

DECONSTRUCTION OF CRIMINAL PUNISHMENT FOR CHILDREN: A PHILOSOPHICAL, LEGAL, AND SOCIOLOGICAL STUDY

Aji Mulyana¹, Iip Saripudin², Chepi Ali Firman Zakaria³,
Kayla Andini Putri⁴, & Ajeng Permana⁵

¹Faculty of Law, Suryakancana University
email: ajimulyana@unsur.ac.id

²Faculty of Law, Mayasari Bakti University
email: iipsaripudin62@gmail.com

³Faculty of Law, Bandung Islamic University
email: chepiafirmanzakaria@gmail.com

⁴Faculty of Law, Suryakancana University
email: kaylaandiniputri44@gmail.com

⁵Faculty of Law, Suryakancana University
email: ajengpermana21@gmail.com

Abstract

The criminalisation of children in conflict with the law still leaves many issues unresolved because law enforcement practices are not yet fully aligned with the principle of child protection, which treats children as individuals in the process of development. The high rate of juvenile delinquency in Tasikmalaya and Cianjur shows that juvenile crime is a multidimensional issue with internal factors such as family dysfunction, trauma, and weak self-control, as well as external factors such as a permissive social environment, peer influence, and structural pressure. This study aims to deconstruct the paradigm of child punishment through philosophical, juridical, and sociological analysis to assess the suitability between the ideal values of the SPPA Law and its implementation in the field. The research method used a qualitative approach with a constructivist paradigm combined with a normative-empirical approach through regulatory review, literature study, case analysis, limited interviews, and field observations in Cianjur Regency and Tasikmalaya City. The results of the study reveal a discrepancy between the principle of restorative justice in the SPPA Law and the practice of punishment, which is still retributive in nature, influenced by a lack of rehabilitation facilities, a lack of understanding among officials, weak coordination between institutions, and other structural and cultural barriers. This study emphasises the need for comprehensive reform through strengthening diversion, providing child-friendly facilities, increasing the capacity of officials, and formulating regional policies based on restorative justice to realise sentencing that is oriented towards guidance, protection, and social reintegration of children.

Keywords: Criminalisation; Judiciary; Juridical; Philosophy; Sociological.

Abstrak

Penelitian ini bertujuan untuk menganalisis dekonstruksi pemidanaan terhadap anak dalam perspektif filosofis, yuridis, dan sosiologis, dengan menyoroti penerapan prinsip keadilan restoratif dalam sistem peradilan pidana anak di Indonesia. Anak merupakan subjek hukum yang memiliki hak khusus karena berada dalam tahap perkembangan fisik, mental, dan sosial yang belum sempurna. Namun, praktik pemidanaan konvensional masih cenderung bersifat represif dan berpotensi menimbulkan stigma sosial. Melalui pendekatan kualitatif konstruktivis dan metode normatif-empiris, penelitian ini menelaah Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, serta menganalisis data empiris di Kabupaten Cianjur dan Kota Tasikmalaya. Hasil penelitian menunjukkan bahwa penerapan diversi dan prinsip keadilan restoratif masih menghadapi kendala berupa keterbatasan sumber daya manusia, sarana rehabilitasi, dan pemahaman aparat penegak hukum. Secara filosofis, pemidanaan anak seharusnya diarahkan pada pembinaan dan pemulihan moral, bukan pembalasan. Secara yuridis, Undang-Undang Sistem Peradilan Pidana Anak telah mengadopsi prinsip best interest of the child, diferensiasi pidana, dan asas ultimum remedium sebagai bentuk perlindungan terhadap hak anak. Sementara itu, secara sosiologis, faktor penyebab tindak pidana anak meliputi disfungsi keluarga, lemahnya kontrol diri, pengaruh teman sebaya, serta tekanan lingkungan sosial dan ekonomi. Oleh karena itu,

rekonstruksi kebijakan pemidanaan anak harus menekankan paradigma humanis, edukatif, dan rehabilitatif agar selaras dengan tujuan keadilan substantif dan pembangunan karakter bangsa.

