

Juvenile Criminal Handling in Indonesia: A Review Through Gustav Radbruch's Legal Purpose Theory

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Abstract

This study examines the imbalance in the application of justice, legal certainty, and legal expediency in handling juvenile criminal cases in Indonesia. The problem addressed concerns the extent to which regulations and practices in juvenile criminal justice reflect Gustav Radbruch's Legal Purpose Theory. This research aims to analyze the conformity between legal norms and their implementation with the values of justice, legal certainty, and expediency. The study employs a normative legal research method, drawing on statutory and conceptual approaches. Primary legal materials include laws and regulations governing juvenile criminal justice. In contrast, secondary legal materials include books, journal articles, and Supreme Court Annual Reports 2021–2025, particularly statistical data on juvenile criminal cases and diversion practices in Indonesian district courts. The findings demonstrate that, normatively, Indonesia's juvenile justice system has adopted restorative justice through diversion mechanisms, reflecting the values of justice and expediency. However, in practice, there remains an imbalance in implementation, particularly regarding legal certainty and the protection of victims' interests. Statistical data also reveal fluctuations in diversion success rates, suggesting inconsistent implementation across law enforcement institutions. In several cases, the dominance of expediency risks undermining substantive justice. Therefore, strengthening the implementation of juvenile criminal justice is necessary by prioritizing justice while maintaining a proportional balance with legal certainty and expediency.

Keywords

Juvenile Criminal Justice; Restorative Justice; Diversion; Legal Certainty; Gustav Radbruch

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1. INTRODUCTION

The protection of children constitutes an important indicator of a nation's civilization. In modern legal systems, children are recognized not only as subjects of protection but also as legal subjects possessing fundamental rights that must be safeguarded by the state (Panu et al., 2025). Nevertheless, many children become involved in criminal acts, either as perpetrators, victims, or witnesses, thereby



requiring a legal system capable of balancing protection, accountability, and justice (Santoso et al., 2025). The issue of resolving cases involving children in conflict with the law remains a compelling subject of study today. (Rofrofil Akmal & Erik Wibowo, 2025)

In modern society, many children engage in deviant behavior with legal implications, which is categorized as Children in Conflict with the Law (Sarutomo, 2021). They cannot merely be viewed as perpetrators to be blamed; rather, they need to be understood within the context of intrinsic and extrinsic factors, such as personal identity, family, and environment, that influence such behavior (Budiaulia & Ahmad, 2024). Over at least the past five years, there have been thousands of juvenile criminal cases in Indonesia, as follows:

Table 1. Data on the Resolution of Juvenile Criminal Cases in District Courts (2021–2025)

Period	2021	2022	2023	2024	2025
Number of Cases	5178	5533	5190	4960	5049

Sources: Mahkamah Agung Republik Indonesia Annual Reports 2021–2025

The statistical data demonstrate that juvenile criminal cases in Indonesia have remained relatively high and stable over the last five years. Although the number of cases slightly decreased in 2024, the increase again in 2025 indicates that juvenile delinquency continues to be a significant legal and social issue. These fluctuations also imply that the effectiveness of juvenile criminal policies, particularly diversion and restorative justice mechanisms, has not yet been fully optimal. Consequently, a deeper evaluation is required to determine whether the juvenile justice system has successfully achieved justice, legal certainty, and legal expediency in accordance with Gustav Radbruch's theory.

In Indonesia, the handling of children in conflict with the law has undergone significant reform through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). The law adopts a restorative justice approach by prioritizing diversion mechanisms as an alternative to formal judicial proceedings (Hambali, 2019), a method of resolving criminal cases outside the court system (Hariyono, 2021). Diversion is intended to prevent stigmatization, avoid imprisonment, and ensure the child's best interests (Munajat, 2022). However, despite the normative framework emphasizing restorative justice, diversion implementation remains inconsistent in practice. Supreme Court Annual Reports indicate that juvenile criminal cases continue to fluctuate annually, while diversion success rates remain relatively uneven. (Mahkamah Agung Republik Indonesia Annual Reports 2021–2025)

