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## Symbolic Restorative Justice in the Courtroom: Navigating the Intersection of Justice and Child Welfare in Indonesian Juvenile Court Decisions

Article	Abstract
<p><b>Author</b> Abnan Pancasilawati<sup>1*</sup>, Saifuddin Herlambang<sup>2</sup>, Abdel Kadir Naffati<sup>3</sup>,</p> <p><sup>1</sup> Faculty of Sharia and Law, Universitas Islam Negeri Sultan Aji Muhammad Idris Samarinda, Indonesia <sup>2</sup> Faculty of Ushuluddin, UIN Syarif Hidayatullah, Jakarta, Indonesia <sup>3</sup> Faculty of Usul al-Din, University of Ezzitouna, Tunisia</p> <p><b>Corresponding Author:</b> * Abnan Pancasilawati, Email: <a href="mailto:abnanpancasilawati@gmail.com">abnanpancasilawati@gmail.com</a></p> <p><b>Data:</b> Received: Aug 09, 2025; Accepted: Des 18, 2025 Published: Des 26, 2025</p> <p><b>DOI:</b> <a href="https://doi.org/10.24090/volksgeist.v8i2.15328">10.24090/volksgeist.v8i2.15328</a></p>	<p>Indonesian state law, particularly the Juvenile Criminal Justice System Law No. 11 of 2012, designates diversion as the primary mechanism for addressing children in conflict with the law. However, in practice, the majority of juvenile court judges continue to impose sanctions oriented toward imprisonment. This article examines the discrepancy between the statutory framework and its practical application by investigating the symbolic implementation of restorative justice in juvenile cases adjudicated by the Balikpapan District Court. It underscores the persistent tension between diversion-focused legal mandates and courtroom practices that remain entrenched in a retributive paradigm. Employing socio-legal research methods and John Braithwaite's shaming theory, the study analyzes sixteen juvenile court decisions rendered in 2024. The findings reveal that cases involving child protection and narcotics offenses were almost invariably met with imprisonment, accompanied by symbolic interventions such as vocational training. In contrast, theft and negligence cases permitted more hybrid approaches that combined punitive and rehabilitative elements; nevertheless, these approaches failed to achieve substantive restoration. The analysis concludes that restorative justice within Balikpapan's juvenile court system remains largely rhetorical, functioning as a normative signifier rather than an effective mechanism for healing. The article argues that meaningful reform requires strengthening diversion pathways, enhancing the role of independent facilitators, and integrating legal, cultural, and community-based values into a more inclusive and humanistic juvenile justice framework.</p> <p><b>Keywords:</b> Children in conflict with the law; diversion; Indonesian Juvenile Court; juvenile justice; restorative justice.</p>

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### INTRODUCTION

At the global level, the application of restorative justice in cases involving children in conflict with the law has emerged as a prominent trend in legal reform, while simultaneously provoking conceptual and practical debates concerning its effectiveness in balancing the protection of children's rights, the interests of victims, and the needs of the broader community.<sup>1</sup> International

<sup>1</sup> See: Gordon Bazemore and Mara Schiff, "Restorative Justice, Social Justice, and the Empowerment of Marginalized Populations," in *Restorative Community Justice* (Routledge, 2001), 291–310; Dag Leonardsen and Therese

scholarship consistently highlights that restorative justice provides a more humane framework for dispute resolution<sup>2</sup> by seeking to divert children from formal judicial processes that often result in stigma and psychological trauma.<sup>3</sup> Comparative studies further indicate that restorative mechanisms can enhance victim participation, bolster public confidence in procedural justice, and reduce recidivism; however, their effectiveness depends on factors such as the nature of the offense, the characteristics of the offender, and the institutional design within each jurisdiction.<sup>4</sup> Nonetheless, the implementation of restorative justice faces structural and cultural challenges, including limited institutional support, resistance from law enforcement officials, and the potential for substantive injustice toward victims, particularly in cases involving sexual violence and other serious crimes.<sup>5</sup> Despite these challenges, the global trend shows that restorative justice is being increasingly integrated into juvenile criminal justice policies, particularly through international legal instruments that emphasize the principles of recovery, reconciliation, and the best interests of the child.<sup>6</sup>

In Indonesia, the Juvenile Criminal Justice System Act No. 11 of 2012 explicitly designates diversion and restorative justice as primary mechanisms for resolving juvenile cases, mandating their application from the investigation and prosecution stages through to trial, contingent upon the fulfillment of legal requirements.<sup>7</sup> Normatively, this legislation represents a paradigm shift from retributive approaches toward a restorative framework that prioritizes the best interests and welfare of the child.<sup>8</sup> However, empirical evidence reveals a significant discrepancy between the law as written and its implementation in practice. For example, in 2024 at the Balikpapan District Court, no juvenile cases were successfully resolved through diversion; instead, the majority resulted in

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Andrews, “Youth Justice Reforms in Norway: Professional Support for the Panopticon Society?,” *Youth Justice* 22, no. 1 (2022): 85–100; Dennis Sing-Wing Wong dan Louis Wai-Yin Mok, “Restorative Justice and Practices in China,” *British Journal of Community Justice* 8, no. 3 (2010): 23–35..

<sup>2</sup> Sulbadana Sulbadana et al., “Does International Law Acknowledge Restorative Justice?,” *Sriwijaya Law Review* 7, no. 1 (2023): 121–34.

<sup>3</sup> Caitlin Cavanagh, “Healthy Adolescent Development and the Juvenile Justice System: Challenges and Solutions,” *Child Development Perspectives* 16, no. 3 (2022): 141–47.

<sup>4</sup> See: Sanja Čopić and Vesna Nikolić-Ristanović, “Introducing Restorative Approaches in Prison Settings: An Example of a Victim Awareness Program in Serbia,” in *An International Perspective on Contemporary Developments in Victimology*, ed. Janice Joseph and Stacie Jergenson (Springer International Publishing, 2020), 269–82; Kathleen J. Bergseth and Jeffrey A. Bouffard, “Examining the Effectiveness of a Restorative Justice Program for Various Types of Juvenile Offenders,” *International Journal of Offender Therapy and Comparative Criminology* 57, no. 9 (2013): 1054–75.

<sup>5</sup> See: Dennis S. W. Wong and Katie H. H. Tu, “Restorative Justice for Delinquents in Hong Kong: Current Practices and Challenges,” *Asia Pacific Journal of Social Work and Development* 28, no. 3 (2018): 178–91; Lisa Mary Armstrong, “Is Restorative Justice an Effective Approach in Responding to Children and Young People Who Sexually Harm?,” *Laws* 10, no. 4 (2021): 86.

<sup>6</sup> See: Heather Strang et al., “Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review,” *Campbell Systematic Reviews* 9, no. 1 (2013): 1–59; Dennis S. W. Wong and Katherine Y. Kwan, “Restorative Justice for Juvenile Offenders in China: Current Practices and Challenges,” *China Journal of Social Work* 13, no. 2 (2020): 121–37.

<sup>7</sup> “Criminal Justice System for Children Act No. 11 of 2012,” Articles 5-7.

<sup>8</sup> Admark Moyo, “Balancing the Best Interests of the Child and the Interests of Society When Sentencing Youth Offenders and Primary Caregivers in South Africa,” *South African Journal on Human Rights* 29, no. 2 (2013): 314–50.

custodial sentences, often accompanied by supplementary measures such as vocational training.<sup>9</sup> This situation reflects several structural impediments, including a predominantly repressive legal culture among judicial actors, a shortage of professional facilitators to mediate restorative processes, and weak inter-agency coordination between judicial and social institutions.<sup>10</sup> Consequently, despite the strong normative foundation of restorative justice in the Juvenile Criminal Justice System Act, juvenile justice practice in Balikpapan exhibits a marked inconsistency with the statute's intended spirit, thereby raising critical concerns about the coherence of legal policy implementation.

Previous academic research on restorative justice in juvenile cases can be broadly categorized into three principal typologies. The first typology emphasizes its effectiveness in reducing recidivism and enhancing social rehabilitation, positing that the active participation of offenders, victims, and communities yields more constructive long-term outcomes than traditional punitive measures.<sup>11</sup> The second adopts a normative-critical perspective, underscoring the potential risks of coercion directed at victims and the phenomenon of net-widening—that is, the extension of penal control over children through restorative mechanisms.<sup>12</sup> The third typology employs a socio-legal approach, highlighting that the success of restorative justice is significantly influenced by the cultural context of law and by local institutional frameworks.<sup>13</sup> In the context of Indonesia, the extant literature remains predominantly focused on normative analyses and partial evaluations of diversion practices in select cities,<sup>14</sup> whereas socio-legal investigations into courtroom practices

<sup>9</sup> “Balikpapan District Court Decision on Children in Conflict with the Law in 2024,” Supreme Court Decision Directory, diakses 24 September 2025, <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pn-balikpapan/kategori/peradilan-anak-abh-1/tahunjenis/putus/tahun/2024.html>.

