




## Legal Discrimination in Settlement of Children's Cases as a Criminal Act Perpetrator

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### Abstract

This article examines discrimination against children in conflict with the law, which remains a serious issue within the juvenile justice system, particularly due to the dominance of a retributive paradigm that positions children primarily as objects of punishment. The study aims to analyze the extent to which the restorative justice paradigm can function as an instrument to eliminate discrimination within the juvenile criminal justice system by emphasizing a comprehensive understanding of its fundamental principles. This research employs a qualitative method with a library-based research design, conducted through the analysis of national legislation, legal doctrines, and relevant international human rights instruments, including the Child Protection Law, the Juvenile Criminal Justice System Law, the United Nations Convention on the Rights of the Child, and the Universal Declaration of Human Rights. The findings indicate that, from a normative perspective, restorative justice is consistent with the principles of non-discrimination, the best interests of the child, and the protection of children's rights as guaranteed under national and international legal frameworks. This paradigm not only provides an alternative mechanism through diversion but also offers a transformative framework to address and rectify retributive, stigmatizing, and potentially discriminatory tendencies within the juvenile justice system.

**Keywords:** Legal Discrimination, Juvenile Criminal Justice, Criminal Act Perpetrator

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### INTRODUCTION

In the criminal justice system, juvenile offenders are in a highly vulnerable legal and factual position. Children have not yet reached the psychological and emotional maturity of adults, making them susceptible to external pressures, social stigma, and the institutional violence inherent in conventional justice processes. (Giang, 2025) Therefore, the existence of the juvenile criminal justice system in Indonesia and internationally should pay special attention to protecting the rights and best interests of children. However, in reality, significant challenges remain in its implementation. Handling children through formal legal processes often places them at risk of discrimination and disproportionate treatment compared to adults, which has implications for the restriction of their basic rights. (Sahombu, 2025).

The reality on the ground demonstrates diverse legal discriminatory practices in handling children's cases. This discrimination, for example, is evident through the phenomenon of stigmatization, where children in conflict with the law are often negatively labeled and perceived as "criminals" from an early age, which impairs their psychosocial development and hinders social reintegration. (Juliana et al., 2024). In addition, there is excessive criminalization of children's actions which are actually more appropriately handled through a developmental approach rather than the imposition of criminal sanctions. (Ramli et al., 2025). Formal legal processes with lengthy and formalistic procedures often burden children emotionally, increase their fear, and minimize their opportunities to understand their own legal rights.

In addition, there is a clear disparity in access to diversion, a mechanism designed to divert children's cases from formal justice to resolution outside the criminal process. (Muhammad Azhar Nur, et al., 2024). Although Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) has mandated diversion efforts at every stage of the legal process to protect children's interests, the practice is still far from ideal. (Pangestu, 2025).

The gap between *das sollen* (what should happen according to legal norms and human rights principles) and *das sein* (what happens in judicial practice) is a fundamental problem in the juvenile criminal justice system. Normatively, the Juvenile Justice System Law adopts the principle of children's rights and the obligation to implement diversion to ensure legal protection, rehabilitation, and social reintegration of children. (Www.Bphn.Go.Id, 2012) However, actual practice shows that repressive actions are still common, access to diversion is uneven, and the capacity of law enforcement agencies to implement a child-friendly approach remains weak. This gap reflects the gap between legal expectations that protect children's human rights and the reality of practice, which remains trapped in a rigid and punitive adult justice paradigm. (Pangestu, 2025).

It is in this context that restorative justice becomes highly relevant as an alternative paradigm in the juvenile criminal justice system. Restorative justice emphasizes restoring relationships between the perpetrator, victim, family, and community, and prioritizes rehabilitation and social reintegration over punishment alone. (Down et al., 2025) This approach seeks to eliminate discriminatory structures that often disproportionately punish children by fostering dialogue, accountability, and reparation for the impacts of children's actions. The concept of restorative justice has been recognized in various studies as a crucial element in reforming the juvenile justice system, as it places children's rights and needs at the center of case resolution.

Normatively, restorative justice also has a strong resonance with the international principles on children's rights set out in the United Nations Convention on the Rights of the Child (CRC), which demands an approach that respects the dignity, best interests, and developmental needs of children. (Stern, 2022) Several international studies have shown that restorative justice can reduce negative stigma against children and help achieve more humane and effective outcomes in addressing juvenile crime. (Santosa et al., 2025) This approach involves not only reconciliation but also strengthening the perpetrator's social responsibility, providing space for victims to recover emotionally, and restoring balance to social relations within the community.

