1), items d, e, and f, to a maximum duration of one year.
- 4) Article 82, Paragraph (3): Allows for actions in Paragraph (1) to be accompanied by warnings and additional conditions as determined by the Judge.

Additionally, the UU SPPA Law addresses diversion, a restorative justice method for handling children in conflict with the law. Articles 6 to 15 outline the diversion process, emphasizing the cooperation of offenders, victims, their families, and other related parties to achieve a fair resolution outside the formal criminal justice system.

Article 69, paragraph (1) of the SPPA Law outlines various sanctions for children, including returning them to their parents or guardians, placing them under the care of another individual, treatment in a mental hospital, placement in a Social Welfare Organizing Institution (LPKS), mandatory attendance in formal education, revocation of a driving license, and measures to rectify the consequences of criminal acts. These sanctions prioritize the rehabilitation and social reintegration of children over punitive measures. Additionally, the Juvenile Criminal Justice System Law (UU SPPA) mandates diversion at every stage of the juvenile justice process, from Article 6 to Article 15. This restorative justice approach involves perpetrators, victims, their families, and other relevant parties to achieve a fair resolution that emphasizes restoration rather than retribution.

The regulation of sanctions through a restorative approach in the SPPA Law aligns closely with the integrative theory of criminal justice, which combines retributive and utilitarian aspects (prevention, community protection, rehabilitation). According to criminal law expert Muladi, the integrative theory posits that punishment should incorporate both retributive and utilitarian elements, including prevention, community protection, rehabilitation, and the resocialization of the offender.¹⁵

¹⁵ Muladi Muladi, "Implementasipendekatan 'Restorative Justice' Dalam Sistem Peradilan Pidana Anak," *Pembaharuan Hukum Pidana* 2, no. 2 (2019): 58–85, <https://ejournal.undip.ac.id/index.php/phpidana/article/view/25036>.

Despite efforts to implement restorative justice, not all cases involving children lead to a decision to return the child to their parents. Judges must consider several critical criteria before making such a decision:

- a. The child has committed a delinquent act for the first time (first offender).
- b. The child is currently a student.
- c. The criminal act is not a serious crime involving moral turpitude, such as causing loss of life, serious injury, permanent disability, or other acts significantly harming public interests.
- d. The parents or guardians are deemed capable of providing better education and supervision.

Considering these criteria allows judges to make more informed decisions that align with the child's best interests, even when a restorative justice approach is applied. Sanction actions with a restorative approach aim to balance community protection and the rehabilitation of offenders by involving victims and the community in case resolution. Furthermore, the regulations in the UUSPPA are consistent with the theory of legal protection, emphasizing the safeguarding of children's rights within the criminal justice process.

Action sanctions with a restorative approach aim to protect the best interests of the child by prioritizing rehabilitation and social reintegration, and by avoiding stigmatization and the detrimental effects of the formal justice process. This perspective aligns with Apong Herlina's view that a restorative approach in addressing children in conflict with the law seeks to safeguard their best interests, focusing on rehabilitation and social reintegration while mitigating the negative influence of the formal justice system.¹⁶

From the standpoint of progressive legal theory, the regulation of action sanctions using a restorative approach in the SPPA Law indicates an effort towards legal reforms that are more responsive to the needs and interests of children. Satjipto Rahardjo asserts that progressive law views the law as an instrument for achieving broader humanitarian objectives, including justice, welfare, and concern for the populace.¹⁷ In this context, law is seen not merely as a set of rigid written regulations but as a tool for attaining substantive justice and protecting the best interests of children in conflict with the law.

In several developed countries, such as Japan, the Scandinavian countries, and various European nations, the judicial system grants special authority to public prosecutors, known as the "discretionary power of the prosecutor." This power allows prosecutors to deponeer, or set aside, a child's case not in the public interest but in the best interest of the child, considering psychological, criminological, and educational factors.

Unfortunately, such discretionary authority is not yet available to public prosecutors in Indonesia. It is crucial to differentiate the treatment of child offenders from that of adult

¹⁶ Apong Herlina and Herty Sudinar, *Perlindungan Terhadap Anak Yang Berhadapan Dengan Hukum* (Jakarta: Unicef, 2004).

¹⁷ Satjipto Rahardjo, *Permasalahan Hukum Di Indonesia* (Bandung: Alumni, 1983).

offenders. The concept of restorative justice aims to improve societal conditions by involving all stakeholders in the process¹⁸, ultimately restoring and enhancing the community's well-being.

Empowering public prosecutors with the authority to set aside children's cases based on careful consideration is intended to provide enhanced protection for children in conflict with the law. This approach aligns with the principles of restorative justice, which seeks to restore circumstances and engage all relevant parties in case resolution, thereby achieving optimal outcomes for both children and society. However, a paradigm shift and cultural change among law enforcement officers and the community are necessary to ensure the effective application of action sanctions through a restorative approach. Law enforcement must extend beyond a focus on legal certainty to include considerations of utility and justice, particularly for children in conflict with the law.