<sup>10</sup> See: Irhamudin Irhamudin and Ibrahim Fikma Edrisy, “Restorative Justice in the Implementation of Diversion Against Child Criminal Victims,” Nurani: *Jurnal Kajian Syari'ah dan Masyarakat* 22, no. 2 (2022): 223–38; Putri K. Amanda et al., “The Juvenile Courts and Children’s Rights: Good Intentions, Flawed Execution,” in *The Politics of Court Reform*, 1st ed., ed. Melissa Crouch (Cambridge University Press, 2019), 267–86; Mukarramah Kamaliah dan Mhd Yazid, “Legal Consciousness and Living Legal Reasoning: Penghulus and Mediation in Resolving Marital Disputes at the Religious Affairs Office of East Pontianak,” *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 2 (November 2025): 152–73, <https://doi.org/10.24260/ijssls.1.2.127>.

<sup>11</sup> See: Catherine S. Kimbrell et al., “Restorative Justice Programs and Practices in Juvenile Justice: An Updated Systematic Review and Meta-Analysis for Effectiveness,” *Criminology & Public Policy* 22, no. 1 (2023): 161–95; Claudia Reyes-Quilodrán et al., “Justicia Restaurativa En Sistemas de Justicia Penal Juvenil Comparado: Suecia, Inglaterra, Italia y Chile,” *Política Criminal* 13, no. 25 (2018): 626–49; Kailey A. Richner et al., “A Restorative Justice Intervention in United States Prisons: Implications of Intervention Timing, Age, and Gender on Recidivism,” *International Journal of Offender Therapy and Comparative Criminology* 67, no. 12 (2023): 1193–210; Christine L. M. Gervais and Matthew S. Johnston, “Reconsidering Reconciliation Within Families of Youth Who Sexually Offend,” *Journal of Interpersonal Violence* 37, nos. 11–12 (2022): 10093–125.

<sup>12</sup> See: Jung Jin Choi et al., “Review of Research on Victims’ Experiences in Restorative Justice: Implications for Youth Justice,” *Children and Youth Services Review* 34, no. 1 (2012): 35–42; David O’Mahony and Jonathan Doak, “Restorative Justice and Youth Justice: Bringing Theory and Practice Closer Together in Europe,” in *Reforming Juvenile Justice*, ed. Josine Junger-Tas and Frieder Dünkel (Springer US, 2009), 165–82.

<sup>13</sup> See: Nur Rochaeti and Nurul Muthia, “Socio-Legal Study of Community Participation in Restorative Justice of Children in Conflict with the Law in Indonesia,” *International Journal of Criminology and Sociology* 10 (February 2021): 293–98; Antonio Iudici et al., “Mediation as a Restorative Justice Tool: Applications in the Italian Juvenile Judicial Context,” in *Restorative and Transitional Justice: Perspectives, Progress and Considerations for the Future*, ed. Jessica Evans (Nova Science Publishers, Inc., 2017), 201–26; Nashriana Nashriana et al., “Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement,” *Sriwijaya Law Review* 7 (July 2023): 318–34; Wikan Sinatrio Aji, “The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia,” *Journal of Indonesian Legal Studies* 4, no. 1 (April 2019): 73–88, <https://doi.org/10.15294/jils.v4i01.23339>.

<sup>14</sup> See: Setia Untung Arimuladi, “Enhancing Legal Certainty Through Restorative Justice: A Focus on the Role of Indonesia’s Attorney General’s Office,” *Pakistan Journal of Criminology* 16, no. 2 (2024): 903–12; Helen Diana

and judicial reasoning are comparatively limited. Addressing this gap, the present article examines juvenile court practices at the Balikpapan District Court, with a particular focus on courtroom proceedings and judicial deliberations. The article argues that, although restorative justice has been normatively institutionalized within national legislation as the foundational paradigm of the juvenile justice system, its implementation in Balikpapan courts remains largely symbolic.

This article is systematically structured to deliver an integrated and comprehensive analysis. It begins with an overview of the legal framework governing Indonesia's juvenile criminal justice system, with particular emphasis on the normative foundations of diversion and restorative justice as mechanisms for child protection. The discussion then advances to an empirical investigation of juvenile cases in Balikpapan, including the classification of offenses, trends in judicial decisions, and patterns of sanctions imposed during the study period. The subsequent section examines judicial reasoning, highlighting the predominance of legal argumentation alongside the subsidiary role of sociological and psychological considerations in adjudication. The final section provides a more in-depth analysis by exploring the symbolic use of restorative justice within the courtroom and the tension between retributive logic and child welfare objectives. Collectively, these sections elucidate the interplay among normative frameworks, empirical realities, and judicial practice, while identifying both the limitations and potential avenues for enhancing the substantive application of restorative justice at the local level.

## RESEARCH METHODS

This study employs a socio-legal research approach that combines normative analysis of statutory provisions with empirical investigation through document analysis. The primary aim is to explore the gap between law in the books and law in action in the application of restorative justice in juvenile cases at the Balikpapan District Court. Primary data were obtained from sixteen juvenile court decisions recorded in the Supreme Court Decisions Directory for 2024.<sup>15</sup> Of the twenty-two decisions issued that year, four were inaccessible, and two remained unpublished to protect the privacy of the involved parties (see Table 1). Secondary data comprises national legal instruments—particularly the Juvenile Criminal Justice System Act and its subsidiary regulations—relevant criminal law provisions, as well as scholarly literature, both domestic and international, pertaining to juvenile justice and restorative justice.

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Fridayani and Dina Desvita Pramesti Putri, "Sounding the Justice for Child: Does Restorative Justice Matters?," *Journal of Law and Legal Reform* 4, no. 3 (2023): 303–24; Muhammad Ansori Lubis et al., "Restorative Justice as a Protection Model for Juveniles Against the Law," *Journal of Advanced Research in Dynamical and Control Systems* 12, no. 6 (2020): 581–8.

<sup>15</sup> "Balikpapan District Court Decision on Children in Conflict with the Law," Supreme Court Decision Directory, diakses 24 September 2025, <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pn-balikpapan/kategori/peradilan-anak-abh-1.html>.

**Table 1. Juvenile Cases Involving Legal Conflicts at the Balikpapan District Court, 2024**

No.	Decision No.	Child's Age	Offense Type	Sanction
1.	2/Pid.Sus-Anak/2024/PN Bpp	17	Narcotics	Imprisonment and vocational training
2.	3/Pid.Sus-Anak/2024/PN Bpp	-	Narcotics	Imprisonment and vocational training
3.	4/Pid.Sus-Anak/2024/PN Bpp	18	Child protection	Imprisonment and vocational training
4.	5/Pid.Sus-Anak/2024/PN Bpp	18	Child protection	Imprisonment and vocational training
5.	6/Pid.Sus-Anak/2024/PN Bpp	17	Assault	Imprisonment
6.	7/Pid.Sus-Anak/2024/PN Bpp	16	Negligence	Imprisonment and vocational training
7.	8/Pid.Sus-Anak/2024/PN Bpp	-	Assault	Imprisonment
8.	9/Pid.Sus-Anak/2024/PN Bpp	-	Child protection	Imprisonment and vocational training
9.	10/Pid.Sus-Anak/2024/PN Bpp	-	Child protection	Imprisonment and community service
10.	11/Pid.Sus-Anak/2024/PN Bpp	18	Child protection	Imprisonment and vocational training
11.	12/Pid.Sus-Anak/2024/PN Bpp	14	Child protection	Imprisonment and vocational training
12.	13/Pid.Sus-Anak/2024/PN Bpp	13	Child protection	Imprisonment and vocational training
13.	14/Pid.Sus-Anak/2024/PN Bpp	-	-	Unpublished
14.	15/Pid.Sus-Anak/2024/PN Bpp	-	Theft	Imprisonment
15.	16/Pid.Sus-Anak/2024/PN Bpp	17	Child protection	Imprisonment and vocational training
16.	17/Pid.Sus-Anak/2024/PN Bpp	14	Theft	Vocational training
17.	18/Pid.Sus-Anak/2024/PN Bpp	-	-	Unpublished
18.	19/Pid.Sus-Anak/2024/PN Bpp	16	Theft	Imprisonment
19.	20/Pid.Sus-Anak/2024/PN Bpp	17	Child protection	Imprisonment and vocational training
20.	20/Pid.Sus-Anak/2023/PN Bpp	13	Child protection	Return of the child to parents or guardian and vocational training
21.	22/Pid.Sus-Anak/2024/PN Bpp	16	Theft	Imprisonment
22.	23/Pid.Sus-Anak/2024/PN Bpp	16	Narcotics	Imprisonment and vocational training

**Source:** Data Compiled from the Supreme Court Decisions Directory, 2025.<sup>16</sup>

All materials from the sixteen accessible decisions were subjected to qualitative analysis employing the interactive analysis model proposed by Miles, Huberman, and Saldaña (2014). This model encompasses four interrelated stages: data collection, data display, data condensation, and the drawing and verification of conclusions. These stages were not executed in a strictly linear fashion but rather proceeded interactively and iteratively in response to emerging analytical requirements.<sup>17</sup> To examine the dynamics of judicial reasoning, the study applies John Braithwaite's (1989) theory

<sup>16</sup> Supreme Court Decision Directory, "Balikpapan District Court Decision on Children in Conflict with the Law in 2024."