Several studies have shown that restorative justice has emerged as a crucial approach to handling juvenile cases within the criminal justice system, focusing on recovery and child rights. A number of empirical studies have found that restorative justice has the potential to be effective in reducing recidivism, enhancing social reintegration, and improving the psychological well-being of both perpetrators and victims (S. Aisyah, 2024). Other studies have highlighted the importance of the victim's role in a restorative process that balances child protection (Children and Youth Services Review, 2023) and identified socio-cultural and institutional challenges in transforming juvenile justice systems toward human rights (Dao & Dandurand, 2023; Koza et al., 2024). Comparative studies from various jurisdictions confirm that the successful implementation of restorative justice in addressing juvenile offenses is heavily influenced by regulatory readiness, officer training, and community involvement, which are often inadequate in many developing countries. These studies support the idea that the transition from a conventional retributive approach to a restorative system requires a restructuring of legal values that targets not only legal effectiveness but also substantive justice and inclusiveness of children's rights.

Several literatures highlight the role of restorative justice in preventing discrimination against child perpetrators of crime. Recent normative legal research emphasizes that although the SPPA Law No. 11 of 2012 and the principle of diversion have provided a legal basis for restorative justice, its implementation often faces obstacles such as a lack of understanding among law enforcement officials, regulatory disharmony, and limited community participation. (Ashari Kurniawan, 2025). National legal studies also show the alignment of the principles of restorative justice and diversion with the Convention on the Rights of the Child, but emphasize that its implementation is not yet completely free from substantive discrimination against vulnerable children. (Adhan & Muslim, 2025) Another empirical article reports that although restorative justice offers a more humane and rehabilitative alternative to formal processes, implementation challenges such as limited rehabilitation facilities and minimal victim involvement remain major obstacles. (Edin et al., 2025).

Although some of the literature above has recognized the effectiveness of restorative justice in reducing recidivism, strengthening social reintegration, and mitigating the impact of stigmatization on children, most of this research still focuses on procedural aspects, evaluation of diversion policies, or quantitative measurement of program success. These studies have not explicitly constructed restorative justice as an analytical framework to dissect and eliminate structural discrimination in the juvenile criminal justice system, particularly in relation to the principles of non-discrimination and the best interests of the child as guaranteed in the SPPA Law, the Child Protection Law, the CRC, and the UDHR.

Existing literature tends to position discrimination as a side effect, rather than as the primary focus of normative-critical analysis. This research fills this gap by positioning restorative justice not merely as an alternative mechanism for resolving cases, but as a transformational paradigm conceptually and normatively directed at correcting unequal access, social bias, and disproportionate treatment of children in the criminal justice system. Unlike previous research, which is predominantly descriptive or evaluative, this study develops an integrative approach that connects the principles of child rights protection, non-discrimination, and substantive justice within a single analytical framework, thus providing a sharper theoretical and normative contribution to reforming a discrimination-free juvenile criminal justice system.

Thus, the aim and objective of this research is to critically examine the extent to which restorative justice is truly capable of functioning as an instrument for eliminating discrimination, both in the normative dimension and in the construction of judicial practices, as well as identifying weak points in the internalization of the principle of child rights protection by law enforcement officers. Its novelty and contribution lie in its integrative approach that combines human rights analysis, child protection principles, and criticism of the retributive paradigm within a normative-critical framework, thus not only assessing the success of the diversion mechanism, but also offering a conceptual foundation for the transformation of the juvenile criminal justice system towards a more substantive, humane, and discrimination-free model.

## **METHOD**

This study uses library research with a qualitative approach, which aims to analyze in depth the concept, principles, and implementation of restorative justice in the juvenile criminal justice system as an effort to eliminate the practice of legal discrimination. Library research was chosen because the focus of the study lies in exploring legal norms, doctrines, and developing academic thinking related to the protection of children's rights and restorative justice. The research data sources consist of primary legal materials in the form of laws and regulations, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Law No. 35 of 2014 concerning Child Protection, CRC, UDHR and legal instruments regarding children's rights. Secondary legal materials include textbooks, reputable national and international journal articles, and previous research results relevant to the theme of legal discrimination and restorative justice in juvenile cases.