Thus, the regulation of action sanctions through a restorative approach in the SPPA Law represents a progressive advancement in Indonesia's juvenile criminal justice system, aiming to accommodate the needs and interests of children and safeguard their rights throughout the judicial process. Successful implementation of these regulations requires commitment and cooperation from various stakeholders to be effective and optimal in practice. Nonetheless, the practical application of restorative action sanctions continues to encounter challenges. Further research is necessary to evaluate the implementation of these regulations to effectively achieve the goals of protection and rehabilitation for children in conflict with the law.

3.2 A Restorative Approach to Children in Conflict with The Law Is Grounded in Principles of Child Protection

The regulation of sanctions through a restorative approach for children in conflict with the law in Indonesian laws and regulations does not fully align with the principles of child protection and restorative justice. Despite the inclusion of several child protection principles in the SPPA Law, such as the best interests of children, non-discrimination, the right to life, survival and development, and respect for children's views, its implementation reveals significant shortcomings, as evidenced by the high number of children incarcerated.

The restorative approach to handling children in conflict with the law (ABH) represents a paradigm aimed at achieving justice by involving the perpetrator, victim, family, and community in the resolution process. This approach corresponds with the child protection principles outlined in the Convention on the Rights of the Child (CRC) and related legislation. Key principles guiding a restorative approach to ABH include:¹⁹

- 1) The principle of the best interests of the child: The restorative approach prioritizes the best interests of children by shifting case resolution from formal criminal justice

¹⁸ Henry Yoseph Kindangen, "Diskresi Penuntutan Di Indonesia Dan Perbandingan Dengan Negara-Negara Eropa," *The Prosecutor Law Review* 1, no. 1 (2023): 90–117, <https://prolev.kejaksaan.go.id/kejaksaan/article/view/5>.

¹⁹ Chandra, "Penerapan Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia."

- proceedings to dialogue-based processes aimed at finding mutually beneficial solutions. This helps shield children from the adverse impacts of the judicial process, such as stigma and psychological trauma.
- 2) The principle of the right to life, survival, and development: By offering non-punitive alternatives like diversion, the restorative approach ensures children's rights to survival and development are upheld, facilitating their return to social environments conducive to optimal growth and development.
 - 3) The principle of respect for the views of the child: In diversion and deliberation processes within the restorative approach, the child's opinions must be solicited and given due consideration based on their age and maturity level. This ensures that resolutions reflect the genuine needs and interests of the child.
 - 4) Principle of non-discrimination: Restorative approaches must be administered without bias based on race, color, gender, language, religion, political opinion, national, ethnic or social origin, wealth, disability, birth, or other status. Fair and equal treatment of all ABH during case resolutions is imperative.
 - 5) Principles of child survival and development: A restorative approach must address the unique needs of ABH throughout case resolutions, including educational, vocational training, and psychosocial rehabilitation needs. This supports children's optimal survival, growth, and development post-case resolution.
 - 6) Principles of Coaching and Mentoring Children.

In implementing a restorative approach, concerted efforts are needed to guide and mentor children in conflict with the law (ABH), involving parents, the community, and professionals such as social workers and child psychologists. The objective is to enhance children's behavior, prevent recurrence of criminal acts, and foster positive development of their potential. By applying a restorative approach based on child protection principles, it is anticipated that handling ABH can be conducted more equitably, effectively, and with a focus on the child's best interests.

However, the successful implementation of this approach requires robust legal frameworks, adequate resources, as well as commitment and cooperation from all stakeholders. Prioritizing child protection principles in the handling of children in conflict with the law is crucial to achieving optimal outcomes for both children and society at large. Given the current state of regulations governing sanctions through a restorative approach in Indonesian legislation, particularly under the SPPA Law, alongside the reality that many ABH receive prison sentences, it becomes evident that the regulation of sanctions through a restorative approach for ABH in Indonesia's juvenile criminal justice system is not yet fully optimal. Despite provisions in the SPPA Law for diversion and restorative approaches, these have not effectively mitigated prison sentences for ABH in practice.²⁰

²⁰ Rendy Airlangga, Hizkia Anghian Pradipta, and Dyta Widi Erdianto, "Reformulation of the Concept of Diversion Based on the Non-Discrimination Legal Principle," *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (2023): 17–38, <https://doi.org/10.24246/jrh.2023.v8.i1.p17-38>.

This discrepancy indicates inadequate accommodation of principles such as the best interests of children, children's rights to survival and development, and respect for children's views within the judicial process.