<sup>17</sup> Matthew B. Miles, A. M. Huberman, dan Johnny Saldaña, *Qualitative Data Analysis: A Methods Sourcebook*, 3 ed. (California: SAGE Publications, Inc, 2014), 31–33.

of shaming, which differentiates between stigmatizing and reintegrative shaming.<sup>18</sup> This theoretical framework offers an analytical basis for assessing how judges negotiate the retributive aspects of justice—emphasizing deterrence through incarceration—and the welfare-oriented rehabilitative aspects—centered on the child’s social reintegration.<sup>19</sup> Utilizing this framework, the research aims to reveal the hybrid nature of juvenile justice practices in Balikpapan and to illustrate judges’ tendency to regard restorative justice primarily as a normative symbol rather than a substantive mechanism for recovery.

## ANALYSIS AND DISCUSSION

### The Juvenile Justice System in Indonesia: Diversion and Restorative Justice Approaches

The national legal framework governing the juvenile criminal justice system is established by the Juvenile Criminal Justice System Act No. 11 of 2012, which supersedes the Juvenile Courts Act No. 3 of 1997.<sup>20</sup> This legislative reform was motivated by the necessity to adapt the legal system to evolving social dynamics and to align it with international standards on child protection. Article 1 of the Juvenile Criminal Justice System Act defines a child in conflict with the law as an individual between the ages of 12 and 18 years who is suspected of committing a criminal offense.<sup>21</sup> Normatively, this reform aims to establish a justice system that prioritizes the best interests of the child,<sup>22</sup> in accordance with the Convention on the Rights of the Child, which Indonesia ratified through Presidential Decree No. 36 of 1990. Comprising 14 chapters and 108 articles, the Juvenile Criminal Justice System Act regulates the entire juvenile justice process, from investigation through post-sentence supervision. Enacted on July 30, 2012, the law represents a significant shift in paradigm from a retributive to a restorative approach within the juvenile justice system.<sup>23</sup>

Substantively, the Juvenile Criminal Justice System Act explicitly designates diversion and the principle of restorative justice as the primary mechanisms to protect children from formal judicial proceedings that may result in stigma and psychological trauma.<sup>24</sup> Consequently, before a case proceeds to trial, law enforcement officials, in collaboration with families and communities, are required to seek resolution through non-litigious means. Diversion is carried out through deliberation (*musyawarah*) involving the offender, the victim, their families, and the community, with careful consideration of the child’s welfare, the prevention of negative stigma, the avoidance of retaliation, and the restoration of social harmony.<sup>25</sup> Agreements reached through

<sup>18</sup> John Braithwaite, *Crime, Shame, and Reintegration* (Cambridge University Press, 1989), 54–68.

<sup>19</sup> Meredith Edelman and Nathan Harris, “Reintegrative Shaming,” in *The Routledge Companion to Criminological Theory and Concepts*, 1st ed., ed. Avi Brisman et al. (Routledge, 2018), 475–9.

<sup>20</sup> “Criminal Justice System for Children Act No. 11 of 2012.”

<sup>21</sup> Bayu Dwi Prasetyawan, Azmi Siradjudin, dan Sakirman, “Maturity as a Parameter of Readiness and Prevention of Early Marriage Risks: Medical and Sociological Review of Family Law,” *Indonesian Journal of Islamic Law* 7, no. 1 (Juni 2024): 89–104, <https://doi.org/10.35719/a4vc7d53>.

<sup>22</sup> Daud Rismana dkk., “The Controversy on the Minimum Age for Marriage in Indonesia: Factors and Implications,” *Journal of Sustainable Development and Regulatory Issues (JSDERI)* 2, no. 1 (Januari 2024): 53–66, <https://doi.org/10.53955/jsderi.v2i1.21>.

<sup>23</sup> Aji, “The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia,” 73–88.

<sup>24</sup> “Criminal Justice System for Children Act No. 11 of 2012,” 1–3.

<sup>25</sup> Sriwiyanti Sriwiyanti, Wahyu Saefudin, and Siti Aminah, “Restorative Justice for Juvenile Offenders in Indonesia: A Study of Psychological Perspective and Islamic Law,” *Journal of Islamic Law* 2, no. 2 (August 2021): 168–96.

diversion may include reconciliation, with or without compensation; returning the child to their parents or guardians; medical and psychosocial rehabilitation; participation in an educational or training program lasting up to three months; or community service. Such agreements are formally documented by investigators based on recommendations from probation officers, thereby conferring legal validity.<sup>26</sup> Diversion is permitted only when the alleged offense carries a maximum sentence of less than seven years' imprisonment and does not involve a repeat offense. Moreover, the Juvenile Criminal Justice System Act mandates that every stage of the juvenile justice process be conducted by specially trained officials who understand child psychology and needs, thereby ensuring that child protection remains the fundamental guiding principle.<sup>27</sup>

If diversion fails to result in an agreement, or if an agreement is reached but not implemented, the case proceeds to the juvenile court system.<sup>28</sup> In these instances, law enforcement officials—including investigators, prosecutors, judges, probation officers, social workers, and legal counsel—are mandated to prioritize the child's best interests and to uphold a familial environment. Judges are required to attempt diversion through mediation for a maximum period of thirty days. If successful, the agreement is documented in an official report; if unsuccessful, the case advances to trial in a specialized juvenile courtroom. Sanctions are differentiated by age: children under 14 may only be subjected to non-penal measures, such as returning the child to their parents, transferring custody to another party, admission to a mental health facility, or placement in a Social Welfare Institution (*Lembaga Penyelenggaraan Kesejahteraan Sosial*, LPKS). For children aged 14 to 18, in addition to these measures, criminal sanctions may be imposed, provided they remain proportionate and consistent with the principles of child protection and development. Consequently, the Juvenile Criminal Justice System Act not only establishes a formal legal framework but also signifies a paradigm shift toward a system focused on recovery and the social rehabilitation of children.<sup>29</sup>

Articles 71 and 82 of the Juvenile Criminal Justice System Act establish a comprehensive framework delineating the sanctions and measures applicable to children. Principal sanctions encompass warnings, conditional sentences—including probation, community service, and supervision—vocational training, institutional guidance, and imprisonment. Additional sanctions may involve the confiscation of illicit gains or the fulfillment of customary obligations. The legislation mandates that fines be substituted with vocational training and requires that all sanctions uphold the dignity of the child. Furthermore, Article 82 regulates non-custodial measures, such as returning the child to parents or guardians, transferring custody to another party, admission to mental health facilities or LPKS, compulsory participation in education or training programs, revocation of driver's licenses, and obligations to repair harm caused by the offense. This legal framework exemplifies the flexibility of the instruments employed, aiming to balance child protection,

<sup>26</sup> Hariyanto Hariyanto, Idamatussilmi Idamatussilmi, dan Daud Risma, "The Government's Role in Legal Protection of Land Ownership: Urutsewu Case," *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (Agustus 2024): 277–91, <https://doi.org/10.22219/ljih.v32i2.34254>.

<sup>27</sup> "Criminal Justice System for Children Act No. 11 of 2012," Articles 6 to 15.

<sup>28</sup> "Criminal Justice System for Children Act No. 11 of 2012," Articles 16 to 25.

<sup>29</sup> Trinita Yulinda Sirait and Irma Cahyaningtyas, "Restorative Justice Approach in the Settlement of Children's Cases in Indonesia," *Legality: Jurnal Ilmiah Hukum* 27, no. 2 (November 2019): 232.

community interests, and rehabilitative goals,<sup>30</sup> thereby underscoring Indonesia's commitment to a juvenile justice system that fosters the welfare and social reintegration of children.

### **Children in Conflict with the Law in Balikpapan: Case Descriptions and Court Decisions**

Data derived from the Supreme Court Decisions Directory reveal a marked increase in juvenile cases adjudicated by the Balikpapan District Court from 2021 to 2024. Specifically, the number of decisions rose from two in 2021 to 13 in 2022, 18 in 2023, and reached a peak of 22 in 2024.<sup>31</sup> Among these cases, 10 pertained to child protection, four involved theft, three concerned narcotics offenses, two related to assault, one involved negligence, and two decisions were unpublished. Sentencing patterns predominantly featured a combination of imprisonment and vocational training (12 cases), followed by imprisonment coupled with community service (one case), restitution through the return of the child to parents or guardians combined with vocational training (one case), imprisonment alone (five cases), and vocational training alone (one case).<sup>32</sup> These data suggest that, notwithstanding the emphasis on diversion and restorative justice articulated in the Juvenile Criminal Justice System Act, juvenile justice practices in Balikpapan continue to be primarily punitive in nature.

