



Characteristics of the Juvenile Criminal Justice System in Indonesia from The Perspective of The Purpose of Punishment

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ABSTRACT: The juvenile criminal justice system in Indonesia has undergone a significant transformation with the enactment of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) which prioritizes a restorative justice and diversion approach. However, its implementation still faces various normative and operational challenges, especially related to the integration of therapeutic approaches (therapeutics treatment) as an integral part of the system. This study uses normative legal research methods with a statute approach, a case approach, a comparative approach, and a theoretical approach. The results of the study show that there is a gap between the philosophical foundation of rehabilitative-reintegrative child punishment as mandated by the National Criminal Code Article 112 and the reality of implementation that still tends to be retributive. Regulatory reconstruction is needed to systematically integrate therapeutic approaches in every stage of juvenile criminal justice, from investigation to post-criminal coaching, in order to realize the true goals of punishment for children.

KEYWORDS: Juvenile Criminal Justice System, Purpose of Punishment, Restorative Justice, Therapeutics Treatment, National Criminal Code.

I. INTRODUCTION

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (Child Protection Law) comprehensively regulates children's rights and the state's obligation to provide special protection to children who are in conflict with the law. Article 59 paragraph (2) letter b emphasizes that special protection for children who are in conflict with the law is carried out through humane treatment in accordance with the dignity and rights of children, the provision of special assistance officers for children from an early age, the provision of special facilities and infrastructure, the imposition of appropriate sanctions for the best interests of children, as well as continuous monitoring and recording of the development of children who are in

conflict with the law. Furthermore, Indonesia has ratified the Convention on the Rights of the Child through Presidential Decree Number 36 of 1990. This convention sets international standards in the protection of children's rights, including children facing the law. The fundamental principles of the convention include non-discrimination, the best interest of the child, the right to life, survival and development, and respect for the views of the child. Specifically related to juvenile justice, Article 37 and Article 40 of the Convention on the Rights of the Child stipulate that the arrest, detention or imprisonment of a child must be in accordance with the law and used only as a last resort for the shortest period of time.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) also provide comprehensive guidance on the handling of children in the criminal justice system. Beijing Rules emphasize that the disposition of children's cases must always be proportionate not only to the circumstances and seriousness of the offense, but also to the conditions and needs of the child as well as the needs of the community. Beijing Rules also encourage the use of various institutionalized alternatives to ensure children are treated in a manner that is appropriate to their well-being and commensurate with their circumstances and the offenses committed. In the context of criminalization, Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) also specifically regulates crimes for children. Article 112 of the National Criminal Code emphasizes in essence that the punishment of children is carried out by considering the best interests of the child and prioritizing a restorative justice approach. This provision strengthens the orientation of the juvenile criminal justice system which is rehabilitative and reintegrative, not just retributive.

Although the legal foundation has accommodated the principles of child protection and restorative justice, its implementation on the ground still faces a variety of normative and operational



constraints. Provisions regarding therapeutic treatment have not been regulated explicitly and systematically in existing regulations, so their application is still sporadic and depends on the discretion of law enforcement officials. This condition shows the need for regulatory reconstruction that integrates therapeutic approaches as an integral part of the juvenile criminal justice system. Article 51 of the National Criminal Code explicitly states that criminalization aims to prevent criminal acts through the enforcement of norms for the protection of the community. For children, this prevention is carried out with a persuasive and educational approach, ensuring that legal norms are understood as protective limits, not just threats. The implementation of therapeutic treatment is very visible in the goal of socializing convicts through coaching and guidance. Article 51 letter b emphasizes that children become good and useful individuals, which in practice means providing psychological and medical services to correct deviant behavior.

Article 52 of the National Criminal Code provides a guarantee that punishment must not degrade human dignity. This is the basis that every action or therapy given to children must be carried out with full respect for human rights and the uniqueness of the child's developmental phase. In the judicial process, Article 53 of the National Criminal Code mandates judges to prioritize justice over legal certainty in the event of a conflict. This allows the judge to make a verdict in the form of a therapeutic "action" rather than a prison sentence in the best interest of the child. The juvenile criminal justice system in Indonesia, which is based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) and strengthened by the National Criminal Code, has normatively adopted a rehabilitative and restorative approach that places the best interests of the child as the main orientation of punishment. The characteristics of this system reflect the state's commitment not to treat the child of criminal offenders solely as legal subjects who must be punished, but as individuals in the developmental stage that requires coaching, recovery, and social reintegration.

Although normatively the Indonesian juvenile criminal justice system has been rehabilitative-oriented, the reality of its implementation shows significant disparities. The therapeutic approach (therapeutics treatment) has not been systematically integrated in every stage of justice, so its implementation is still sporadic and depends on the discretion of law enforcement. In

addition, the uneven infrastructure of the Children's Special Development Institution (LPKA), the lack of professionals in the field of child forensic psychology and psychiatry, and the still dominant retributive culture among law enforcement officials make it difficult to achieve the true goal of punishment for children optimally. It is necessary to reconstruct the comprehensive juvenile criminal justice system through two main paths: first, normative reconstruction in the form of explicit and systematic regulation of therapeutics treatment in the implementing regulations of the SPPA Law; and second, operational reconstruction in the form of strengthening institutional capacity, human resources, and supporting infrastructure so that the rehabilitative-reintegrative characteristics of the juvenile criminal justice system can be truly realized in practice and in line with the goals of punishment as mandated by the National Criminal Code.