Kata Kunci: *Filosofi; Pidana; Peradilan; Sosiologi; Yuridis.*

INTRODUCTION

Children are an important component in national development as the future generation of the nation (Jarasovna and Trainee 2025). According to the Indonesian human development perspective, children are not only seen as objects of protection, but also as subjects who have the ability to develop and grow in the best possible way, both in terms of physical, mental and social development (Najafov 2025; Azriadi, Hartiwiningsih, and Jamin 2024). Therefore, the state is obliged to ensure the safety of children in every aspect of their lives, including within the legal system.

However, in reality, children are often a vulnerable and powerless group in the criminal justice system (Ratnasari et al. 2025; Jiménez et al. 2023; McCausland and Baldry 2023; Abrams, Mizel, and Barnert 2021). Stigmatisation, discrimination, and violence against children occur regardless of the child's sociological conditions, social environment, or stage of development (Purwanti Ani 2024). In general, crimes committed by children are not the result of free will; rather, they are the result of interactions with various factors, such as social interactions, family functioning, peer

themes, and even environmental maintenance.

Based on data from the Tasikmalaya Resort Police, there has been fluctuation in the number of juvenile delinquency cases reported over the past three years. In 2022, there were 20 cases, 16 cases in 2023, and 17 cases in 2024. This data indicates that, despite efforts by various parties to prevent and educate, juvenile delinquency remains a complex social issue that requires a holistic approach in this sector.

In addition to Tasikmalaya City, a similar phenomenon also occurred in Cianjur Regency. Based on data from the Cianjur Resort Police, from 2022 to 2024 there were 375 cases of children in conflict with the law. The most prevalent cases involve sexual offences against children, with perpetrators aged between 15 and 17 years old. This situation indicates that children in Cianjur are also facing social and environmental pressures that can influence their behaviour, necessitating greater attention in character development and social protection.

This phenomenon demonstrates the importance of an approach that is not only oriented towards punishment, but also towards restorative and rehabilitative

efforts. Although children are legally considered capable of being held responsible for their actions, their social and sociological circumstances must be a primary consideration in handling criminal cases involving children. Therefore, parents, society, and the state must pay special attention to the guidance, education, and behavioural development of children so that they do not fall into unlawful acts (Flynn, Shaman, and Redleaf 2023) .

The relationship between children and parents also plays an important role in shaping children's character. In the context of criminalisation, separating children from their parents should be a last resort. If necessary, such separation should be done solely in the best interests of the child's growth and development (Akeson et al. 2012) . Ultimately, this discussion aims to provide a starting point for deconstructing the practice of criminalizing children through philosophical, legal, and sociological analysis, so that the direction of policy reform and juvenile criminal justice practices can be aligned with the principle of the best interests of the child.

RESEARCH METHODOLOGY

This study uses a qualitative approach with a constructivist paradigm, as formulated by John W. Creswell in his book *Research Design: Qualitative, Quantitative, and Mixed Methods*

Approaches (2018). According to Creswell, the qualitative approach aims to understand the subjective meanings that individuals or groups form about a social issue, through data collected naturally and analysed inductively (Creswell and David Creswell 2018) . This approach was chosen because the issue of juvenile punishment involves complexities related to the social context, values, and life experiences of children who come into contact with the law. Therefore, data will be collected through literature studies, legal documents, and in-depth interviews with law enforcement officials, parents, and relevant child advocates. This research is based on the understanding that social reality is multifaceted and shaped by social constructs, so researchers play an active role in interpreting the meanings that emerge from the data in the field.

Methodologically, this study also uses a normative-empirical approach in the tradition of legal research. The normative approach was conducted by examining relevant legislation, particularly Law No. 11 of 2012 on the Criminal Justice System for Children, the Criminal Code (KUHP), and various implementing regulations (Benuf and Azhar 2020) . An empirical approach is used to observe how these regulations are actually applied in the handling of juvenile criminal cases in the field, including in the context of two different regions, namely Cianjur Regency

and Tasikmalaya City, which are the focus of the study. Empirical data will be obtained through case studies, documentation, and observation of juvenile criminal justice practices, both from the perspective of law enforcement officials and the experiences of children as perpetrators and victims.

The combination of the constructivist approach (Creswell) and the normative-empirical method is intended to produce a comprehensive analysis, not only looking at the legalistic aspects of juvenile sentencing, but also revealing the sociological and philosophical dimensions that shape and influence the practice of juvenile justice. Thus, this study is expected to formulate recommendations based on the principles of restorative justice, respect for children's rights, and support for the transformation of juvenile criminal law in Indonesia.