The child protection category constituted the largest proportion of cases, encompassing offenses such as intercourse by deception, intercourse by force, acts of indecency, and the distribution of obscene materials. In Balikpapan District Court Decision No. 4/Pid.Sus-Anak/2024/PN Bpp, an 18-year-old was sentenced to two years and six months of imprisonment, along with one month of vocational training, for engaging in sexual intercourse with his 14-year-old girlfriend.<sup>33</sup> Similarly, Balikpapan District Court Decision No. 11/Pid.Sus-Anak/2024/PN Bpp imposed a seven-year prison term and three months of vocational training on an 18-year-old who persuaded a 15-year-old victim to engage in intercourse.<sup>34</sup> In contrast, Balikpapan District Court Decision No. 13/Pid.Sus-Anak/2024/PN Bpp, involving three 13-year-olds charged with indecency against a peer, resulted in institutional guidance despite the failure of formal diversion, due to reconciliation between the families of the offenders and the victim.<sup>35</sup> From a restorative justice perspective, child protection cases predominantly exhibit a retributive orientation, with imprisonment serving as the principal sanction, while opportunities for diversion and social reintegration remain limited—particularly when the offender is under 14 years of age.<sup>36</sup>

The theft category exhibited considerable variability in judicial outcomes. For instance, Balikpapan District Court Decision No. 22/Pid.Sus-Anak/2024/PN Bpp sentenced a 16-year-old offender to four months of imprisonment for stealing a Honda Scoopy motorcycle.<sup>37</sup> Similarly,

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<sup>30</sup> See: Supriansa et al., "The Essence of Restorative Justice in the Development of Indonesian Law," *Revista de Gestão Social e Ambiental* 18, no. 8 (April 2024): e05780; Louise Forde, "Welfare, Justice, and Diverse Models of Youth Justice: A Children's Rights Analysis," *The International Journal of Children's Rights* 29, no. 4 (November 2021): 920–45.

<sup>31</sup> Supreme Court Decision Directory, "Balikpapan District Court Decision on Children in Conflict with the Law."

<sup>32</sup> Supreme Court Decision Directory, "Balikpapan District Court Decision on Children in Conflict with the Law in 2024."

<sup>33</sup> "Balikpapan District Court Decision No. 4/Pid.Sus-Anak/2024/PN Bpp.

<sup>34</sup> "Balikpapan District Court Decision No. 11/Pid.Sus-Anak/2024/PN Bpp.

<sup>35</sup> "Balikpapan District Court Decision No. 13/Pid.Sus-Anak/2024/PN Bpp.

<sup>36</sup> "Balikpapan District Court Decision No. 20/Pid.Sus-Anak/2023/PN Bpp.

<sup>37</sup> "Balikpapan District Court Decision No. 22/Pid.Sus-Anak/2024/PN Bpp.

Balikpapan District Court Decision No. 19/Pid.Sus-Anak/2024/PN Bpp imposed a five-month prison term on another 16-year-old in a comparable case, despite the victim's forgiveness; diversion was unsuccessful due to the offender's family's inability to fulfill restitution requirements.<sup>38</sup> Conversely, Balikpapan District Court Decision No. 17/Pid.Sus-Anak/2024/PN Bpp mandated six months of vocational training for a 14-year-old, citing reconciliation with the victim and recommendations from the probation officer.<sup>39</sup> This variation highlights the significant influence of factors such as the offender's age, the victim's response, and probation office recommendations in determining judicial decisions between incarceration and alternative sanctions. From a restorative justice perspective, theft cases demonstrate a greater receptivity to rehabilitative measures, such as vocational training, although the retributive approach remains predominant in practice.<sup>40</sup>

The narcotics category demonstrated a marked tendency toward custodial sentences, despite the fact that most cases involved possession or use of small quantities. In Balikpapan District Court Decision No. 2/Pid.Sus-Anak/2024/PN Bpp, a 17-year-old was sentenced to three years of imprisonment and three months of vocational training for purchasing and using methamphetamine with a peer.<sup>41</sup> Conversely, Balikpapan District Court Decision No. 23/Pid.Sus-Anak/2024/PN Bpp imposed a lighter sentence of one year's imprisonment and a fine of one billion rupiah, which could be substituted for three months of vocational training, on a 16-year-old.<sup>42</sup> According to Article 7(2) of the Juvenile Criminal Justice System Act, juvenile narcotics cases are explicitly excluded from diversion, thereby formally precluding the application of restorative justice.<sup>43</sup> Vocational training functions primarily as a symbolic form of rehabilitation, thereby maintaining narcotics cases firmly within a retributive justice framework.

The final category, negligence, exhibited a more hybrid nature. In Balikpapan District Court Decision No. 7/Pid.Sus-Anak/2024/PN Bpp, a 16-year-old female student who operated a motorcycle without a license and caused a traffic accident resulting in the death of another driver, was initially subject to diversion efforts, which included an offer of 35 million rupiah in compensation; however, this offer was rejected by the victim's family. Consequently, the case proceeded to trial, where the judge sentenced the defendant to five months of institutional guidance at a probation office and three months of vocational training.<sup>44</sup> This ruling exemplifies a hybrid approach: the retributive aspect is evident in the institutional guidance, while the rehabilitative component is reflected in the vocational training. From a restorative justice perspective, although diversion was unsuccessful, the judge nonetheless facilitated social reintegration by avoiding full imprisonment. Therefore, negligence cases demonstrate the greatest potential for balancing punitive measures with social rehabilitation.

For comparative purposes, a study conducted by Alputila et al. on the juvenile criminal justice system in Merauke demonstrated that diversion efforts at the police level were largely ineffective. Specifically, of 34 juvenile cases in 2017, only 7 were resolved through diversion; in 2018, 11 out of 52 cases; and in 2019, only 1 out of 22 cases was successfully diverted. At the prosecutorial level,

<sup>38</sup> "Balikpapan District Court Decision No. 19/Pid.Sus-Anak/2024/PN Bpp.

<sup>39</sup> "Balikpapan District Court Decision No. 17/Pid.Sus-Anak/2024/PN Bpp.

<sup>40</sup> Ian D. Marder, "Mapping Restorative Justice and Restorative Practices in Criminal Justice in the Republic of Ireland," *International Journal of Law, Crime and Justice* 70 (September 2022): 100544.

<sup>41</sup> "Balikpapan District Court Decision No. 2/Pid.Sus-Child/2024/PN Bpp.

<sup>42</sup> "Balikpapan District Court Decision No. 23/Pid.Sus-Anak/2024/PN Bpp.

<sup>43</sup> "Criminal Justice System for Children Act No. 11 of 2012," Article 7 paragraph (2).

<sup>44</sup> "Balikpapan District Court Decision No. 7/Pid.Sus-Anak/2024/PN Bpp.

diversion was even more limited, with only a single case resolved through this mechanism between 2017 to 2019.<sup>45</sup> Waluyadi et al. argue that judicial decisions involving children in conflict with the law must prioritize the best interests of the child, alongside the rights of victims and broader societal considerations.<sup>46</sup> Beyond ensuring accountability for offenses committed, judges should emphasize rehabilitation and reintegration rather than punitive measures, taking into account the distinct psychological and moral developmental stages of young offenders to enable them to lead meaningful lives.<sup>47</sup>

### Judicial Reasoning and the Limitations of Restorative Justice in Juvenile Sentencing

The reasoning patterns employed by judges in juvenile cases at the Balikpapan District Court predominantly involve normative argumentation, with positive law serving as the principal framework guiding their decisions. Sociological and psychological factors, along with recommendations from local probation offices, are considered supplementary and their influence varies depending on the nature of the offense. Although the Juvenile Criminal Justice System Act normatively prioritizes restorative justice, its application in practice tends to be more symbolic than substantive, except in instances involving reconciliation between victims and offenders.<sup>48</sup> This pattern highlights the persistent tension between the retributive paradigm, which emphasizes punishment, and the rehabilitative–restorative paradigm, which focuses on recovery and the social reintegration of juvenile offenders.<sup>49</sup>

In child protection cases, judges consistently prioritized legal considerations by citing Articles 81 and 82 of Act No. 35 of 2014, which amend the Child Protection Act No. 23 of 2002, along with Article 71 of the Juvenile Criminal Justice System Act, as the principal legal foundations for sentencing. These legal bases were substantiated by evidentiary materials, including witness testimonies, *visum et repertum* (medical reports), and the defendant’s confession.<sup>50</sup> From a sociological standpoint, judges emphasized that the offender’s conduct incited public unrest and brought dishonor to the victim’s family, thereby justifying imprisonment as a deterrent measure.