In the Indonesian context, the protection of children in conflict with the law has undergone significant development through juvenile criminal justice reform, marked by a shift from a retributive to a restorative approach that promotes diversion as an alternative means of resolution (Panu et al.,

2025). Indonesia's criminal law reform demonstrates significant progress in handling child offenders, placing restorative justice at the center of juvenile case resolution (Fp & Widjajanti, 2025). Based on Article 1 of the Juvenile Criminal Justice System Law, Restorative justice refers to an approach for resolving criminal cases that actively engages victims, offenders, their respective families, and other related parties in a collective effort to achieve a fair settlement, prioritizing the restoration of the previous social condition instead of focusing solely on punitive measures. (Wibowo & Akmal, 2025)

Article 1(2) of Law Number 35 of 2014 on Child Protection stipulates that "*Child Protection refers to all activities aimed at guaranteeing children and their rights so that they may live, grow, develop, and participate optimally in accordance with human dignity, and receive protection from violence and discrimination.*" (Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak, 2014). Children are among the groups most vulnerable to involvement in criminal acts and the legal process, whether as perpetrators, victims, or witnesses of crime, as stipulated in Article 1 points 2, 3, 4, and 5 of the Juvenile Criminal Justice System Law. (Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak, 2012)

This approach creates broader opportunities for the development of social values. It introduces greater flexibility in the administration of the criminal justice system, thereby reinforcing the principle that criminal law should function as an *ultimum remedium*, or measure of last resort (Ahmad Wildan Rofrofil Akmal, 2024). Furthermore, the criminal justice process is intended to achieve justice and truth for both victims and perpetrators, while simultaneously accommodating the wider sense of justice prevailing within society (Csa Teddy Lesmana, 2019). This is because the principle of restorative justice emphasizes pursuing justice through deeper legal analysis and the reinforcement of fairness grounded in human awareness and moral principles (Rambey, 2023). Therefore, efforts to protect children serve as a benchmark of a nation's civilization and must be pursued through legal measures that carry legal consequences. (Zenegger et al., 2024)

Based on the foregoing discussion, the main problem this research addresses is the imbalance among justice, legal certainty, and legal expediency in the implementation of juvenile criminal justice in Indonesia. Although restorative justice and diversion have been normatively regulated, their implementation often creates tensions between the interests of child offenders, victims, and society. Therefore, it is important to examine the extent to which Indonesia's juvenile criminal justice regulations and practices align with Gustav Radbruch's Legal Purpose Theory.

This study offers novelty by specifically analyzing the regulation and implementation of juvenile criminal justice in Indonesia through Gustav Radbruch's Legal Purpose Theory. Unlike previous studies that primarily focus on restorative justice or diversion from doctrinal and practical perspectives, this research critically evaluates the balance among justice, legal certainty, and legal expediency within juvenile criminal handling. Therefore, this study contributes both theoretically, by strengthening the

application of Radbruch's theory in juvenile criminal law, and practically, by providing recommendations for balancing the protection of child offenders, victims' rights, and legal certainty.

2. METHOD

This research employs a normative legal research method that emphasizes the examination of statutory regulations, legal doctrines, and legal principles governing the juvenile criminal justice system in Indonesia (Amiruddin & Asikin, 2006). In this research, several categories of legal materials are employed, including primary legal materials consisting of statutory regulations, as well as secondary legal materials derived from relevant references such as books, academic journal articles, expert opinions, and internet-based sources. The legal materials are collected through a literature review, with legislation, scholarly works, and other related instruments used to support the analysis of data obtained from credible and authoritative sources. (Marzuki, 2016)

The normative approach is considered appropriate because the study aims to examine the conformity between positive legal norms and Gustav Radbruch's Legal Purpose Theory, particularly regarding the values of justice, legal certainty, and legal expediency. This study adopts two approaches: the statutory and the conceptual. The statutory approach is carried out through the examination of relevant legislation, including Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2014 concerning Child Protection, Government Regulation Number 43 of 2017 regarding Restitution for Child Victims of Criminal Acts, and Supreme Court Regulation Number 4 of 2014 concerning Diversion. Meanwhile, the conceptual approach is employed to analyze Gustav Radbruch's Legal Purpose Theory as the primary analytical framework.