RESEARCH RESULTS AND DISCUSSION

1. Summary of Punishment for Children in Indonesia

The criminal justice system in Indonesia recognises that children are legal subjects with a special status, meaning that they cannot be treated in the same way as adults under the law. This is reflected in the enactment of Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA Law), which replaced Law No. 3 of 1997

on Juvenile Courts (UUPA) with new, more comprehensive provisions. With the revision of this law, the Indonesian legal system emphasises the distinction in the treatment of children in conflict with the law, emphasising the principles of diversion, restorative justice, and treatment that differs from general criminal law. For example, criminal penalties for children are set at only half ($\frac{1}{2}$) of the maximum penalties for adults, and the death penalty and life imprisonment are not applicable to children (Rizki and Br.Sinaga 2025). These provisions reflect a more humane and equitable approach, which aims to protect children's rights while ensuring that every legal process takes into account philosophical, legal and sociological aspects.

This legal framework is based on Child Protection Theory, which states that children are individuals who are not yet legally competent and are still in the stages of sociological, emotional, and social development, thus requiring special treatment by the state, family, and society (Khairunnisa and Rasji 2024). This is in line with the views of Jean Piaget and Erik Erikson, who explain that during childhood, moral development and logical thinking abilities are not yet fully developed, so deviant behaviour is influenced more by environmental factors than by malicious intent (Meifang 2024;

Mustafa, Fanaj, and Melonashi 2021) . Therefore, from the perspective of criminal theory, the approach to children who commit crimes cannot be oriented towards retribution (*retributive theory*), but must be directed towards recovery and guidance, as stipulated in rehabilitative and restorative theories.

However, in practice, the implementation of the principles of special treatment for children still faces a number of challenges, including a lack of understanding among law enforcement officials of the values of restorative justice, a lack of rehabilitation support facilities, and the continued dominance of a repressive approach in the criminal justice system. These challenges indicate a gap between the idealism of the legal norms in the SPPA Law and their implementation in the field, which ultimately hinders the achievement of the main objectives of the juvenile criminal justice system, namely guidance and protection, rather than retribution. Therefore, philosophical, juridical, and sociological approaches are important to re-examine the structure, values, and practices of juvenile punishment in Indonesia so that they are more adaptive to the developmental needs of the subject and social justice.

The implementation of these principles is evident in the diversion mechanism, which is the transfer of case

resolution from the criminal justice process to an out-of-court process that is more educational and participatory in nature. In accordance with Article 7 paragraph (1) of the SPPA Law, diversion must be pursued at the investigation, prosecution and court examination stages, especially for cases where the criminal penalty is less than seven years or is not a repeat offence. This reflects efforts to prevent children from being labelled as "criminals", which could worsen their development and integration in the future (labelling theory) (Rowan et al. 2023) .

Thus, the legal framework for the punishment of children in Indonesia is not only oriented towards formal law enforcement, but also represents a new paradigm that is humanistic and child protection-oriented, as emphasised in various international instruments, such as the United Nations Convention on the Rights of the Child (CRC), which was ratified through Presidential Decree No. 36 of 1990 concerning the Ratification of the *Convention on the Rights of the Child*.

Law No. 11 of 2012 on the Criminal Justice System for Children (SPPA Law) is an important milestone in the transformation of criminal law for children in Indonesia. This law not only reforms the criminal justice process but also shifts the paradigm of juvenile punishment from a repressive model to one of protection and

rehabilitation. This indicates that children are no longer positioned solely as objects of punishment but as subjects of law who are protected, in line with the principle of child protection in modern law (Panu, Moonti, and Ahmad 2025) .

This transformation reflects changes in the legal system, which now places greater emphasis on humanity and moral guidance for children. In the realm of criminal law, children are treated as individuals who are still in their developmental stage, so that legal treatment of them must prioritise education, care and character building. The main focus is not on punishment, but on efforts to redirect children towards proper behaviour through a humane and fair guidance process. The SPPA Law emphasises that the legal handling of children must always be based on humanitarian values and guarantee the principle of non-discrimination for all children in conflict with the law, the relevance of which is clearly evident in the following context regarding the dynamics of children's cases in the region (Ayu Permatasari et al. 2025) .