<sup>45</sup> M J Alputila, M A Tajuddin, dan Kahar, “Diversion Approach as an Alternative Case Resolution Son of the Conflict with the Law on Child Criminal Justice System (Case Study of Merauke),” *IOP Conference Series: Earth and Environmental Science* 343, no. 1 (Oktober 2019): 012249, <https://doi.org/10.1088/1755-1315/343/1/012249>.

<sup>46</sup> Waluyadi, Muslikhah, and Montiasa Mariana, “Understanding Judge’s Decisions That Are Best for the Child Post the Failure of Diversion,” *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 10, no. 1 (April 2025): 404–18, <https://doi.org/10.22373/petita.v10i1.455>. See also: Otavia Berlina Cahya Putri, Lukman Santoso, dan Iqbal Saujan, “Why Pregnancy Is Not Enough: Judicial Interpretation of ‘Urgent Grounds’ in Child Marriage Dispensation Cases at the Madiun Religious Court,” *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 2 (November 2025): 174–92, <https://doi.org/10.24260/ijssls.1.2.117>.

<sup>47</sup> Laura Guercio dan Paolina Massidda, “Globalisation and Education Futures: Creating an International Institution for the Rehabilitation and Reintegration of Children Involved in Armed Conflict,” dalam *Fourth International Handbook of Globalisation, Education and Policy Research*, ed. oleh Joseph Zajda (Cham: Springer Nature Switzerland, 2024), 969–94, [https://doi.org/10.1007/978-3-031-67667-3\\_50](https://doi.org/10.1007/978-3-031-67667-3_50).

<sup>48</sup> Mas Putra Zenno Januarsyah, “Penerapan Restorative Justice dalam Tindak Pidana di Bidang Ketenagakerjaan,” *LITIGASI* 25, no. 2 (Oktober 2024): 43–61, <https://doi.org/10.23969/litigasi.v25i2.17862>.

<sup>49</sup> Michael Wenzel et al., “Retributive and Restorative Justice,” *Law and Human Behavior* 32, no. 5 (October 2008): 375–89.

<sup>50</sup> “Balikpapan District Court Decision No. 4/Pid.Sus-Anak/2024/PN Bpp”; “Balikpapan District Court Decision No. 5/Pid.Sus-Anak/2024/PN Bpp.”; “Balikpapan District Court Decision No. 11/Pid.Sus-Anak/2024/PN Bpp”; “Balikpapan District Court Decision No. 12/Pid.Sus-Anak/2024/PN Bpp.”; “Balikpapan District Court Decision No. 20/Pid.Sus-Anak/2024/PN Bpp.”

The psychological aspects of the offender were generally neglected, except for Balikpapan District Court Decision No. 13/Pid.Sus-Anak/2024/PN Bpp, in which the judge considered the offender's age (13 years) and the reconciliation between the offender's and victim's families, resulting in the imposition of institutional guidance rather than incarceration.<sup>51</sup> From a restorative justice perspective, child protection cases predominantly reflect a retributive paradigm characterized by stigmatizing shaming,<sup>52</sup> as offenders are labeled sexual criminals without substantive opportunities for social reintegration.

In theft cases, judicial reasoning exhibited considerable variability. Legal arguments were primarily based on Article 363 of the Indonesian Penal Code (KUHP), which addresses aggravated theft. They were also associated with Article 71 of the Juvenile Criminal Justice System Act, permitting non-custodial measures.<sup>53</sup> From a sociological perspective, judges highlighted the victim's material losses, the resulting community unrest, and the impact of adverse social environments on the child's behavior. Psychological factors were notably more prominent in this category, particularly in Balikpapan District Court Decision No. 17/Pid.Sus-Anak/2024/PN Bpp, where the judge observed that the 14-year-old offender had been subjected to school bullying and influenced by his uncle, leading to a sentence of six months' vocational training rather than imprisonment.<sup>54</sup> Formal diversion was infrequently successful, as exemplified by Balikpapan District Court Decision No. 19/Pid.Sus-Anak/2024/PN Bpp, which failed due to the offender's family's inability to pay restitution despite the victim's forgiveness.<sup>55</sup> From a restorative justice perspective, theft cases facilitated the application of reintegrative shaming: while children were held accountable for their actions, they were simultaneously provided with opportunities for social reintegration through rehabilitative interventions.<sup>56</sup>

In narcotics cases, normative argumentation was particularly predominant. Judges consistently invoked Articles 112 and 114 of the Narcotics Act No. 35 of 2009, alongside Article 81 of the Juvenile Criminal Justice System Act. From a sociological perspective, judges contended that narcotics offenses committed by children, even involving small quantities, posed a threat to younger generations and disrupted social order.<sup>57</sup> Psychological considerations were infrequently addressed, despite the fact that the majority of offenders were users influenced by peer groups.<sup>58</sup> Given that narcotics cases are explicitly excluded from diversion under Article 7(2) of the Juvenile Criminal Justice System Act, restorative approaches were legally inaccessible.<sup>59</sup> Sanctions such as vocational training or fines primarily served as symbolic gestures of rehabilitation rather than effective mechanisms for substantive recovery. This pattern exemplifies stigmatizing shaming, as children were subjected to imprisonment without meaningful opportunities for reintegration.<sup>60</sup>

<sup>51</sup> "Balikpapan District Court Decision No. 13/Pid.Sus-Anak/2024/PN Bpp."

<sup>52</sup> Braithwaite, *Crime, Shame, and Reintegration*, 54–68.

<sup>53</sup> "Balikpapan District Court Decision No. 22/Pid.Sus-Anak/2024/PN Bpp"; "Balikpapan District Court Decision No. 19/Pid.Sus-Anak/2024/PN Bpp."

<sup>54</sup> "Balikpapan District Court Decision No. 17/Pid.Sus-Anak/2024/PN Bpp."

<sup>55</sup> "Balikpapan District Court Decision No. 19/Pid.Sus-Anak/2024/PN Bpp."

<sup>56</sup> Dian Ekawaty Ismail dkk., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (September 2024): 394–417, <https://doi.org/10.22219/ljih.v32i2.35374>.

<sup>57</sup> "Balikpapan District Court Decision No. 2/Pid.Sus-Child/2024/PN Bpp."

<sup>58</sup> "Balikpapan District Court Decision No. 23/Pid.Sus-Anak/2024/PN Bpp."

<sup>59</sup> "Criminal Justice System for Children Act No. 11 of 2012," Article 7 paragraph (2).

<sup>60</sup> Edelman dan Harris, "Reintegrative Shaming," 475–79.

In negligence cases, judicial reasoning exhibited greater complexity and a hybrid nature. In Balikpapan District Court Decision No. 7/Pid.Sus-Anak/2024/PN Bpp, the judgment was grounded in Article 310 of the Road Traffic and Transportation Act No. 22 of 2009. From a sociological standpoint, the judge emphasized that the child's actions resulted in the loss of human life, an outcome deemed intolerable. However, psychological factors were also taken into account, recognizing that the 16-year-old offender was still a student and experienced depression following the accident. Efforts at diversion, including a compensation amounting to Rp 35 million, were rejected by the victim's family, necessitating the case's progression to trial. Ultimately, the judge imposed a hybrid sanction comprising five months of institutional guidance at a probation office alongside three months of vocational training.<sup>61</sup> This ruling exemplifies a hybrid model that integrates retributive elements (institutional guidance) with rehabilitative measures (vocational training). Although this approach allowed limited consideration for the child's welfare and reintegration, it did not establish a substantive restorative forum involving the offender, the victim, and the community.<sup>62</sup>

### **Symbolic Restorative Justice and the Persistence of the Retributive Paradigm**

An examination of sixteen juvenile cases adjudicated at the Balikpapan District Court reveals a consistent pattern: imprisonment remains the predominant sentencing measure, while restorative justice components are largely symbolic. None of the cases resulted in successful diversion agreements. Instead, the majority of rulings (12 cases) combined imprisonment with short-term vocational training; five cases imposed imprisonment alone; one case combined imprisonment with community service; one returned the child to parental custody accompanied by vocational training; and only one case imposed vocational training as the sole sanction. Therefore, despite the explicit emphasis on diversion and non-custodial measures in the Juvenile Criminal Justice System Act,<sup>63</sup> juvenile court practices in Balikpapan reflect the persistence of a retributive paradigm, with rehabilitative elements primarily serving to confer formal legitimacy on child protection efforts.<sup>64</sup>

In cases involving child protection and narcotics offenses, restorative justice was predominantly symbolic. In eight child protection cases, judges imposed prison sentences ranging from 2.5 to 7 years, with nearly all sentences supplemented by vocational training. Judicial reasoning was based on Articles 81 and 82 of the Child Protection Act and supported by witness testimony, *visum et repertum*, and defendants' confessions. From a sociological perspective, judges emphasized that the offenders' actions provoked public unrest and brought dishonor to the victims' families, thereby positioning imprisonment as the primary instrument of justice. The inclusion of vocational training in sentencing essentially served as a formal measure and failed to provide the relational recovery mechanisms essential to promoting child welfare. One exceptional case resulted in institutional guidance following reconciliation; however, this was an anomaly rather than a standard practice.<sup>65</sup> A comparable pattern was observed in narcotics cases, where offenders aged 16 to 17 received prison sentences of one to three years despite possessing relatively small quantities and being established

<sup>61</sup> "Balikpapan District Court Decision No. 7/Pid.Sus-Anak/2024/PN Bpp."