The legal materials applied in this research are divided into primary and secondary legal materials. Primary legal materials comprise statutory provisions and official governmental regulations. In contrast, secondary legal materials include academic books, journal publications, legal opinions, and Supreme Court Annual Reports 2021–2025 concerning juvenile criminal cases and diversion practices. The analysis technique used in this study is descriptive-analytical. Legal materials are analyzed by mapping the implementation of juvenile criminal justice regulations against the three legal values proposed by Gustav Radbruch, namely justice, legal certainty, and legal expediency. Through this analytical framework, the study evaluates whether the implementation of diversion and restorative justice has achieved a proportional balance among those legal values.

3. FINDINGS AND DISCUSSION

As a consideration in formulating the novelty of this research, it is necessary to present a review as a comparison with previous research, as follows:

First, the study by Annisa Fitri Arrum Melati et al. (2023) analyzes the application of restorative justice in juvenile criminal cases through a normative approach. The findings indicate that economic and social factors are the primary causes; therefore, diversion is necessary at every stage of the process, taking into account the type of offense, the child's age, and environmental support, while positioning the judge as a facilitator. This study emphasizes the importance of strengthening child protection by optimizing restorative justice. (Melati et al., 2023)

Second, the study by Rizki Bima Anggara et al. (2024) employs a normative approach, analyzing two judicial decisions to assess the balance between child protection and justice for victims. The findings indicate that the limitation of sanctions is not yet aligned with the evolving nature of juvenile crime and has not fulfilled the sense of justice for victims; therefore, it advocates for the revision of the existing regulatory framework in order to create a more adaptive system that can balance the rehabilitation of juvenile offenders with the restoration of victims' rights and interests. (Anggara et al., 2024)

Based on the foregoing explanations, with reference to the research focus, object, and methodology, there are similarities: all studies examine diversion in juvenile criminal cases. However, there are differences in the analytical framework, particularly in the use of legal theory. It can therefore be concluded that this study differs from previous research. This research adopts a distinct focus and approach, thereby offering a novel contribution to the study of juvenile criminal law from the perspective of Gustav Radbruch's Legal Purpose Theory.

Although previous studies have discussed restorative justice and diversion in juvenile criminal cases, most of them focus primarily on doctrinal implementation and child protection perspectives. The study by Melati et al. emphasizes the optimization of restorative justice for child protection. At the same time, Anggara et al. focus on balancing child protection and victims' justice through revision of the legal framework. However, these studies have not specifically examined the implementation of juvenile criminal justice through Gustav Radbruch's Legal Purpose Theory. In particular, previous research has not critically analyzed the imbalance among justice, legal certainty, and legal expediency within diversion practices. Therefore, this research fills the existing gap by offering a theoretical evaluation of how Indonesia's juvenile criminal justice system prioritizes and balances fundamental legal values in practice.

3.1. Regulations for Handling Criminal Cases of Children in Indonesia

Indonesia has various regulations governing law enforcement for children, both as perpetrators and as victims of criminal offenses (Meilando et al., 2025). The principle of legal protection for children has been recognized in the Convention on the Rights of the Child as well as in the Juvenile Criminal Justice System Law, both of which are intended to provide fundamental safeguards for children in conflict with the law and to ensure their ability to exercise their rights of defense (Badu & Kaluku, 2022). Through proper guidance that encourages children to cultivate long-term, future-oriented perspectives, they are able to develop an identity that supports their growth into independent and responsible individuals who can make positive contributions to themselves, their families, society, and the nation (Monica Gabriela Sumangkut et al., 2022). This is because such rights are universal and inherent from the moment of conception. (Hikmah et al., 2024)

Furthermore, Article 28D(1) of the 1945 Constitution stipulates the rights and obligations of every citizen, including the right to recognition, guarantees, protection, and legal certainty. Article 28B(2) of the 1945 Constitution also provides that “*every child has the right to live, grow, and develop, as well as the right to protection from violence and discrimination*”. In essence, legal protection for children has been regulated in specific legal instruments, including:

- a. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, in conjunction with Law Number 17 of 2016 concerning the Second Amendment to Law Number 23 of 2002 on Child Protection;
- b. Law Number 11 of 2012 on the Juvenile Criminal Justice System;
- c. Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Child Victims of Criminal Offenses

One of the government's efforts to protect the rights of children who commit criminal offenses is enacting legislation to safeguard children's interests in conflict with the law (Flora, 2022). This government measure is undertaken to prevent exploitation driven by economic motives involving both child victims and child offenders (Rosayu et al., 2022). This is also in line with Supreme Court Regulation (PERMA) Number 4 of 2014, which mandates that diversion must be prioritized in the resolution of juvenile criminal cases. This regulation serves as a *lex specialis* governing the implementation of diversion. It affirms that diversion may be applied by the police from the investigation stage, particularly for offenses carrying relatively minor penalties. (Perdana & Huda, 2026)

Furthermore, one form of legal protection for child victims of criminal offenses, such as aggravated assault, is the right to obtain restitution (Peraturan Pemerintah Nomor 43 Tahun 2017 Tentang Pelaksanaan Restitusi Bagi Anak Yang Menjadi Korban Tindak Pidana, 2017). Restitution, or compensation, refers to a payment made by an individual to cover the economic losses suffered by

another person (Tarigan et al., 2025). In the development of criminal law, restitution is regarded as a form of sanction for offenders. The right to restitution provides substantial scope for reaching an agreement between the victim and the offender, which, in this context, involves the offender paying compensation to the victim or the victim's family. (Kakoe et al., 2020)

Article 1(3) of the Juvenile Criminal Justice System Law defines a child in conflict with the law as a person aged 12 years but not yet 18 years who is suspected of committing a criminal offense (Ariefulloh et al., 2023). Furthermore, individuals under 18 are considered to be in a developmental stage; therefore, specific laws and regulations are established to protect their rights and promote their welfare (Rofrofil Akmal & Erik Wibowo, 2025). In the juvenile justice process, children who commit criminal offenses are treated differently from adults, with an emphasis on rehabilitation and reintegration into society (Vashishth et al., 2024). There are data on the resolution of juvenile criminal cases through diversion, as recorded in the Annual Reports of the General Courts under the Supreme Court over the past five years, as follows:

Table 2. Data on the Resolution of Juvenile Criminal Cases through Diversion in District Courts (2021–2025)

Period	Number of Cases	Number of Diversions	%	Success Status					
				Success	%	Un Successful	%	In Progress	%
2021	5178	142	2,74%	30	21,13%	19	13,38%	93	65,49%
2022	5533	67	1,21%	27	40,30%	35	52,24%	5	7,46%
2023	5190	657	12,66%	464	70,62%	189	28,77%	4	0,61%
2024	4960	996	20,08%	424	42,57%	173	17,37%	399	40,06%
2025	5049	829	16,42%	645	77,80%	140	16,89%	44	5,31%

Sources: Mahkamah Agung Republik Indonesia Annual Reports 2021–2025

The data on diversion practices reveal significant fluctuations in both the number of diversion cases and their success rates. In 2021 and 2022, diversion implementation remained relatively low, with success rates below 50%. However, a substantial increase occurred in 2023 and 2025, with diversion success rates exceeding 70%. These fluctuations indicate that the implementation of diversion in Indonesia remains highly dependent on institutional readiness, law enforcement officers' understanding, and victims' and offenders' willingness to reach restorative agreements. The inconsistency also reflects weaknesses in legal certainty because similar juvenile cases may receive different treatment across jurisdictions.

Furthermore, the relatively high number of unsuccessful and ongoing diversion cases suggests that restorative justice mechanisms have not been uniformly effective. In some cases, diversion may fail due to the seriousness of the offense, victims' refusal to reconcile, or the absence of adequate mediation capacity within law enforcement institutions. Therefore, although diversion has conceptually fulfilled the value of legal expediency, its practical implementation still requires institutional strengthening in order to achieve greater justice and legal certainty.