The regulation of sanctions through a restorative approach in Indonesian laws and regulations, especially under the SPPA Law, does not sufficiently reflect child protection principles. The continued imposition of prison sentences on many ABH underscores incomplete adherence to the principle of non-discrimination. ABH should receive differentiated treatment from adult offenders, with opportunities for accountability through non-punitive mechanisms that emphasize rehabilitation and reintegration.

The principles of restorative justice are applied in the sanction actions outlined in the SPPA Law to promote the rehabilitation and societal reintegration of children. Article 69, paragraph (1) of the SPPA Law specifies sanctions including returning children to parents or guardians, handing them over to others, treatment in mental hospitals, placement in LPKS, compulsory formal education and/or training, revocation of driving licenses, and reparations for the consequences of criminal acts. These sanctions differ from punitive criminal penalties intended to deter crime. Rather, they aim to enhance children's physical, psychological, and social well-being, equipping them with skills and knowledge essential for future success. For instance, treatment at LPKS is designed to improve behavior and prevent re-offending.

Moreover, these sanctions involve community participation in the rehabilitation and reintegration of children. For example, when children are handed over to someone, they are placed under the supervision of community members appointed by the judge, such as religious leaders, community elders, or educators. Community involvement is crucial for providing support during the rehabilitation phase and facilitating the child's successful reintegration into society.

Aligned with the principles of restorative justice, the regulation of sanctions in the SPPA Law embodies key aspects of this theory. According to Howard Zehr, restorative justice seeks to resolve criminal cases by involving perpetrators, victims, families, and communities in efforts to repair the harm caused by criminal acts, emphasizing restoration of relationships and healing from the impact of these acts. These principles are evident in the provisions for diversion in the SPPA Law, which aims to achieve reconciliation between victims and children while engaging community members in the resolution process of juvenile cases.

However, the implementation of a restorative approach within Indonesia's juvenile criminal justice system continues to encounter numerous obstacles and challenges. Research conducted by Nur Rochaeti indicates that law enforcement officials' comprehension of restorative justice principles remains uneven, and resistance persists among some factions who perceive the restorative approach as neglecting the severity of juvenile crimes. Additionally, the successful implementation of restorative practices hinges on the availability of supportive resources and facilities, such as social welfare institutions,

qualified professionals in psychology and social work, and effective development and rehabilitation programs tailored for children.²¹

Therefore, this research remains predominantly normative, underscoring the necessity for further investigation into the practical application of restorative approaches in managing juveniles in conflict with the law in Indonesia. Thus, the regulation of action sanctions through a restorative approach in juvenile criminal justice not only aligns with normative principles of child protection and restorative justice but also holds potential for effective implementation in handling juveniles in conflict with the law.

CONCLUSION

The regulation of sanctions in Article 82 of the SPPA Law reflects a restorative justice approach, aiming to balance community protection and the rehabilitation of children in conflict with the law. Article 82, paragraph (1), delineates various sanctions applicable to children, including returning them to parents or guardians, handing them over to caregivers, placement at LPKS, or mandatory formal education and/or training. These sanctions emphasize rehabilitation, guidance, and the social reintegration of children rather than solely punitive measures. This approach aligns with the integrative purpose theory of punishment, which integrates retributive and rehabilitative elements. Sanctions outlined in Article 82 of the SPPA Law seek to restore children and equip them with the skills and knowledge necessary for successful reintegration into society. Regulation of sanctions through a restorative approach for children in conflict with the law, as stipulated in Indonesian laws and specifically in the SPPA Law, remains suboptimal and does not fully embody principles of child protection. Despite provisions for diversion and restorative approaches in the SPPA Law, many children continue to receive prison sentences in practice. This discrepancy indicates that principles such as the best interests of children, their rights to survival and development, and respect for their opinions are not adequately integrated into the judicial process. Nevertheless, the sanctions delineated in the SPPA Law reflect restorative justice principles aimed at promoting the rehabilitation and societal reintegration of children. However, challenges persist in implementing a restorative approach within Indonesia's juvenile criminal justice system.

The range of sanctions provided for in Article 82 of the SPPA Law, such as returning children to parents or guardians, placing them with caregivers, treatment at LPKS, and mandatory education or training, remain limited. While these sanctions reflect rehabilitative aims, further refinement is necessary to effectively address the individual needs of children. By expanding the variety of available sanctions and prioritizing tailored rehabilitation, guidance, and reintegration programs, it is anticipated that the recovery and positive development of children in conflict with the law can be more effectively facilitated. This approach aligns with the principles of restorative justice, which emphasize repairing

²¹ Nur Rochaeti, "Implementasi Keadilan Restoratif Dan Pluralisme Hukum Dalam Sistem Peradilan Pidana Anak Di Indonesia."

relationships and mitigating the impacts of criminal behavior, as well as the overarching principle of promoting the best interests of children in the context of juvenile justice.