This context is reflected in empirical data from the Tasikmalaya and Cianjur regions, which shows that the number of juvenile crimes remains high. According to records from the Tasikmalaya Resort Police, in the last three years the number of juvenile delinquency cases has fluctuated,

with 20 cases in 2022, decreasing to 16 cases in 2023, and increasing again to 17 cases in 2024. Meanwhile, in Cianjur Regency, there were 375 cases of children in conflict with the law in the 2022–2024 period, with the majority of perpetrators aged between 15 and 17 years old, which is clearly illustrated by three case examples that describe the complexity of juvenile crime.

From the results of the investigation report (BAP), three cases were found that reflect the complexity of juvenile crime and its relationship to the principle of restorative justice. First, the case of Andika Irawansyah (17 years old) who was involved in a brawl in Cianjur. Based on the BAP, Andika was invited by his friends to gather at a hooligan hangout, which then turned into an invitation to participate in a brawl. During the incident, Andika carried a sharp weapon, a machete, and joined others in chasing the victim. Although he did not use the weapon to injure the victim, his actions contributed to the clash that resulted in the death of his opponent, who crashed into a kerb while being chased. After the incident, Andika fled to Bandung for three days before finally turning himself in and admitting to his actions, which were later corroborated by the chronology of the second case.

Secondly, there is the case of Muhammad Rafly Putra Pratama (17 years

old), who was also involved in the brawl. Rafly explained that he participated because his friend invited him due to a lack of transportation. He brought a knife and sat in the middle while carrying three people on a motorcycle. According to his statement, Rafly did not directly attack the victim, but he realised that his participation had contributed to the violence that ended fatally. He admitted that he regretted his actions and understood that he had made a mistake by accepting a risky invitation without careful consideration, which then led to the third case, which showed a greater level of involvement.

Third, the case of Ridwan Ramdani (18 years old), who played a more active role in the incident. According to the police report, Ridwan and his friend, Farhan Maulana, accepted a challenge to fight from another group via Instagram messages. He participated in planning and pursuing the victim. In the incident, Ridwan kicked the victim's motorbike, causing it to fall and crash into the pavement, while his friend slashed the victim's back with a sharp weapon. His actions showed significant direct involvement in escalating the violence, even though he also expressed remorse, which ultimately led to an analysis of the background to the children's involvement.

These three cases show variations in the patterns of children's involvement,

ranging from dominant roles to mere followers. However, all cases share similar underlying factors. Based on field findings, factors such as peer influence, social pressure, lack of family supervision, and unstable emotional drives are important triggers. Most children are involved because of group solidarity and the need for social recognition. In addition, the role of social media, such as the use of direct messages on Instagram, facilitates the process of inviting others to participate and planning fights, which then leads to a deeper understanding of how the judicial system treats children in criminal cases.

This phenomenon shows that the criminal justice system still often treats children as perpetrators of crime without fully considering philosophical, legal and sociological aspects of their development. In fact, in accordance with the spirit of the Child Protection Law, children who commit offences should not be seen solely as perpetrators of crime, but as individuals who need guidance and protection so that they can readjust their behaviour to legal and social norms.

The main principles in the SPPA Law are rooted in Child Protection Theory and the norms in *the Convention on the Rights of the Child* (CRC), which has been ratified by Indonesia. The principle of "*the best interests of the child*" is the main foundation governing the entire legal process,

emphasising that every action in the criminal justice system must prioritise the welfare and future of the child.

The principles of non-discrimination and humane treatment reflect the values of legal humanism, which are in line with Legal Moralism, namely that the treatment of children should not demean their dignity as developing human beings. Meanwhile, the concept of *child-friendly justice* and protection of children's identity strengthens the position of children as individuals who are entitled to security and privacy, and are protected from social stigmatisation as a result of legal proceedings (Hadiman and Laia 2023).

Furthermore, the principle of *ultimum remedium*, namely the use of punishment as a last resort, is rooted in the Utilitarian Theory of Punishment, as stated by Jeremy Bentham, that punishment is only appropriate if it is truly beneficial and necessary to prevent further criminal acts. Therefore, in practice, the SPPA Law requires a diversion mechanism, namely the settlement of juvenile criminal cases outside of court, especially for minor or first-time offences. This diversion reflects a shift from the logic of retribution to the logic of prevention and restoration, which is a concrete form of restorative justice.