The objectives of diversion are further regulated under Article 6 of the Juvenile Criminal Justice System Law, which include achieving reconciliation between the victim and the child offender, resolving juvenile cases outside formal judicial proceedings, preventing the deprivation of the child's liberty, promoting community involvement, and fostering a sense of responsibility within the child (Tomalili & Ariadi, 2022). One objective of applying restorative justice, by prioritizing diversion, is to safeguard the child's best interests, prevent social stigma, and ensure the child receives protection and guidance (Kimbrell et al., 2023). Furthermore, restorative justice for child offenders aims to protect their freedom and human rights, as well as to safeguard their well-being. This restorative justice system seeks to repair the harm caused by the child who committed the offense, rather than merely to punish them. (Andini et al., 2023)

These efforts involve multiple stakeholders in a unified process; in addition, the state plays an active role in protecting the rights of children in conflict with the law. It is important to understand that, in this context, law enforcement officials place greater emphasis on reconciliation rather than on the application of formal justice, that is, justice based solely on retribution proportionate to the child's criminal act (Syafuruddin, 2022). Article 3 of Law Number 11 of 2012 stipulates several rights of children within the criminal justice process, namely:

- a. To be examined humanely, with due regard to their age-appropriate needs.
- b. To be separated from adults and to obtain legal assistance and other forms of support effectively.
- c. To be free from torture, cruel treatment, and degrading treatment that undermines their dignity.
- d. Not to be sentenced to death or life imprisonment.
- e. Not to be arrested, detained, or imprisoned except as a last resort and for the shortest possible time.
- f. To obtain justice before a juvenile court that is objective and impartial.
- g. To be tried in a closed hearing, accompanied by parents or guardians and a person trusted by the child.
- h. To have their identity kept confidential.
- i. To receive social advocacy.
- j. To enjoy social life.
- k. To have accessibility, particularly for children with disabilities.

- l. To receive education.
- m. To obtain healthcare services

Therefore, children who commit criminal offenses should not be subjected to deprivation of liberty, such as imprisonment, in the same manner as adult offenders, as they are not yet fully capable of bearing responsibility for their actions (Andrikasmi et al., 2023). Within the juvenile justice system, there are discretionary measures as part of the legal process, including returning the child to the custody of their parents, placing the child under the supervision of another individual, providing treatment in a psychiatric hospital, assigning care through a Social Welfare Institution (LPKS), requiring participation in formal education or training programs administered by governmental or private institutions, and facilitating the restoration of the consequences arising from the criminal act committed by the child, particularly by addressing the losses experienced by victims and the wider community as a result of the offense. (Wibowo, 2025)

In the context of conflict resolution, restorative justice should be implemented promptly when minor incidents occur that could escalate into larger conflicts. Moreover, this approach can be directly applied when an offender commits a criminal act against a victim, whether the offense is minor, complaint-based, or involves children (Akmal et al., 2025). This allows them to return home and resume their daily responsibilities and activities as before, while also reducing the financial burden on the state. (Akmal, 2024)

The Juvenile Criminal Justice System Law guarantees several fundamental rights for children during the criminal justice process, including humane treatment, legal assistance, confidentiality, education, healthcare, and protection from arbitrary detention. These rights demonstrate that juvenile justice in Indonesia is designed to prioritize child welfare and rehabilitation rather than purely punitive objectives. From the perspective of Gustav Radbruch's theory, such protections reflect the value of justice because they treat children according to their specific psychological and developmental conditions. At the same time, these guarantees also embody legal certainty by providing clear procedural protections for children within the justice system.