A qualitative approach was used to comprehensively understand the meaning, values, and principles of restorative justice within the framework of child rights protection and the principle of non-discrimination. Data analysis was conducted using qualitative-descriptive and prescriptive analysis techniques, by interpreting legal norms and academic views to identify gaps between normative regulations and juvenile criminal justice practices. This research focuses on the study of restorative justice as an alternative paradigm oriented towards the recovery, rehabilitation, and social reintegration of children, as well as an instrument to prevent discriminatory treatment in the law enforcement process. With this approach, this research is expected to provide conceptual and normative contributions to strengthening a just juvenile criminal justice system with a child rights perspective.

## **RESULTS AND DISCUSSION**

### **Legal Discrimination Against Children in the Criminal Justice System**

Discrimination from a legal and human rights perspective is understood as any form of distinction, restriction or exclusion that is not objectively and rationally based, which results in the reduction or elimination of the recognition, implementation and protection of a person's rights.(Anwar & Wijaya, 2019). In the context of children as perpetrators of criminal acts, the principle of non-discrimination is one of the fundamental principles affirmed in both international human rights instruments and national law.(Murphy, 2025)Children are positioned as legal

subjects who have dignity, rights, and special interests that must be protected by the state, not merely as objects of criminal law enforcement.

The principle of non-discrimination against children cannot be separated from the doctrine of the best interests of the child, which requires that every policy and legal action consider the short-term and long-term impacts on the physical, mental and social development of children.(Stern, 2022). In this framework, discrimination is not only interpreted as explicitly different treatment, but also includes treatment that formally appears neutral but in practice actually gives rise to substantive injustice for children.(Ayu et al., 2025)Therefore, the juvenile criminal justice system is required to adopt a substantively different approach from the adult criminal justice system in order to ensure fair equality.

In the practice of the criminal justice system, discrimination against children as perpetrators of crimes often appears in various forms, both structurally and culturally.(Ercolani & Lazarova, 2024)One of the most prominent forms is stigmatization, namely the negative labeling of children in conflict with the law as “criminals” or “criminal perpetrators.”(Kilkelly & Pleysier, 2023)This stigma not only appears in the public sphere, but is also reflected in the attitudes of law enforcement officers who tend to treat children in a repressive and formalistic manner, as if children have the same capacity and responsibilities as adults.(Ebbers-pardijs et al., 2026)This type of stigmatization has the potential to ignore factors such as age, social background, and the child's psychological condition in the law enforcement process.

Apart from stigmatization, discrimination is also manifested through excessive criminalization of children's behavior.(Gresdahl et al., 2025). Not infrequently, acts that should be resolved through non-penal mechanisms or guidance are instead processed through formal criminal channels.(Bergen, 2026)This approach, which emphasizes punishment, reflects the dominance of the retributive paradigm that remains strong in the criminal justice system, thus sidelining the rehabilitative and educational goals that should be the primary orientation in handling juvenile cases.(Siahaan et al., nd)As a result, children are at risk of experiencing trauma, losing educational opportunities, and becoming trapped in a cycle of repeated crime.

Another form of discrimination is seen in the unequal access to diversion, which is normatively required at every stage of the juvenile criminal justice process.(Pettoello-mantovani et al., 2025)In practice, the application of diversion is often selective and influenced by non-legal factors, such as the child's socioeconomic background, the type of crime, and the subjectivity of law enforcement officers.(Murphy, 2025). This unequal access to diversion shows that the principles of equality and justice have not been fully internalized in judicial practice.(Ebbers-pardijs et al., 2026), so that certain children receive more detrimental legal treatment than other children in relatively similar situations.

Legal discrimination in the criminal justice system has a significant and multidimensional impact on children as perpetrators of criminal acts.(Barajas-gonzalez et al., 2022)From a psychological aspect, discriminatory treatment can cause trauma, fear, and loss of trust in legal institutions in children.(Banarjee & Akter, 2026). A stressful and child-unfriendly judicial process has the potential to hinder a child's personality development and mental health, ultimately worsening their social and emotional well-being in the future.(Purba et al., 2025).

From a social aspect, legal discrimination strengthens the stigma and social exclusion of children in conflict with the law.(Dale et al., 2026)Children who have gone through the formal criminal process often have difficulty reintegrating with their families and society because of the negative labels attached to them.(Suharto, 2023)This condition actually contradicts the goal of the juvenile criminal justice system, which requires social reintegration as part of the recovery process.(Behavior et al., 2023)This stigma and social rejection can encourage children to re-offend, creating a cycle of recidivism that is difficult to break.