The main objective of juvenile punishment in the SPPA Law is to restore social conditions that have been disrupted

by criminal acts, not to punish children for breaking the law. This approach is known as restorative justice, which theoretically stems from criticism of the retributive approach that emphasises punishment and suffering for the perpetrator.

To further understand the direction of this change, as explained by Howard Zehr, the purpose of the justice system is not only to determine guilt and impose punishment, but also to restore the victim's losses, reform the offender's behaviour, and strengthen social harmony. This process emphasises dialogue between the offender, the victim, and the community, as well as the active participation of the child in understanding the impact of their actions.

In the context of criminal punishment, the practice that should be applied to children involved in criminal acts, as reflected in the case of Andika and Rafly, who are still 17 years old, is a form of punishment that is rehabilitative and educational in nature, not repressive. Based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), children are positioned as legal subjects who must be guided so that they can return to functioning socially in society. Therefore, punishment is not intended to provide retribution, but rather moral guidance, education, and social reintegration through the Special Child Guidance Institution (LPKA). In this case,

judges may impose half the sentence applicable to adults, in the form of measures such as guidance, job training, counselling, or social rehabilitation, all of which aim to return children to their social environment with a more responsible character.

With regard to the application of diversion, the SPPA Law stipulates that this mechanism can only be applied to criminal offences punishable by imprisonment of less than seven years and which are not repeat offences. In the case of the brawl in Cianjur, the actions of the perpetrators resulted in the death of a victim, thus falling into the category of serious criminal offences punishable by more than seven years' imprisonment. Based on the provisions of Article 7 paragraph (2) of the SPPA Law, diversion cannot be applied in cases such as this. However, the values of restorative justice can still be implemented outside the formal diversion mechanism, for example through penal mediation between the families of the perpetrators and victims, acknowledgement and remorse from the perpetrators, and community involvement in providing moral support for the recovery process. This approach still reflects the spirit of the SPPA Law to make justice not a means of punishment, but a process of learning and social responsibility (Munggardijaya et al. 2025; S et al. 2023; Panu, Moonti, and Ahmad 2025).

Assistance for children in conflict with the law is an important element in the judicial process, whereby children must be accompanied by legal counsel from the investigation stage through to the trial in order to guarantee that their rights are fulfilled and to prevent social stigma. Additionally, the role of the Community Guidance Officer (Bapas) in preparing case reports, as well as the involvement of parents or guardians, social workers, and child psychologists, are integral to ensuring that the legal process is conducted humanely and does not cause trauma (). Empirical evidence shows that juvenile crime is often influenced by emotional immaturity and poor self-control, making Howard Zehr's restorative justice approach relevant for encouraging children to understand the consequences of their actions, take responsibility towards victims, and receive moral guidance through dialogue. This approach is in line with the Theory of Rehabilitation in Punishment, which views sanctions not as retribution, but as a means of education, guidance, and social reintegration, with the belief that children are still in the process of character formation and can be guided to become responsible individuals. (Yani Purnamasari, Rahmadan, and Ferawati 2024) .

In addition, the restorative approach is also in line with Lawrence Kohlberg's moral development theory, which

emphasises the importance of the social environment and learning processes in shaping children's ethical understanding. This means that if the punishment system provides space for children to understand their mistakes and actively correct them, then the chances for positive change will be greater (Aditia and Thoyib 2025) . (Quote)

In the context of Indonesian criminal law, these principles of restorative justice have been incorporated in the form of diversion, penal mediation, and the elimination of prison sentences as the primary solution, except in very serious cases. This also reflects a shift in the criminal law paradigm towards greater protection of children's rights, while maintaining a balance between the interests of society and the best interests of the child themselves (Trull-Oliva and Soler-Masó 2021) .

As a tangible manifestation of the principle of child protection in criminal law, Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) explicitly stipulates specific provisions regarding the form and limits of criminal penalties that may be imposed on children. These provisions explicitly state that the juvenile justice system cannot be equated with the adult justice system, given that children are still undergoing physical, sociological, and moral development.