3.2. Conceptual Review of Gustav Radbruch's Legal Purpose Theory on the Regulation of Juvenile Criminal Handling in Indonesia

The doctrine of Gustav Radbruch is grounded in a modern legal system that emphasizes equality, democracy, the protection of human rights, and proceduralism, with the central principle of "*equality before the law*" (Samekto, 2025). It states that the idea of law (*Rechtsidee*) has two functions: a constitutive function as the basis for the validity of law, and a regulative function as a benchmark for assessing the justice of positive law (Saifullah, 2024). Gustav Radbruch formulated three fundamental legal values,

namely justice, legal certainty, and legal expediency (Samekto, 2025). Justice is both normative and constitutive, serving as the foundation of positive law and an essential element in determining whether a rule deserves recognition as law. Therefore, in its application, the principle of priority applies: justice takes precedence, followed by expediency, and lastly legal certainty. (Saifullah, 2024)

The implications of these three values are as follows: first, justice is realized through law grounded in equality and democratic processes, based on the principle of *equality before the law*. Second, legal certainty requires regulations that are clear, coherent, and binding, thereby ensuring predictability for society. Third, purposiveness (expediency) requires that law be formulated and enforced in a manner that provides equitable benefits for collective life. (Samekto, 2025)

Although justice, legal certainty, and purposiveness are fundamental legal values, they often exist in a state of tension (*Spannungsverhältnis*) and are not always aligned. Justice may conflict with legal certainty and expediency, and vice versa (Rahardjo, 2006). In practice, legal certainty often overrides other values, as it prioritizes the validity and enforceability of rules (Rahardjo, 2012). However, when positive law contradicts justice, it loses its character as law; therefore, law must remain oriented toward the pursuit of justice, rather than merely the enforcement of procedures. (Anisyaniawati et al., 2025)

The regulation of juvenile criminal justice in Indonesia, as stipulated in the Juvenile Criminal Justice System Law (UU SPPA), has fundamentally adopted a restorative justice paradigm through the diversion mechanism. When examined through Gustav Radbruch's Theory of the Purpose of Law, the system can be seen to seek to integrate the three fundamental values of law: justice, legal certainty, and utility. However, in practice, these three values have not yet been fully implemented in a balanced manner.

According to Radbruch, these values are interconnected but often exist in tension with one another. Justice occupies the highest position because law ultimately aims to realize fairness and human dignity. In the context of juvenile criminal justice, these three values become particularly relevant because the legal system must balance the interests of child offenders, victims, and society. Restorative justice and diversion mechanisms reflect attempts to prioritize substantive justice and social rehabilitation. However, inconsistent implementation demonstrates that balancing those legal values remains a major challenge in Indonesia.

a. The Aspect of Justice

The restorative approach embodied in the UU SPPA reflects an effort to achieve substantive justice, particularly for children as offenders. Justice is no longer interpreted as retribution, but rather as the restoration of relationships between the offender, the victim, and society. Diversion serves as an important instrument in realizing justice oriented toward the best interests of the child. Nevertheless, in several cases, the implementation of diversion has generated criticism,

particularly when the interests of victims receive insufficient attention. This demonstrates the tension between justice for offenders and justice for victims, as Radbruch emphasized, emphasizing that justice often conflicts with other legal values. The restorative approach under the UU SPPA reflects an effort to realize substantive justice, particularly for child offenders. Justice is no longer interpreted solely as punishment, but also as recovery and reintegration.

For example, in a minor theft case committed due to economic hardship, diversion may be a more just solution than imprisonment, as it allows rehabilitation while avoiding stigmatization (Margono, 2025). However, if diversion is implemented without adequately considering the victim's losses or consent, the victim may perceive the process as unfair (Flora, 2025). This illustrates the tension between justice for offenders and justice for victims. Therefore, the implementation of restorative justice must ensure proportional protection for both parties so that diversion does not merely prioritize efficiency over substantive fairness.

b. The Aspect of Legal Certainty

Regulations concerning the handling of juvenile crimes have provided a sufficiently clear normative framework, from the investigation stage through court proceedings, that prioritizes diversion. However, in practice, implementation still reveals inconsistencies, as not all juvenile cases are diverted despite meeting the required criteria. Differences in understanding among law enforcement officers, limited facilities and infrastructure, and subjective considerations in assessing the appropriateness of diversion contribute to the weakness of legal certainty. This condition contradicts Radbruch's concept that law must provide predictability and consistency in its application.