<sup>62</sup> Dena M. Gromet and John M. Darley, "Retributive and Restorative Justice: Importance of Crime Severity and Shared Identity in People's Justice Responses," *Australian Journal of Psychology* 61, no. 1 (March 2009): 50–57.

<sup>63</sup> Sriwiyanti, Saefudin, dan Aminah, "Restorative Justice for Juvenile Offenders in Indonesia," 168–96.

<sup>64</sup> Wenzel et al., "Retributive and Restorative Justice," 375–89.

<sup>65</sup> "Balikpapan District Court Decision No. 13/Pid.Sus-Anak/2024/PN Bpp."

solely as users.<sup>66</sup> Judges invoked Articles 112 and 114 of the Narcotics Law, justifying their decisions through narratives emphasizing threats to the younger generation.<sup>67</sup> Given that narcotics offenses are normatively excluded from diversion programs, supplementary sanctions such as vocational training or fines served merely as pseudo-rehabilitative measures. Both categories demonstrate that justice in serious crimes is predominantly conceptualized within a retributive framework,<sup>68</sup> while the welfare considerations of children remain marginalized.

In contrast, cases involving theft and negligence exhibited greater variation, offering only a limited scope for hybrid models, which remained largely symbolic. In theft cases, judges often imposed brief prison sentences even when victims had forgiven the offenders because diversion measures had been unsuccessful. After all, the offenders' families were unable to pay restitution.<sup>69</sup> Consequently, restorative justice was effectively reduced to material compensation. An exception to this pattern is found in Balikpapan District Court Decision No. 17/Pid.Sus-Anak/2024/PN Bpp, wherein a 14-year-old offender was sentenced to six months of vocational training following reconciliation with the victim and a recommendation from the probation office.<sup>70</sup> Although this ruling demonstrated a more rehabilitative orientation, it nonetheless fell short of establishing the dialogical forum that is central to restorative justice. Similarly, in a negligence case, a 16-year-old was sentenced to five months of institutional guidance at a probation office and three months of vocational training.<sup>71</sup> The legal reasoning was grounded in Article 310 of the Traffic Law, with sociological considerations emphasizing the loss of life and psychological considerations acknowledging the offender's depression following the accident. While this ruling attempted to balance punitive and rehabilitative elements, it ultimately failed to provide substantive restoration for the victim's family. Thus, although theft and negligence cases offered limited opportunities for reintegrative shaming, judicial practice remained constrained by a predominantly retributive paradigm.

A comparative analysis reveals that theft and negligence offenses are conceptually more amenable to restorative justice due to their relatively minor nature, the potential for victim reparation through reconciliation, and the young age of the offenders. In such cases, reintegrative shaming can be effectively implemented, as justice is oriented toward both the offender's moral accountability and the restoration of the child's social welfare.<sup>72</sup> In contrast, child protection cases involving sexual violence and narcotics offenses—categorized as extraordinary crimes—are predominantly addressed within a retributive framework, with imprisonment serving as the principal sanction. Although rehabilitative measures are often incorporated into sentences, they tend to function as normative symbols rather than substantive interventions. Consequently, only specific categories of offenses permit meaningful restorative approaches, while serious crimes remain situated within a

<sup>66</sup> “Balikpapan District Court Decision No. 2/Pid.Sus-Child/2024/PN Bpp.”

<sup>67</sup> “Balikpapan District Court Decision No. 2/Pid.Sus-Child/2024/PN Bpp.”

<sup>68</sup> See: Ismail et al., “Collocation of Restorative Justice with Human Rights in Indonesia,” 394–417; Gromet dan Darley, “Retributive and Restorative Justice,” 50–57.

<sup>69</sup> “Balikpapan District Court Decision No. 22/Pid.Sus-Anak/2024/PN Bpp;” “Balikpapan District Court Decision No. 19/Pid.Sus-Anak/2024/PN Bpp.”

<sup>70</sup> “Balikpapan District Court Decision No. 17/Pid.Sus-Anak/2024/PN Bpp.”

<sup>71</sup> “Balikpapan District Court Decision No. 7/Pid.Sus-Anak/2024/PN Bpp.”

<sup>72</sup> Setya Wahyudi et al., “Recomposing the Handover and Return to Parents in the Juvenile Justice System in Indonesia: Dilemma between Best Interest of the Juvenile and Legal Shadow,” *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 8, no. 1 (2025): 263–84.

retributive paradigm that prioritizes legal certainty over the welfare of the child.<sup>73</sup>

In summary, judges' application of restorative justice in juvenile cases in Balikpapan primarily serves as a formal symbol, with the retributive paradigm prevailing and limiting opportunities for substantive recovery. These findings indicate that justice for children in conflict with the law is more often achieved through punishment rather than protection and restoration, resulting in only partial fulfillment of the welfare objectives outlined in the Juvenile Criminal Justice System Act. Within this framework, diversion mechanisms represent a critical tool that judges must fully utilize to ensure that juvenile justice transcends retributive verdicts and embraces more humane alternative resolutions.<sup>74</sup> Despite existing structural and cultural constraints,<sup>75</sup> community-based customary practices throughout Indonesia provide valuable insights by emphasizing *musyawarah*, social harmony, and local moral values.<sup>76</sup> The active involvement of customary institutions and local communities could enhance social legitimacy, expand participation, and ensure that restorative justice is implemented not merely as a formal symbol but as a substantive practice that balances legal certainty, justice, and the welfare of the child.<sup>77</sup>

## CONCLUSION

This study reveals that the implementation of restorative justice within juvenile court proceedings at the Balikpapan District Court is predominantly symbolic, as the retributive paradigm continues to prevail, with imprisonment serving as the principal sentencing method. Although the Juvenile Criminal Justice System Act No. 11 of 2012 normatively advocates for diversion and restorative approaches, the majority of cases—especially those involving child protection and narcotics—resulted in custodial sentences. Rehabilitative components were present only as ancillary measures, such as vocational training or community service, which proved insufficient in facilitating relational restoration among offenders, victims, and the community. In contrast, cases involving theft and negligence allowed for somewhat greater incorporation of hybrid approaches that integrated retributive and rehabilitative elements; however, their application remained largely formalistic. Consequently, this research substantiates that despite the normative endorsement of restorative justice within Indonesia's legal framework, juvenile court practices in Balikpapan remain firmly rooted in a retributive logic, offering minimal scope for genuine restorative outcomes.

<sup>73</sup> See: Dina Desvita Pramesti Putri, "Sounding the Justice for Child: Does Restorative Justice Matters?," *Journal of Law and Legal Reform* 4, no. 3 (July 2023): 303–24; Muhammad Nuril Fauzan, "Law, Society, and Religion: Rethinking Ta'zīr and Capital Punishment for Drug Trafficking in Indonesia," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 59, no. 1 (October 2025): 80–98, <https://doi.org/10.14421/ajish.v59i1.1608>.

<sup>74</sup> Aji, "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia," 73–88.

<sup>75</sup> Irhamudin dan Edrisy, "Restorative Justice in the Implementation of Diversion Against Child Criminal Victims," 223–38.

<sup>76</sup> See: Nur Rochaeti and Pujiyono Pujiyono, "Implementation Study of Restorative Justice for Juvenile Criminal Justice System by Customary Court in Mainland Sulawesi," *IOP Conference Series: Earth and Environmental Science* 156 (May 2018): 012044; Sopian Lubis, Husayn Muhyideen Ali, dan Ali Ali, "Decolonizing Education and the Green Economy: Religious and Indigenous Resistance to Extraction in Indonesia," *Journal of Religion and Decoloniality* 1, no. 1 (Juni 2025): 16–30, <https://doi.org/10.24260/jrd.1.1.40>.

<sup>77</sup> See: Rochaeti and Muthia, "Socio-Legal Study of Community Participation in Restorative Justice of Children in Conflict with the Law in Indonesia," 293–98; Ariefulloh Ariefulloh et al., "Restorative Justice-Based Criminal Case Resolution in Salatiga, Indonesia: Islamic Law Perspective and Legal Objectives," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (May 2023): 19–36. no. 1 (May 2023)

These findings have significant implications for enhancing diversion mechanisms and improving the capacity of judges, probation officers, and independent facilitators to ensure that restorative justice principles are substantively integrated into judicial practice, rather than remaining at a purely normative level.