One form of special treatment is the reduction of the maximum criminal penalty to half ($\frac{1}{2}$) of the criminal penalty for adults, as stipulated in Article 81 of the SPPA Law. In addition, the death penalty and life imprisonment cannot be imposed on children, regardless of the severity of the crime committed. This is in line with the Theory of Individualisation of Punishment, as proposed by Marc Ancel, where the imposition of punishment must be tailored to the conditions and characteristics of the perpetrator, including their age, social background, and potential for rehabilitation. Ancel emphasises that punishment should be aimed at rehabilitation, not merely punishment (Syahputra 2023) .

The types of criminal sanctions are also specifically and differently structured. The main penalties for children include non-custodial measures such as warnings, work training, and guidance in institutions, while additional penalties include measures that are compensatory or restorative in nature towards the victim. This demonstrates the application of the principle of criminal diversification, which is in line with *the Theories of Sentencing Purposes*, particularly the rehabilitative theory and the restorative theory, which place sanctions as a tool to correct the behaviour of the perpetrator, not just to provide a deterrent effect or suffering

(Nascimento, Andrade, and de Castro Rodrigues 2023) .

The discretion granted to judges to replace prison sentences with rehabilitation or educational guidance reflects the principle of differentiated treatment in the juvenile criminal justice system (Kelly 2025) . This is an implementation of the *ultimum remedium* principle, namely that punishment, especially imprisonment, should only be used as a last resort if all rehabilitative efforts have failed. This principle has a strong foundation in Modern Criminal Law Theory, which is based on the view that the justice system should not ruin a child's future simply because of a temporary violation of the law.

Furthermore, from the perspective of progressive criminal law theory as developed by Satjipto Rahardjo, law must be understood as a tool for achieving substantive justice, not merely procedural justice. In the context of children, justice is not sufficiently fulfilled through formal legal procedures, but must be oriented towards the protection and future of the child (Najafov 2025) . Thus, the abolition of the death penalty and life imprisonment for children is a concrete manifestation of justice oriented towards humanity and social sustainability.

According to the author, the specific provisions in the SPPA Law are precisely the starting point that demonstrates the need

to *deconstruct* the paradigm of juvenile punishment in Indonesia. From a philosophical point of view, juvenile punishment must be overhauled from a retributive framework to a humanistic framework that places children as subjects who are still developing (), not as criminals who are fully responsible for their actions. Juridically, the rules relating to the reduction of criminal penalties and the strengthening of diversion show that Indonesian positive law itself recognises the importance of weakening the dominance of conventional penal logic. Meanwhile, sociologically, repressive punishment has proven ineffective in preventing recidivism and actually hinders the social reintegration of children. Therefore, in the author's view, the provisions in the SPPA Law should be read as a gateway for the reconstruction of the juvenile punishment system towards a more restorative, rehabilitative, and socially transformative approach.

2. Factors Causing Children to Commit Crimes: A Sociological Perspective

The phenomenon of children committing crimes cannot be understood solely from a formal legal perspective, but must be examined through a sociological approach that can reveal the root causes behind such deviant behaviour (Nisha

2024) . Based on initial observations and limited interviews with relevant parties, police officers, it can be concluded that the factors causing children to commit crimes

are multidimensional. As described in Table 1.1 regarding Internal Factors and External Factors:

Table 1.1 on Internal Factors and External Factors

Internal Factors	External Factors
Internal factors such as family dysfunction, childhood trauma, and sociological disorders are closely related to Freud's Psychoanalytic Theory and Lawrence Kohlberg's Moral Development Theory. In Freud's view, traumatic childhood experiences can create an imbalance between the id, ego, and superego, causing children to act impulsively or deviantly due to a failure to internalise moral values . Children who do not receive affection, security, and guidance from their parents tend to experience internal conflicts that accumulate in the form of aggressive behaviour or social transgressions (Bantali 2022) .	External factors such as a permissive social environment, peer influence, and economic pressure, according to experts, are external factors that influence children to commit crimes, namely: 1. Differential Association Theory – Edwin H. Sutherland This theory explains that criminal behaviour is learned through social interaction, especially with deviant groups. Children who grow up in environments filled with violence, crime, or juvenile delinquency tend to internalise deviant values because they interact more with deviants than with positive role models (Setiawan et al. 2024) .
Furthermore, Kohlberg, in his theory of moral development, asserts that children are in the early stages of forming values of right and wrong. If, at this stage, children do not receive adequate moral guidance due to a dysfunctional home environment, their moral development will be stunted. Children are unable to	2. Social Environment Theory (Social Disorganisation Theory) – Clifford Shaw and Henry McKay Unstable environments, such as densely populated neighbourhoods, extreme urbanisation, and weak informal social control, create conditions that enable juvenile