REFERENCES

Journals

- Airlangga, Rendy, Hizkia Andhian Pradipta, and Dyta Widi Erdianto. "Reformulation of the Concept of Diversion Based on the Non-Discrimination Legal Principle." *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (2023): 17–38. <https://doi.org/10.24246/jrh.2023.v8.i1.p17-38>.
- Chandra, Tofik Yanuar. "Penerapan Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia." *Al-Mashlahab Jurnal Hukum Islam Dan Pranata Sosial* 11, no. 1 (2023): 61–78. <https://doi.org/10.30868/am.v11i01.3827>.
- Ghoni, Mahendra Ridwanul, and Pujiyono Pujiyono. "Perlindungan Hukum Terhadap Anak Yang Berhadapan Dengan Hukum Melalui Implementasi Diversi Di Indonesia." *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (2020): 331–42. <https://doi.org/10.14710/jphi.v2i3.331-342>.
- Kilkelly, Ursula, and Stefaan Pleysier. "Rights of the Child in the Child Justice System." *Youth Justice* 23, no. 2 (2023): 135–39. <https://doi.org/10.1177/14732254231185820>.
- Kindangen, Henry Yoseph. "Diskresi Penuntutan Di Indonesia Dan Perbandingan Dengan Negara-Negara Eropa." *The Prosecutor Law Review* 1, no. 1 (2023): 90–117. <https://prolev.kejaksaan.go.id/kejaksaan/article/view/5>.
- Muladi, Muladi. "Implementasipendekatan 'Restorative Justice' Dalam Sistem Peradilan Pidana Anak." *Pembaharuan Hukum Pidana* 2, no. 2 (2019): 58–85. <https://ejournal.undip.ac.id/index.php/phpidana/article/view/25036>.
- Nur Rochaeti. "Implementasi Keadilan Restoratif Dan Pluralisme Hukum Dalam Sistem Peradilan Pidana Anak Di Indonesia." *Masalah-Masalah Hukum* 44, no. 2 (2015): 150–60. <https://doi.org/10.14710/mmh.44.2.2015.150-160>.
- Prayitno, Vito Sheridan, Fanny Tanuwijaya, and Sapti Prihatmini. "Pertanggungjawaban Pidana Pencantuman Identitas Anak Dalam Putusan Pengadilan Oleh Aparat Penegak Hukum." *Realism: Law Review* 1, no. 3 (2023): 17–36. <https://journal.sabtida.com/index.php/rlr/article/view/21>.
- Putri, Dina Desvita Pramesti. "Sounding the Justice for Child: Does Restorative Justice Matters?" *Law Reform in Indonesia: Finding Justice in Various Context* 4, no. 3 (2023): 303–24. <https://doi.org/10.15294/jllr.v4i3.68106>.
- Ramadhan, Azhary, Kamarusdiana Kamarusdiana, and Soefyanto Soefyanto. "Penyelesaian Kasus Tindak Pidana Anak Melalui Diversi Dalam Perspektif Sistem Peradilan Pidana Anak." *Journal of Legal Reserch* 3, no. 1 (2021): 129–44. <https://doi.org/10.15408/jlr.v3i1.19581>.

Yunus, Yutirsa. "Analisis Konsep Restorative Justice Melalui Sistem Diversi Dalam Sistem Peradilan Pidana Anak Di Indonesia." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 2, no. 2 (2013): 231–45.
<http://dx.doi.org/10.33331/rechtsvinding.v2i2.74>.

Thesis

Caroline, Lucia Kissia. "Implementasi Hak Anak Jalanan." Universitas Atmajaya Yogyakarta, 2012. <http://e-journal.uajy.ac.id/id/eprint/1151>.

Books

Aristotle, Aristotle. *Nicomachean Ethics*. Edited by John Alexander Smith. Translated by Drummond Percy Chase. Chicago: Independently Published, 2016.

Braithwaite, John. *Crime, Shame, and Reintegration*. New York: Cambridge University Press, 1989.

Diantha, Pasek. *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*. 3rd ed. Jakarta: Kencana, 2019.

Herlina, Apong, and Herty Sudinar. *Perlindungan Terhadap Anak Yang Berhadapan Dengan Hukum*. Jakarta: Unicef, 2004.

Muhammad, Rusli. *Sistem Peradilan Pidana Anak Indonesia*. 1st ed. Yogyakarta: Fakultas Hukum UII Press, 2020.

Rahardjo, Satjipto. *Permasalahan Hukum Di Indonesia*. Bandung: Alumni, 1983.

Zehr, Howard. *The Little Book of Restorative Justice*. 1st ed. Philadelphia: Good Books, 2002.