## REFERENCES

- Aji, Wikan Sinatrio. "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia." *Journal of Indonesian Legal Studies* 4, no. 1 (April 2019): 73–88. <https://doi.org/10.15294/jils.v4i01.23339>.
- Alputila, M J, M A Tajuddin, dan Kahar. "Diversion Approach as an Alternative Case Resolution Son of the Conflict with the Law on Child Criminal Justice System (Case Study of Merauke)." *IOP Conference Series: Earth and Environmental Science* 343, no. 1 (Oktober 2019): 012249. <https://doi.org/10.1088/1755-1315/343/1/012249>.
- Amanda, Putri K., Shaila Tieken, Sharyn Graham Davies, dan Santi Kusumaningrum. "The Juvenile Courts and Children's Rights: Good Intentions, Flawed Execution." Dalam *The Politics of Court Reform*, 1 ed., disunting oleh Melissa Crouch, 267–86. Cambridge University Press, 2019. <https://doi.org/10.1017/9781108636131.012>.
- Ariefulloh, Ariefulloh, Hibnu Nugroho, Angkasa Angkasa, dan Riris Ardhanariswari. "Restorative justice-based criminal case resolution in Salatiga, Indonesia: Islamic law perspective and legal objectives." *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (Mei 2023): 19–36. <https://doi.org/10.18326/ijtihad.v23i1.19-36>.
- Arimuladi, Setia Untung. "Enhancing Legal Certainty Through Restorative Justice: A Focus on the Role of Indonesia's Attorney General's Office." *Pakistan Journal of Criminology* 16, no. 2 (2024): 903–12.
- Armstrong, Lisa Mary. "Is Restorative Justice an Effective Approach in Responding to Children and Young People Who Sexually Harm?" *Laws* 10, no. 4 (Desember 2021): 86. <https://doi.org/10.3390/laws10040086>.
- Bazemore, Gordon, dan Mara Schiff. "Restorative Justice, Social Justice, and the Empowerment of Marginalized Populations." Dalam *Restorative Community Justice*, 291–310. Routledge, 2001.
- Bergseth, Kathleen J., dan Jeffrey A. Bouffard. "Examining the Effectiveness of a Restorative Justice Program for Various Types of Juvenile Offenders." *International Journal of Offender Therapy and Comparative Criminology* 57, no. 9 (September 2013): 1054–75. <https://doi.org/10.1177/0306624X12453551>.
- Braithwaite, John. *Crime, Shame, and Reintegration*. Cambridge: Cambridge University Press, 1989. <https://doi.org/10.1017/CBO9780511804618>.
- Cavanagh, Caitlin. "Healthy Adolescent Development and the Juvenile Justice System: Challenges and Solutions." *Child Development Perspectives* 16, no. 3 (September 2022): 141–47. <https://doi.org/10.1111/cdep.12461>.
- Choi, Jung Jin, Gordon Bazemore, dan Michael J. Gilbert. "Review of Research on Victims' Experiences in Restorative Justice: Implications for Youth Justice." *Children and*

- Youth Services Review* 34, no. 1 (Januari 2012): 35–42. <https://doi.org/10.1016/j.childyouth.2011.08.011>.
- Ćopić, Sanja, dan Vesna Nikolić-Ristanović. “Introducing Restorative Approaches in Prison Settings: An Example of a Victim Awareness Program in Serbia.” Dalam *An International Perspective on Contemporary Developments in Victimology*, disunting oleh Janice Joseph dan Stacie Jergenson, 269–82. Cham: Springer International Publishing, 2020. [https://doi.org/10.1007/978-3-030-41622-5\\_19](https://doi.org/10.1007/978-3-030-41622-5_19).
- “Criminal Justice System for Children Act No. 11 of 2012.” t.t. Diakses 24 Agustus 2025. <http://peraturan.bpk.go.id/Details/39061/uu-no-11-tahun-2012>.
- Edelman, Meredith, dan Nathan Harris. “Reintegrative Shaming.” Dalam *The Routledge Companion to Criminological Theory and Concepts*, 1 ed., disunting oleh Avi Brisman, Eamonn Carrabine, dan Nigel South, 475–79. Routledge, 2018. <https://doi.org/10.4324/9781315744902-107>.
- Fauzan, Muhammad Nuril. “Law, Society, and Religion: Rethinking Ta‘zīr and Capital Punishment for Drug Trafficking in Indonesia.” *Asy-Syir’ah: Jurnal Ilmu Syari’ah Dan Hukum* 59, no. 1 (Oktober 2025): 80–98. <https://doi.org/10.14421/ajish.v59i1.1608>.
- Forde, Louise. “Welfare, Justice, and Diverse Models of Youth Justice: A Children’s Rights Analysis.” *The International Journal of Children’s Rights* 29, no. 4 (November 2021): 920–45. <https://doi.org/10.1163/15718182-29040005>.
- Fridayani, Helen Diana, dan Dina Desvita Pramesti Putri. “Sounding the Justice for Child: Does Restorative Justice Matters?” *Journal of Law and Legal Reform* 4, no. 3 (Juli 2023): 303–24. <https://doi.org/10.15294/jllr.v4i3.68106>.
- Gervais, Christine L. M., dan Matthew S. Johnston. “Reconsidering Reconciliation Within Families of Youth Who Sexually Offend.” *Journal of Interpersonal Violence* 37, no. 11–12 (Juni 2022): 10093–125. <https://doi.org/10.1177/0886260520985492>.
- Gromet, Dena M., dan John M. Darley. “Retributive and Restorative Justice: Importance of Crime Severity and Shared Identity in People’s Justice Responses.” *Australian Journal of Psychology* 61, no. 1 (Maret 2009): 50–57. <https://doi.org/10.1080/00049530802607662>.
- Guercio, Laura, dan Paolina Massidda. “Globalisation and Education Futures: Creating an International Institution for the Rehabilitation and Reintegration of Children Involved in Armed Conflict.” Dalam *Fourth International Handbook of Globalisation, Education and Policy Research*, disunting oleh Joseph Zajda, 969–94. Cham: Springer Nature Switzerland, 2024. [https://doi.org/10.1007/978-3-031-67667-3\\_50](https://doi.org/10.1007/978-3-031-67667-3_50).
- Hariyanto, Hariyanto, Idamatussilmi Idamatussilmi, dan Daud Risma. “The Government’s Role in Legal Protection of Land Ownership: Urutsewu Case.” *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (Agustus 2024): 277–91. <https://doi.org/10.22219/ljih.v32i2.34254>.
- Irhamudin, Irhamudin, dan Ibrahim Fikma Edrisy. “Restorative Justice in the Implementation of Diversion Against Child Criminal Victims.” *Nurani: Jurnal Kajian Syari’ah dan Masyarakat* 22, no. 2 (Desember 2022): 223–38. <https://doi.org/10.19109/nurani.v22i2.11501>.
- Ismail, Dian Ekawaty, Yusna Arsyad, Ahmad Ahmad, Novendri M. Nggilu, dan Yassine Chami. “Collocation of Restorative Justice with Human Rights in Indonesia.” *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (September 2024): 394–417. <https://doi.org/10.22219/ljih.v32i2.35374>.