Discrimination in handling child cases also has an impact on the failure of the criminal justice system in carrying out its rehabilitative and educational functions.(Behavior et al., 2023)When the legal system emphasizes punishment rather than restoration, children lose the opportunity to understand mistakes, take constructive responsibility, and repair disturbed social relationships.(Priolo et al., 2025). Thus, legal discrimination not only harms children individually, but also undermines the legitimacy and effectiveness of the juvenile criminal justice system as an instrument for protecting and developing the younger generation.

## Concepts and Principles of Restorative Justice in Children's Cases

Restorative justice is an approach to resolving criminal cases that focuses on restoring social relationships that have been disrupted by criminal acts, not solely on punishing the perpetrator. (Kevin et al., 2024) In the context of juvenile criminal justice, restorative justice developed as a response to the failure of the retributive paradigm which tends to be repressive and discriminatory towards children as perpetrators of crimes. (Prima, 2024) This approach views criminal acts not only as violations against the state, but also as social conflicts that cause harm to victims, perpetrators, and society, so that their resolution must involve all affected parties. (Gregory et al., 2026).

The development of restorative justice in children's cases is in line with the global shift towards a more humanistic and rehabilitation-oriented criminal justice system. (Marder, 2022). Children are understood as individuals who are still in the process of growing and developing, so their capacity for responsibility and awareness are not yet fully mature. (Ibrahim & Okta, 2025) Therefore, handling juvenile cases through a restorative approach aims to provide space for moral learning, social responsibility, and psychological recovery, without having to plunge children into the formal criminal justice system, which has the potential to exacerbate stigmatization and social exclusion. (Tendai et al., 2025).

The main principle of restorative justice in children's cases is restoration, namely efforts to return the condition of the victim, perpetrator and community as close as possible to the condition before the crime occurred. (Sharpless et al., 2022) Recovery is not always interpreted in material terms, but also includes psychological, emotional, and relational recovery. (Prima, 2024) In cases involving children, this principle is very important because the main objective of resolving the case is not revenge, but rather the development and rehabilitation of children so that they can return to functioning positively in their social environment. (Al et al., 2026).

The next principle is participation and dialogue, which emphasizes the active involvement of perpetrators, victims, families, and the community in the case resolution process. Unlike conventional criminal justice, which is hierarchical and formal, restorative justice creates a space for equal and inclusive deliberation. (Ibrahim & Okta, 2025) In the context of children, this participation must be carried out with due regard for the child's capacity and psychological condition, so that the dialogue process does not degenerate into pressure or coercion. This principle also reflects respect for the child's dignity as a legal subject with a voice in the case resolution process. (Dasar et al., 2024).

The third principle is responsibility and social reintegration, namely encouraging children to understand the impact of their actions and take constructive responsibility, without having to go through a punitive criminal process. (Fathurokhman, 2013). Responsibility within the framework of restorative justice is not interpreted as suffering, but rather as a commitment to correct mistakes and restore social relationships. (Ibrahim & Okta, 2025) This principle directly contributes to the elimination of discriminatory practices, because children are no longer treated as objects of punishment, but as individuals capable of learning, changing, and developing.

The application of the principle of restorative justice in the Indonesian legal system has gained strong normative legitimacy through the Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. (Kristanto, 2022) This regulation emphasizes that prosecution may be discontinued by considering the restoration of the original situation, the balance of interests between the victim and the perpetrator, and the community's response to the resolution of the case. Although this regulation applies generally, its substance and spirit are highly relevant to the handling of juvenile cases, as they align with the protection and development objectives mandated in the juvenile criminal justice system. (Zilkamala et al., 2024).

In the context of juvenile cases, Prosecutor's Regulation Number 15 of 2020 provides an operational basis for prosecutors to prioritize a non-punitive approach by terminating prosecution, as long as certain conditions are met, such as a relatively light criminal threat, reconciliation between the perpetrator and victim, and support from the community. (Prima, 2024) This policy implicitly functions as an instrument to reduce legal discrimination, as it prevents children from being further entangled in formal justice processes that could potentially lead to stigma and negative psychological impacts. (Ercolani & Lazarova, 2024).