II. RESEARCH METHODS

This research uses a normative legal research method that focuses on the analysis of primary, secondary, and tertiary legal materials. The approaches used include: first, the statute approach by examining the SPPA Law, the National Criminal Code, the Child Protection Law, and relevant international legal instruments; second, the case approach by analyzing court decisions related to juvenile justice; third, the comparative approach (comparative approach) by comparing the juvenile criminal justice system in several countries; and fourth, a theoretical approach using criminal theories, restorative justice theory, and therapeutic legal theories as analytical tools. Legal materials are collected through literature studies and analyzed qualitatively using prescriptive-analytical methods to produce legal propositions that can answer research problems.

III. RESULTS AND DISCUSSIONOBSERVATIONS FROM THE TESTS CONDUCTED SOLENOID FORCE

1. Normative Characteristics of the Juvenile Criminal Justice System in Indonesia

The juvenile criminal justice system in Indonesia has characteristics that fundamentally distinguish it from the general criminal justice system. This distinction is not just procedural, but touches on philosophical, substantial, and institutional aspects. The SPPA Law introduces the concept of diversion as a mechanism for resolving children's cases outside the formal judicial channels,



which is a concrete implementation of the restorative justice approach. Diversion is required to be sought at every stage of judicial investigation, prosecution, and examination in court for cases where the criminal threat is under seven years and is not a repetition of a criminal act (Article 7 of the SPPA Law). The first main characteristic is the principle of *ultimum remedium*, which is the placement of the criminal penalty of deprivation of independence as a last resort. This principle is in line with Article 37 of the Convention on the Rights of the Child which requires detention only as a last resort and for the shortest possible time. In practice, this principle is manifested through the obligation of diversion and a number of alternative sanctions that can be imposed on children, ranging from return to parents, handover to someone, treatment in a mental hospital, obligation to attend formal education, revocation of driver's licenses, to correction due to criminal acts.

The second key characteristic is the personalization of the approach. In contrast to the general court, which emphasizes the objective aspect of the crime, juvenile justice prioritizes the subjective aspects of the perpetrator, namely psychological conditions, family background, social environment, and children's developmental needs. This is reflected in the obligation to prepare a Community Research Report (Litmas) by the Community Supervisor before the trial (Article 56 of the SPPA Law), which is the basis for the judge's consideration in making a decision. The third characteristic is the confidentiality of the process. Children's hearings are carried out behind closed doors (Article 54 of the SPPA Law) to protect children's privacy and dignity and prevent stigmatization that can hinder the process of social reintegration. The identity of the child of the perpetrator of the crime is also protected and must not be published. This characteristic reflects the system's commitment not to destroy the child's future through a permanent criminal label. The fourth characteristic is multi-agency and multi-disciplinary. The juvenile criminal justice system involves not only law enforcement officials (investigators, prosecutors, judges), but also Community Counselors from the Correctional Center (Bapas), social workers, psychologists, and parents or guardians of children. This multi-professional involvement is intended so that child handling is carried out holistically by considering all dimensions of children's needs.

2. *The Purpose of Criminalization in the National Criminal Code and Its Relevance for Children*

The National Criminal Code (Law No. 1 of 2023) marks a new chapter in Indonesian criminal law politics by adopting an integrative criminal theory, combining retributive, preventive, rehabilitative, and restorative elements. Article 51 of the National Criminal Code sets comprehensive criminal objectives, including: (a) preventing the commission of criminal acts by enforcing legal norms for the protection of the community; (b) socializing convicts by providing coaching so that they become good and useful people; (c) resolving conflicts caused by criminal acts, restoring balance, and bringing a sense of peace in society; (d) exonerating the guilt of the convict; and (e) pardon the convict. For children, the relevance of the purpose of the punishment has a deeper dimension considering the psychological and neurological condition of children who are still in the developmental stage. Modern neuroscience has proven that the prefrontal cortex, the part of the brain responsible for decision-making, impulse control, and risk assessment, was not fully developed until the mid-twenties. These findings scientifically support a rehabilitative approach to juvenile punishment, because children have a much greater capacity for recovery (plasticity) than adults. Thus, therapeutic punishment is not only more humane, but also more effective in achieving the goal of long-term punishment.

The purpose of correctional care for convicts through coaching (Article 51 letter b of the National Criminal Code) is the heart of the modern juvenile criminal justice system. Coaching at LPKA should not only include aspects of vocational skills, but also psychological therapy, family counseling, formal education, and integrated spiritual coaching. However, the evaluation of the implementation of coaching at LPKA shows that the therapeutic component is still very minimal due to limited professional personnel and budget. The goal of conflict resolution and balance restoration (Article 51 letter c of the National Criminal Code) provides a theoretical basis for the practice of victim-offender mediation and community forums in handling children's cases. The objectives of acquittal (Article 51 letter d) and pardoning the convicted (Article 51 letter e) have a strong resonance with the principle of therapeutic treatment, because both goals require a deep psychological process, not just mechanical criminal execution.