Although the legal framework regarding diversion is relatively clear, implementation inconsistencies continue to undermine legal certainty. Similar juvenile cases may receive different treatment depending on the discretion of investigators, prosecutors, or judges. (Soekanto, 2013)

Several institutional factors contribute to this inconsistency, including:

- 1) Differences in understanding of restorative justice among law enforcement officers;
- 2) Limited training concerning diversion procedures;
- 3) Lack of professional mediators and child psychologists;
- 4) Unequal institutional facilities across regions;
- 5) Different interpretations regarding the seriousness of offenses eligible for diversion.

These conditions demonstrate that legal certainty cannot rely solely on written regulations but also requires institutional harmonization and consistent implementation.

c. The Aspect of Utility

The implementation of diversion and restorative justice has produced significant positive impacts for children, victims, and society. For children, this approach prevents negative stigmatization and the harmful effects of imprisonment. For the state, diversion is also more efficient in terms of cost and time compared to formal judicial proceedings. Furthermore, restorative settlement mechanisms can foster social harmony and prevent recidivism. Thus, conceptually, the value of utility in Radbruch's theory has been relatively achieved within the regulation of juvenile criminal justice in Indonesia.

Nevertheless, excessive emphasis on expediency may lead to misuse. In some cases, diversion could be applied merely to accelerate case settlement without fully considering victims' interests or the seriousness of the offense. Such practices risk transforming restorative justice into a procedural formality rather than a genuine effort to achieve substantive justice (Yunus & Dahri, 2021). Therefore, legal expediency should not dominate the juvenile justice process to the extent that it undermines justice and legal certainty.

As Radbruch emphasized regarding the tension among legal values, it can be observed that in the practice of handling juvenile crimes in Indonesia, the value of utility often prevails over justice and legal certainty. In several cases, for the sake of efficiency, diversion is implemented without adequately balancing the interests of victims, thereby potentially neglecting a sense of justice. Conversely, when law enforcement authorities place greater emphasis on legal certainty through formal judicial proceedings, the best interests of the child are often overlooked.

Therefore, ideally, the implementation of regulations concerning juvenile criminal justice should prioritize justice as the highest value, in accordance with Radbruch's hierarchy of values, followed by utility and legal certainty. This means that every policy and practice in handling juvenile cases must first ensure the fulfillment of justice for all parties involved, including the child as the offender, the victim, and society, before considering the aspects of utility and legal certainty.

Thus, it can be concluded that the regulation of juvenile criminal justice in Indonesia is normatively aligned with the legal values embodied in Gustav Radbruch's Theory of the Purpose of Law. However, at the implementation level, further strengthening is still required, particularly in balancing the three fundamental legal values to prevent the dominance of any one value that may undermine the very essence of justice.

4. CONCLUSION

Based on the findings of this study, it can be concluded that the regulation of juvenile criminal justice in Indonesia has normatively adopted a restorative justice approach through diversion mechanisms that are consistent with the fundamental values of Gustav Radbruch's Theory of the Purpose of Law, namely justice, legal certainty, and utility. An important finding of this research indicates that the values of utility and justice for children as offenders have been relatively accommodated through efforts to prevent children from undergoing formal judicial proceedings and imprisonment. Nevertheless, in practice, there remains an imbalance among these three values, particularly regarding legal certainty and justice for victims, which have not yet been fully realized.

The contribution of this study lies in strengthening the conceptual analysis of juvenile criminal justice regulations through the perspective of Gustav Radbruch's Theory of the Purpose of Law, thereby providing a more comprehensive viewpoint in assessing not only the normative aspects but also the practical implementation of the juvenile criminal justice system in Indonesia. This study emphasizes the importance of prioritizing justice in every legal policy, without neglecting the proportional consideration of utility and legal certainty.

The limitation of this study lies in its use of a normative research method, which primarily analyzes statutory regulations and legal literature and therefore does not comprehensively portray empirical practices in the field. Accordingly, future research is recommended to employ empirical or socio-legal approaches involving legal institutions in order to directly examine the implementation of diversion and restorative justice in juvenile criminal cases. In addition, it is necessary to strengthen law enforcement officers' capacity, harmonize understandings of diversion, and adopt more adaptive regulations to ensure a balance between justice, legal certainty, and utility within Indonesia's juvenile criminal justice system.