distinguish between socially accepted norms, making them prone to committing criminal acts without understanding the moral consequences (Pratama Purba et al. 2024) . These internal factors can also be understood through Gottfredson and Hirschi's theory of self-control, which states that low self-control is a strong indicator of deviant behaviour. Self-control is formed in the early interactions between children and their parents; if children grow up in families that do not provide adequate attention, supervision, and guidance , then the likelihood of them committing crimes becomes greater due to their weak capacity to control their impulses (Pratama Purba et al. 2024) .	delinquency to flourish. In this context, communities that are unable to enforce social norms facilitate the formation of deviant subcultures that normalise or justify criminal behaviour(Ibda 2023) . 3. The Theory of Delinquent Subcultures – Albert Cohen Cohen states that children, especially those from lower classes or marginalised groups, form their own subculture containing deviant values because they fail to meet the social standards set by society. In this context, criminality becomes an alternative form of self-expression and a means of gaining social status, especially when children experience failure in education or economics (Latif and Zulherawan 2020) . 4. Structural Strain Theory – Robert K. Merton According to Merton, when someone is unable to achieve social goals legally due to limited access to economic or educational opportunities, children will seek alternative means, including illegal ones. Children from poor families or those who have dropped out of school are more prone to theft, fraud, or violence as a form of adaptation to the structural
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	pressures they face (Aziz and Ridwan 2025) .
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Thus, both internal and external factors that drive children to commit crimes can be understood through various philosophical, legal, and sociological theories. Family dysfunction and childhood trauma hinder the formation of self-control and morality, while the social environment and economic pressures create space for deviant behaviour through social interaction and structural tension (Gómez Tabares 2025) . The synergy of these various theories confirms that deviant behaviour in children is not a singular phenomenon, but rather the result of complex and ongoing social processes, which ultimately require the juvenile criminal justice system to provide a response that is both rehabilitative and protective.

Although Law No. 11 of 2012 on the Criminal Justice System for Children (SPPA Law) was designed to guarantee protection and guidance for children in conflict with the law, its implementation at the regional level still faces various structural and cultural obstacles. One of the main obstacles lies in the limited facilities and infrastructure to support the principle of restorative justice. Many regions in Indonesia, including Cianjur Regency and Tasikmalaya City, do not yet have adequate

facilities such as rehabilitation centres, child-friendly examination rooms, or child guidance institutions. This situation means that juvenile court proceedings are often conducted in the same facilities as adult prisoners, which risks causing trauma and violating the principle of child-friendly justice, which is at the heart of the implementation of restorative justice. (Bachmid 2025) .

In addition to infrastructure issues, another obstacle arises from the limited human resources involved in the juvenile criminal justice system. Law enforcement officials at the regional level, from the police and prosecutors to the courts, still lack training and a deep understanding of the application of restorative justice principles. In practice, some officials still assess juvenile crimes from a general criminal law perspective, rather than from a philosophical, juridical, and sociological point of view. As a result, the implementation of diversion is often merely a formality without meaningful dialogue between the perpetrator, victim, and community. Furthermore, the role of social workers or Bapas is often hampered by limited staff numbers and high workloads, resulting in suboptimal social assessments of children and impacting the

implementation of restorative justice. (Manik 2025) .

Furthermore, cultural barriers have exacerbated the implementation of the SPPA Law in various regions, mainly due to the low level of understanding among officials and the community regarding the basic philosophy of the SPPA Law, which has resulted in principles such as the best interests of the child, *ultimum remedium*, and restorative justice not being fully implemented. In practice, there are still officials who choose conventional punishment because it is considered faster and more decisive, showing that the approach to children is still dominated by retributive logic oriented towards revenge rather than recovery. Meanwhile, the lack of coordination between institutions such as the National Commission on Child Protection (), the police, the prosecutor's office, the courts, and the Correctional Agency (Bapas) further worsens the effectiveness of the juvenile justice system, which should focus on protection and rehabilitation. These obstacles reflect the gap between the idealism of legal norms and the reality of their implementation in the field, thus requiring a comprehensive reform strategy through capacity building of law enforcement officials through continuous training, provision of child-friendly facilities in every region, and strengthening of synergy between law