3. *Therapeutics Treatment as an Instrument for Achieving the Goal of Child Criminalization*

The concept of therapeutic treatment in the context of juvenile criminal justice refers to a series of interventions designed to restore the child's psychological, mental, and social condition, so that the child can return to function optimally in society. This approach is rooted in the tradition of therapeutic jurisprudence developed by David Wexler and Bruce Winick, who see law as an agent of social therapy that can have a positive or negative psychological impact on the individuals involved in it. In the juvenile criminal justice system, therapeutic treatment can be implemented at every stage of the process. At the investigation stage, a therapeutic approach is carried out through child-friendly interviewing techniques, prevention of secondary victimization, and assessment of children's needs from the beginning. At the prosecution stage, the prosecutor can consider the child's psychological condition in determining charges and charges, and actively seek diversion. At the trial stage, judges who are specially trained to handle children's cases can choose the type of sanction that is most conducive to the child's recovery based on Litmas' recommendations from the father and the psychologist's report.

Comparative studies show that countries that have systematically integrated therapeutics treatment, such as Norway, Finland, and New Zealand, have significantly lower rates of child recidivism than countries that still apply a retributive approach. The Youth Court model in the United States and the Family Group Conference (FGC) in New Zealand can be a reference for the development of a more comprehensive and therapeutic model for child care in Indonesia. Although the normative framework has provided an adequate foundation for rehabilitative approaches, there are some critical gaps that hinder its implementation. First, there are no regulations that explicitly define and regulate the standard of therapeutics treatment in the juvenile criminal justice system. The SPPA Law and its implementing regulations regulate more procedural aspects than the substance of the therapeutic intervention that must be given to children.

Second, there is a significant capacity gap between the need and availability of professionals in the fields of child psychology, forensic psychiatry, and social workers. Many fathers in the regions lack Community Counselors with children's specialties, so the Litmas produced are not always able to provide a comprehensive

picture of the condition and needs of children. Third, the limited infrastructure of LPKA in terms of both the number and quality of facilities causes children from various regions to sometimes have to be placed in LPKA far from their families, which is counterproductive for the purpose of social reintegration. Fourth, there is still cultural resistance among some law enforcement officials who view the rehabilitative approach as a form of leniency for criminals, instead of understanding it as a more effective strategy in preventing recidivism. This view is exacerbated by pressure from public opinion that often demands harsh punishment for children of certain crimes, especially those involving violence or narcotics. Based on the above analysis, the reconstruction of the juvenile criminal justice system that is therapeutic and in line with the objectives of the National Criminal Code requires simultaneous steps at the normative and operational levels.

At the normative level, it is necessary to issue implementing regulations—both in the form of Government Regulations and related Ministerial Regulations—that explicitly regulate: (a) the minimum standard of therapeutics treatment that must be provided to every child who is in conflict with the law; (b) comprehensive psychological and social assessment mechanisms at each stage of the judiciary; (c) protocols for handling children with special needs or children with mental health disorders; and (d) a systematic monitoring and evaluation system of the effectiveness of the therapeutic intervention provided. At the operational level, it is needed: (a) to increase the number and quality of LPKA and its facilities in order to be able to carry out a comprehensive coaching program; (b) recruitment and training of psychologists, psychiatrists, and social workers who specialize in child care; (c) strengthening post-criminal aftercare programs to ensure the successful reintegration of children into society; and (d) public education campaigns on rehabilitative approaches in juvenile justice to build community understanding and support. In addition, it is necessary to develop a therapeutic youth court model for children as an institutional innovation. This model adopts the principles of problem-solving court by emphasizing collaboration between judges, prosecutors, legal counsel, community counselors, and other professionals in designing an individualized and measurable rehabilitation plan for each child. This kind of court has proven effective in various jurisdictions in reducing recidivism and increasing the success of social reintegration.



VI. CONCLUSION

The juvenile criminal justice system in Indonesia normatively has characteristics that are oriented towards rehabilitative-reintegrative, as reflected in the SPPA Law, the Child Protection Law, and the National Criminal Code. This legal framework is in line with Indonesia's international commitments as contained in the Convention on the Rights of the Child and the Beijing Rules. The purpose of punishment in the National Criminal Code, especially the correctional of convicts through coaching, conflict resolution, balance redress, guilt release, and forgiveness—provides a strong normative foundation for the integration of therapeutic approaches in juvenile justice. However, there is still a significant gap between *das sollen* (aspired norms) and *das sein* (implementation reality). The absence of explicit arrangements regarding therapeutic treatments, limited institutional capacity and human resources, and cultural resistance among law enforcement officials and the community are the main obstacles. The reconstruction needed is twofold: normative reconstruction through explicit and systematic arrangements, and operational reconstruction through strengthening institutional capacity and human resources. Only through this comprehensive approach can the characteristics of the juvenile criminal justice system that is truly in the best interests of the child and oriented towards recovery and reintegration can be realised in law enforcement practices in Indonesia.

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