- Iudici, Antonio, Elisa Alborghetti, dan Cristiana Ferri. "Mediation as a Restorative Justice Tool: Applications in the Italian Juvenile Judicial Context." Dalam *Restorative and Transitional Justice: Perspectives, Progress and Considerations for the Future*, disunting oleh Jessica Evans, 201–26. Nova Science Publishers, Inc., 2017.
- Januarsyah, Mas Putra Zenno. "Penerapan Restorative Justice dalam Tindak Pidana di Bidang Ketenagakerjaan." *LITIGASI* 25, no. 2 (Oktober 2024): 43–61. <https://doi.org/10.23969/litigasi.v25i2.17862>.
- Kamaliah, Mukarramah, dan Mhd Yazid. "Legal Consciousness and Living Legal Reasoning: Penghulus and Mediation in Resolving Marital Disputes at the Religious Affairs Office of East Pontianak." *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 2 (November 2025): 152–73. <https://doi.org/10.24260/ijssls.1.2.127>.
- Kimbrell, Catherine S., David B. Wilson, dan Ajima Olaghere. "Restorative Justice Programs and Practices in Juvenile Justice: An Updated Systematic Review and Meta-Analysis for Effectiveness." *Criminology & Public Policy* 22, no. 1 (Februari 2023): 161–95. <https://doi.org/10.1111/1745-9133.12613>.
- Leonardsen, Dag, dan Therese Andrews. "Youth Justice Reforms in Norway: Professional Support for the Panopticon Society?" *Youth Justice* 22, no. 1 (April 2022): 85–100. <https://doi.org/10.1177/1473225421995265>.
- Lubis, Muhammad Ansori, Gomgom T. P. Siregar, dan Rudolf Silaban. "Restorative Justice as a Protection Model for Juveniles Against the Law." *Journal of Advanced Research in Dynamical and Control Systems* 12, no. 6 (2020): 581–88. <https://doi.org/10.5373/JARDCS/V12I6/S20201066>.
- Lubis, Sopian, Husayn Muhyideen Ali, dan Ali Ali. "Decolonizing Education and the Green Economy: Religious and Indigenous Resistance to Extraction in Indonesia." *Journal of Religion and Decoloniality* 1, no. 1 (Juni 2025): 16–30. <https://doi.org/10.24260/jrd.1.1.40>.
- Marder, Ian D. "Mapping Restorative Justice and Restorative Practices in Criminal Justice in the Republic of Ireland." *International Journal of Law, Crime and Justice* 70 (September 2022): 100544. <https://doi.org/10.1016/j.ijlcj.2022.100544>.
- Miles, Matthew B., A. M. Huberman, dan Johnny Saldaña. *Qualitative Data Analysis: A Methods Sourcebook*. 3 ed. California: SAGE Publications, Inc, 2014.
- Moyo, Admark. "Balancing the Best Interests of the Child and the Interests of Society When Sentencing Youth Offenders and Primary Caregivers in South Africa." *South African Journal on Human Rights* 29, no. 2 (Januari 2013): 314–50. <https://doi.org/10.1080/19962126.2013.11865077>.
- Nashriana, Nashriana, Desia Rakhma Banjarani, Marwin S Del Rosario, dan Vera Novianti. "Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement." *Sriwijaya Law Review* 7 (Juli 2023): 318–34. <https://doi.org/10.28946/slrev.Vol7.Iss2.2427.pp318-334>.
- O'Mahony, David, dan Jonathan Doak. "Restorative Justice and Youth Justice: Bringing Theory and Practice Closer Together in Europe." Dalam *Reforming Juvenile Justice*, disunting oleh Josine Junger-Tas dan Frieder Dünkel, 165–82. New York, NY: Springer US, 2009. [https://doi.org/10.1007/978-0-387-89295-5\\_10](https://doi.org/10.1007/978-0-387-89295-5_10).

- Prasetiawan, Bayu Dwi, Azmi Siradjudin, dan Sakirman. "Maturity as a Parameter of Readiness and Prevention of Early Marriage Risks: Medical and Sociological Review of Family Law." *Indonesian Journal of Islamic Law* 7, no. 1 (Juni 2024): 89–104. <https://doi.org/10.35719/a4vc7d53>.
- Putri, Dina Desvita Pramesti. "Sounding the Justice for Child: Does Restorative Justice Matters?" *Journal of Law and Legal Reform* 4, no. 3 (Juli 2023): 303–24. <https://doi.org/10.15294/jllr.v4i3.68106>.
- Putri, Otavia Berlina Cahya, Lukman Santoso, dan Iqbal Saujan. "Why Pregnancy Is Not Enough: Judicial Interpretation of 'Urgent Grounds' in Child Marriage Dispensation Cases at the Madiun Religious Court." *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 2 (November 2025): 174–92. <https://doi.org/10.24260/ijssls.1.2.117>.
- Reyes-Quilodrán, Claudia, Catherine A. LaBrenz, dan Gabriela Donoso-Morales. "Justicia Restaurativa En Sistemas de Justicia Penal Juvenil Comparado: Suecia, Inglaterra, Italia y Chile." *Política Criminal* 13, no. 25 (Juli 2018): 626–49. <https://doi.org/10.4067/S0718-33992018000100626>.
- Richner, Kailey A., Sandra Pavelka, dan Dennis E. McChargue. "A Restorative Justice Intervention in United States Prisons: Implications of Intervention Timing, Age, and Gender on Recidivism." *International Journal of Offender Therapy and Comparative Criminology* 67, no. 12 (September 2023): 1193–210. <https://doi.org/10.1177/0306624X221086555>.
- Rismana, Daud, Hariyanto Hariyanto, Mabarroh Azizah, Ninik Zakiyah, dan Abdul Rahim Hakimi. "The Controversy on the Minimum Age for Marriage in Indonesia: Factors and Implications." *Journal of Sustainable Development and Regulatory Issues (JSDERI)* 2, no. 1 (Januari 2024): 53–66. <https://doi.org/10.53955/jsderi.v2i1.21>.
- Rochaeti, Nur, dan Nurul Muthia. "Socio-Legal Study of Community Participation in Restorative Justice of Children in Conflict with the Law in Indonesia." *International Journal of Criminology and Sociology* 10 (Februari 2021): 293–98. <https://doi.org/10.6000/1929-4409.2021.10.35>.
- Rochaeti, Nur, dan Pujiyono Pujiyono. "Implementation Study of Restorative Justice for Juvenile Criminal Justice System by Customary Court in Mainland Sulawesi." *IOP Conference Series: Earth and Environmental Science* 156 (Mei 2018): 012044. <https://doi.org/10.1088/1755-1315/156/1/012044>.
- Sirait, Trinita Yulinda, dan Irma Cahyaningtyas. "Restorative Justice Approach in the Settlement of Children's Cases in Indonesia." *Legality : Jurnal Ilmiah Hukum* 27, no. 2 (November 2019): 232. <https://doi.org/10.22219/jihl.v27i2.10160>.
- Sriwiyanti, Sriwiyanti, Wahyu Saefudin, dan Siti Aminah. "Restorative Justice for Juvenile Offenders in Indonesia: A Study of Psychological Perspective and Islamic Law." *Journal of Islamic Law* 2, no. 2 (Agustus 2021): 168–96. <https://doi.org/10.24260/jil.v2i2.335>.
- Strang, Heather, Lawrence W Sherman, Evan Mayo-Wilson, Daniel Woods, dan Barak Ariel. "Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review." *Campbell Systematic Reviews* 9, no. 1 (Januari 2013): 1–59. <https://doi.org/10.4073/csr.2013.12>.

- Sulbadana, Sulbadana, Haniyatul Husna Binti Md Mohtar, Andi Intan Purnamasari, dan Supriyadi Supriyadi. "Does International Law Acknowledge Restorative Justice?" *Sriwijaya Law Review* 7, no. 1 (Januari 2023): 121–34. <https://doi.org/10.28946/slrev.Vol7.Iss1.2130>. pp121-134.
- Supreme Court Decision Directory. "Balikpapan District Court Decision on Children in Conflict with the Law." Diakses 24 September 2025. <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pn-balikpapan/kategori/peradilan-anak-abh-1.html>.
- . "Balikpapan District Court Decision on Children in Conflict with the Law in 2024." Diakses 24 September 2025. <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pn-balikpapan/kategori/peradilan-anak-abh-1/tahunjenis/putus/tahun/2024.html>.
- Supriansa, Sufirman Rahman, Ilham Abbas, dan Hardianto Djanggih. "The Essence of Restorative Justice in the Development of Indonesian Law." *Revista de Gestão Social e Ambiental* 18, no. 8 (April 2024): e05780. <https://doi.org/10.24857/rgsa.v18n8-025>.
- Wahyudi, Setya, Rani Hendriana, Dwiki Oktoberian, dan Bhanu Prakash Nunna. "Recomposing the Handover and Return to Parents in the Juvenile Justice System in Indonesia: Dilemma between Best Interest of the Juvenile and Legal Shadow." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 8, no. 1 (2025): 263–84. <https://doi.org/10.24090/volksgeist.v8i1.13130>.
- Waluyadi, Muslikhah, dan Montiasa Mariana. "Understanding Judge's Decisions That Are Best for the Child Post the Failure of Diversion." *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 10, no. 1 (April 2025): 404–18. <https://doi.org/10.22373/petita.v10i1.455>.
- Wenzel, Michael, Tyler G. Okimoto, Norman T. Feather, dan Michael J. Platow. "Retributive and Restorative Justice." *Law and Human Behavior* 32, no. 5 (Oktober 2008): 375–89. <https://doi.org/10.1007/s10979-007-9116-6>.
- Wong, Dennis S. W., dan Katherine Y. Kwan. "Restorative Justice for Juvenile Offenders in China: Current Practices and Challenges." *China Journal of Social Work* 13, no. 2 (Mei 2020): 121–37. <https://doi.org/10.1080/17525098.2020.1774985>.
- Wong, Dennis S. W., dan Katie H. H. Tu. "Restorative Justice for Delinquents in Hong Kong: Current Practices and Challenges." *Asia Pacific Journal of Social Work and Development* 28, no. 3 (Juli 2018): 178–91. <https://doi.org/10.1080/02185385.2018.1498386>.
- Wong, Dennis Sing-Wing, dan Louis Wai-Yin Mok. "Restorative Justice and Practices in China." *British Journal of Community Justice* 8, no. 3 (2010): 23–35.