The link between the concept of restorative justice, child protection principles, and Indonesian Attorney General's Regulation No. 15 of 2020 demonstrates the state's normative

efforts to transform the criminal law enforcement system toward a more just and humane one. The challenge ahead lies in consistent implementation and a paradigm shift among law enforcement officials, ensuring that restorative justice becomes more than just a normative policy but a truly effective practice in eliminating discrimination and ensuring the protection of children's rights in the criminal justice system.

### **Efforts to Eliminate Discrimination in Child Cases**

#### **1. Restorative Justice as an Manifestation of the Principles of Non-Discrimination and the Best Interests of the Child**

Discrimination in child cases is often rooted in the conventional criminal law paradigm which positions children solely as perpetrators of criminal acts, without adequately considering the dimensions of their psychological, social and moral development.(Made Sukerani, 2022). The punishment-oriented retributive approach tends to equate children with adult perpetrators, thus ignoring the special needs of children as a vulnerable group.(Lintas et al., nd)This practice contradicts the principles of non-discrimination and respect for human dignity guaranteed in the UDHR, which affirms that every individual has the right to receive fair and humane treatment without any unlawful distinction.(Hoang, 2011).

This universal principle is emphasized more specifically in the United Nations CRC, which requires states to ensure that every child in conflict with the law is treated in accordance with their dignity and human values, and is directed towards rehabilitation and social reintegration efforts.(Landberg et al., 2025). The CRC places the best interests of the child as the primary principle in all actions concerning children.(Hoang, 2011)In this context, restorative justice emerges as an approach that aligns with the CRC's mandate because it seeks to protect children from the destructive impacts of the formal criminal justice system, which is stigmatizing and discriminatory.(David & Ari, 2023).

At the national level, the commitment to the principle of non-discrimination and the protection of children's rights is explicitly stated in Law No. 35 of 2014 concerning Child Protection, which emphasizes that every child has the right to protection from discriminatory treatment, including in the law enforcement process.(Suryantoro, 2024)Restorative justice aligns with this norm because it rejects uniform and formalistic legal treatment and encourages an approach that takes into account the individual circumstances of children.(Pangestu, 2025). Thus, restorative justice functions as an instrument for realizing substantive justice, not just formal justice, in handling children's cases.

Prioritizing restorative justice places children as active legal subjects, not objects of state punishment.(Moran et al., 2024)Through a process of dialogue, deliberation, and recovery, children are given the space to understand the impact of their actions, take proportionate responsibility, and restore disrupted social relationships.(Ayu et al., 2025)This approach directly reduces the potential for discrimination arising from judicial practices that emphasize the labeling and criminalization of children.(Shinta et al., 2025)By prioritizing restoration over retaliation, restorative justice protects children from the social stigma that often has long-term consequences for their future.

Concrete manifestation of the principle of protecting children's rights guaranteed by the UDHR, CRC, and Child Protection Law(Edwards et al., 2026)This is not only normative, but also has a strong ethical and social dimension, because it aims to maintain a balance between the interests of children, victims, and society.(Nurjanah et al., 2024)Within this framework, restorative justice becomes an important tool for eliminating structural and cultural discrimination in the juvenile criminal justice system.

#### **2. Restorative Justice within the Framework of the SPPA Law as an Instrument for Transforming Non-Discriminatory Juvenile Justice Practices**

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System marks a fundamental paradigm shift in handling juvenile cases in Indonesia by adopting restorative justice as the main foundation of the juvenile criminal justice system.(Ayu et al., 2025). The regulations regarding the obligation to implement diversion at every stage of the judicial process indicate a normative recognition that the formal criminal justice process has the potential to cause discrimination against children.(Arfianto, 2012). Diversion is intended to divert the resolution of cases from formal judicial mechanisms to more child-friendly and recovery-oriented solutions.(Emilia, 2010).

From the perspective of protecting children's rights, this approach is in line with the CRC principle which emphasizes that deprivation of liberty against children may only be carried out as a last resort and for the shortest possible time. (Protection, 2025) Restorative justice in the SPPA Law serves to ensure that children are not automatically subject to repressive criminal sanctions, but are instead given the opportunity to resolve their cases through fairer and more proportional mechanisms. (Rahayuningsih et al., 2025). Thus, restorative justice is an important instrument for preventing discrimination stemming from the excessive use of prison sentences against children.

This reflects the principles of justice and equality as guaranteed in the UDHR, particularly the right to a fair trial and humane treatment. (Duerr et al., 2023) In the context of juvenile justice, justice cannot be interpreted narrowly as the application of criminal sanctions, but must be understood as an effort to protect and develop children's potential. (Down et al., 2025) Therefore, restorative justice in the SPPA Law acts as a bridge between law enforcement interests and the state's obligation to protect children's rights.