enforcement agencies and social institutions to realise substantive justice, which is the spirit of the SPPA Law, namely guidance, protection, and social reintegration for children in conflict with the law. The main problem in the juvenile criminal justice system in Indonesia ultimately lies in the imbalance between the goal of guidance and the practice of punishment, which is still oriented towards retribution, because even though the SPPA Law normatively emphasises that the punishment of children must be based on the values of humanity, protection, and rehabilitation, the retributive paradigm still dominates the perspective of officials so that the essence of justice for children often shifts from recovery efforts to a form of punishment that contradicts the main spirit of restorative justice (Parwati 2024) .

Philosophically, the punishment of children should be understood not as a means of retribution, but as a process of guidance and rehabilitation so that children can return to playing a role in society (Emaliawati and Dasuki 2024) . However, the conventional approach, which places punishment as the ultimate goal, actually causes various problems such as social stigma, psychological and mental trauma, and the potential for recidivism. Empirical evidence from the field, for example in Cianjur and Tasikmalaya, shows that children who have served prison sentences

tend to have difficulty readjusting and are often labelled as "delinquent" or "problematic." This indicates that the correctional system has not been fully able to carry out its rehabilitative function as mandated by law, thereby reinforcing the urgency of a paradigm shift in law enforcement against children.

Therefore, deconstructing the juvenile punishment system is an urgent necessity in order to restore the essence of justice that is oriented towards restoration, not retribution. This approach requires policy reconstruction through strengthening diversion, providing rehabilitation homes in every region, and increasing the competence of law enforcement officials through continuous training on child-friendly justice. In addition, regional policies need to be directed towards the formulation of Regional Regulations that support a restorative justice-based juvenile justice system. Community participation and educational institutions also play an important role in preventing juvenile delinquency through character education, moral guidance, and the creation of a social environment conducive to child development (Wiyono 2016) . so that the main issue of juvenile punishment can be placed within a more comprehensive analytical framework.

According to the author, this situation indicates that the main problem in the criminalisation of children in Indonesia is not a lack of regulation, but a fundamental disconnect between philosophical principles that emphasise humanity and protection and legal practices that are still retributive in nature. This inconsistency occurs due to weak supporting infrastructure, a lack of competent human resources, and a low level of understanding among officials regarding the essence of restorative justice. Therefore, the author believes that comprehensive reform is urgently needed to change the orientation of juvenile punishment to place greater emphasis on rehabilitation and social reintegration. The deconstruction of this old paradigm must be directed towards reviving the values of substantive justice and respect for children's human rights, which form the philosophical foundation of the juvenile criminal justice system.

CONCLUSION

Based on philosophical, juridical, and sociological studies, this research confirms that the root cause of the criminalisation of children in Indonesia lies in the discrepancy between the philosophical principle that places children as subjects who must be protected and legal practices that are still retributive in nature. Although the Child Protection Law (UU SPPA) has regulated

the principle of the best interests of the child, the principle of ultimum remedium, and diversion mechanisms, its implementation has not been optimal due to limited resources, a lack of child-friendly facilities, weak understanding of restorative justice among officials, and a lack of strong structural support at the regional level. This situation results in the handling of children in conflict with the law still being oriented towards punishment, which has the potential to cause trauma, social stigma, and obstacles in the reintegration process.

Furthermore, the discussion shows that juvenile crime is essentially a multidimensional phenomenon influenced by internal factors such as family dysfunction, weak self-control, and obstacles to moral development, as well as external factors such as a permissive social environment, economic pressure, and peer influence. Therefore, the criminalisation of children cannot be seen as solely an individual fault, but rather as the result of complex social dynamics. Thus, comprehensive reform of the juvenile justice system is urgently needed through the strengthening of diversion, the development of rehabilitative facilities, the improvement of law enforcement capacity, and the formulation of regional regulations that support restorative justice. This reform is important to ensure that juvenile justice returns to its primary objectives:

rehabilitation, recovery, and the sustainable protection of children's human rights.

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