However, critical analysis shows that the implementation of restorative justice in juvenile justice practices still faces various challenges. (Matsuo & Arakaki, 2022) Discrimination does not completely disappear simply by having legal norms, because the implementation of diversion and restorative approaches often depends on the discretion of law enforcement officials. (Schröder et al., 2025). The lack of understanding and commitment of officials can lead to inconsistent implementation of restorative justice, thus opening up space for discriminatory treatment of certain children, especially those from vulnerable socio-economic groups. (Toros & Falch-eriksen, 2020).

The paradigm of transformation of the juvenile justice system demands a change in the perspective of all justice actors, from a punishment orientation to a recovery orientation. (Pangestu, 2025) Without internalizing the values of protecting children's rights as regulated in the Child Protection Law, the SPPA Law, and the CRC, restorative justice risks being reduced to a mere administrative procedure. (Fors, 2020). Under such conditions, the potential for discrimination persists in the form of selective application and unequal access to restorative mechanisms.

Therefore, restorative justice within the framework of the Child Protection and Child Protection Law must be understood as part of the structural reform of the juvenile criminal justice system. This approach requires strengthening the capacity of officials, monitoring implementation, and harmonizing judicial practices with the principles of children's rights and international human rights. With this commitment, restorative justice can function optimally as an instrument to eliminate discrimination and realize a more humane, just, and child-rights-oriented juvenile criminal justice system.

## **DISCUSSION**

The findings of this study indicate that the restorative justice paradigm is normatively grounded and consistent with the principles of non-discrimination and the best interests of children as stipulated in the Child Protection Act, the Child Protection Act, the CRC, and the UDHR. Therefore, conceptually, it has the potential to be an effective instrument for eliminating discrimination in the juvenile criminal justice system. This study found that through diversion mechanisms and a restorative approach, restorative justice can reduce stigmatization, limit the use of punishment as the primary response, and encourage more proportional legal treatment oriented towards the social reintegration of children. However, the findings also indicate a gap between the normative framework and implementation practices, where the lack of uniform understanding among law enforcement officials, a tendency towards a formalistic approach, and unequal access to restorative mechanisms still have the potential to give rise to forms of hidden discrimination. Thus, this study confirms that restorative justice can function as a tool to eliminate discrimination, but its effectiveness is highly dependent on the internalization of the principle of substantive child rights protection in all stages of the juvenile criminal justice process.

The article written by Giang, V. Le. (2025), aims to analyze the criminalization of children in relation to the principle of non-discrimination in the 1989 Convention on the Rights of the Child, in the research findings confirm that the criminalization of children is fundamentally contrary to the principles of human rights, especially the principle of non-discrimination in the 1989 Convention on the Rights of the Child. Furthermore, research conducted by Purba, YY, Alfred, J.,

Silalahi, S., & Nasution, MF (2025), This research, which is based on a literature review with a qualitative approach, aims to analyze the role of restorative justice in resolving cases of child crime in Indonesia. The results of this study indicate that restorative justice supports the protection of children's rights as regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, with a diversion mechanism that prevents the negative impacts of imprisonment. can be more optimal in creating a fair, inclusive, and recovery-based juvenile criminal justice system.

The article written by Rahayuningsih, U., Hikmah, AN, & Nurcahyati, S. (2025), discusses legal protection for children as perpetrators of crimes in the juvenile criminal justice system in Indonesia through a restorative justice approach. The results of the study indicate that the restorative justice approach offers a more child-friendly resolution mechanism, prevents children from social stigma, and focuses on restoring social relationships. Meanwhile, the article written by Ayu, IG, Ari, A., Hukum, F., & Udayana, U. (2025), this study shows that juvenile criminal cases require special management, because the attributes and psychology of children in certain cases require different treatment and protection, especially those related to behavior that can harm the child's mental and physical development. A viable approach is the adoption of the restorative justice paradigm.

Meanwhile, the article written by Ibrahim, R., & Okta, SL (2025), revealed the results of their findings, Although restorative justice has legal support and cultural alignment with local values of deliberation and reciprocal cooperation, its implementation faces obstacles. These obstacles include inconsistent implementation by law enforcement officials, a lack of specialized training, limited supporting facilities, and community stigma against child offenders. Active family and community involvement has been identified as a critical factor for successful reintegration, but negative perceptions hinder effective restorative processes. The absence of systematic evaluation and monitoring further hampers sustainable implementation.

From the literature reviews above, we can conclude that academically, This research occupies an important position in the discourse on juvenile criminal law because it does not merely discuss restorative justice as a case resolution mechanism, but positions it as a normative and paradigmatic instrument to eliminate discrimination in the juvenile criminal justice system. The novelty of this research lies in its analytical approach that integrates the restorative justice paradigm with the principles of non-discrimination and the best interests of children as guaranteed in Law Number 11 of 2012, Law Number 35 of 2014, and international human rights instruments such as the Convention on the Rights of the Child and the Universal Declaration of Human Rights. Thus, this research moves beyond procedural discussions on diversion and shifts it towards a structural analysis of how restorative justice can be a tool to correct systemic discrimination, both normative and practical.

Another novelty lies in the assertion that discrimination in the juvenile criminal justice system manifests itself not only in the form of explicit differential treatment but also in the form of substantive inequality resulting from the dominance of the retributive paradigm. This research demonstrates that restorative justice, when conceptually understood and consistently applied, can transform the orientation of the justice system from punishment to recovery and social reintegration of children. Thus, this academic contribution is not only descriptive but also offers a normative-critical framework that positions restorative justice as the ethical and legal foundation for reforming a juvenile criminal justice system free from discrimination.

This research's contribution lies in strengthening the critical-normative framework that positions restorative justice not merely as an alternative mechanism for resolving juvenile cases, but as a transformational paradigm for eliminating discrimination in the juvenile criminal justice system. Unlike previous studies that predominantly assess the effectiveness of diversion procedures or policy implementation descriptively, this research integrates the principles of non-discrimination, the best interests of the child, and the protection of children's rights in a systematic analysis based on the Child Protection Act (SPPA), the Child Protection Act (UU PPA), the CRC, and the UDHR. Its theoretical contribution lies in formulating the conceptual relationship between restorative justice and substantive justice in the context of child protection, while its practical contribution provides an argumentative basis for reforming judicial practices to be more consistent, humane, and free from discriminatory treatment. Thus, this research enriches the literature on juvenile criminal law and offers a normative basis for strengthening the implementation of restorative justice as an instrument for protecting children's rights more effectively and equitably.

Despite its strong conceptual contribution, this study still has limitations, primarily because it relies on a normative approach and library research, thus not fully depicting the complexity of restorative justice implementation in juvenile justice practices across regions. This analysis focuses more on the consistency of legal norms and principles, thus not empirically testing the extent to which law enforcement officers internalize the values of non-discrimination and the best interests of children in the implementation of diversion and restorative solutions. Thus, there is room for comprehensive exploration regarding the sociological dynamics, structural factors, and institutional variables that influence the effectiveness of restorative justice as a tool to eliminate discrimination.

Further research is recommended to develop empirical or socio-legal approaches to directly test the effectiveness of restorative justice in eliminating discrimination in juvenile criminal justice practices, including through case studies, decision analysis, or interviews with law enforcement officials and juveniles in conflict with the law. Furthermore, comparative research between countries that have adopted the CRC principles can also provide a broader perspective on effective and equitable restorative justice implementation models. By broadening the methodological approach and deepening the implementation analysis, future studies can strengthen normative arguments and provide more concrete policy recommendations for reforming a child-free criminal justice system.

## CONCLUSION

Based on the analysis presented, it can be concluded that the restorative justice paradigm has a strong normative and conceptual capacity to function as a tool to eliminate discrimination in the juvenile criminal justice system, as long as it is understood and implemented as an approach oriented towards protecting children's rights and their best interests. Restorative justice, which is based on the principles of non-discrimination, respect for children's dignity, and substantive justice as reflected in the Child Protection Law, the Juvenile Criminal Justice System Law, the CRC, and the UDHR, is able to correct the tendencies of the conventional justice system that are repressive, stigmatizing, and equate children with adult perpetrators. By emphasizing restoration, dialogue, and proportional responsibility, this paradigm opens up space for more humane and fair legal treatment for children in conflict with the law. However, the effectiveness of restorative justice as an instrument to eliminate discrimination is not automatic, but rather depends heavily on a comprehensive understanding of its basic principles and the commitment of all judicial actors to make it a value paradigm, not merely a procedural mechanism, in the implementation of the juvenile criminal justice system.

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