REFERENCES

- Ahmad Wildan Rofrofil Akmal. (2024). Eksistensi Penerapan Keadilan Restoratif Melalui Mediasi Penal Perspektif Masalah Mursalah di Indonesia. *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang*, 7(2), 200–222. <https://doi.org/10.33474/yur.v7i2.21598>
- Akmal, A. W. R. (2024). Rekonstruksi Delik Tindak Pidana Zina dalam Kuhp Berbasis Masalah di Aceh, Indonesia. *Jurnal Ilmiah Ahwal Syakhshiyah (JAS)*, 6(1), 20–36.
- Akmal, A. W. R., Syifa, S. N., & Zuhriah, E. (2025). A Review of John Rawls' Theory of Justice on the Implementation of Restorative Justice Through Penal Mediation in Indonesia. *Qiyas: Jurnal Hukum Islam dan Peradilan*, 10(2), 240–254.
- Amiruddin, & Asikin, Z. (2006). *Pengantar Metode Penelitian Hukum*. Raja Grafindo Persada.

- Andini, O. G., Nilasari, N., & Eurian, A. A. (2023). Restorative Justice in Indonesia: Corruption Crime: A Utopia. *Legality : Jurnal Ilmiah Hukum*, 31(1), 72–90. <https://doi.org/10.22219/ljih.v31i1.24247>
- Andrikasmi, S., Ilham Wicaksono, A., & Kristian Gulo, D. (2023). Penjatuhan Pidana Pada Pelaku Tindak Pidana Anak Berdasarkan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak. *JPM: Jurnal Pengabdian Mandiri*, 2(9).
- Anggara, R. B., Apriyanti, R., Erlyani, R., Prihantono, P., Sauri, S., Prasetyo, H., & Winanti, A. (2024). Penegakan Teori Keadilan dan Kepastian Hukum Melalui Revisi Undang-Undang Sistem Peradilan Pidana Anak: (Studi Kasus Putusan No. 50/Pid.sus-Anak/2024/Pn Plg dan Putusan No. 3/Pid.sus-Anak/2024/Pn Pnj). 1(3), 32–39.
- Anisyaniawati, A., Kusuma, F. N., Zanati, H., & Chandra, H. A. (2025). Konsep Hukum dan Keadilan dalam Pemikiran Gustav Radbruch (Pt. 1–15). *Praxis: Jurnal Filsafat Terapan*, 3(1).
- Ariefulloh, A., Nugroho, H., Angkasa, A., & Ardhanariswari, R. (2023). Restorative Justice-Based Criminal Case Resolution in Salatiga, Indonesia: Islamic Law Perspective and Legal Objectives. *Ijtihad : Jurnal Wacana Hukum Islam dan Kemanusiaan*, 23(1), 19–36. <https://doi.org/10.18326/ijtihad.v23i1.19-36>
- Badu, L. W., & Kaluku, J. A. (2022). Restorative Justice in The Perspective of Customary Law: A Solution to The Settlement of Narcotics Crimes Committed by Children. *Jambura Law Review*, 4(2), 313–327.
- Budiaulia, M. F., & Ahmad, S. (2024). Pelaksanaan Diversi Terhadap Anak Yang Berhadapan Dengan Hukum (Studi Putusan No. 6/Pid.Sus.Anak/2019/PN Sdr). *JSIM: Jurnal Ilmu Sosial dan Pendidikan*, 5(2), 312–323. <https://doi.org/http://doi.org/10.36418/syntax-imperatif.v5i2.378>
- Csa Teddy Lesmana. (2019). Mediasi Penal Sebagai Alternatif Penyelesaian Perkara Pidana dalam Perspektif Pembaharuan Sistem Peradilan Pidana Indonesia. *Jurnal Rechten : Riset Hukum dan Hak Asasi Manusia*, 1(1), 1–23. <https://doi.org/10.52005/rechten.v1i1.1>
- Flora, H. S. (2022). Restorative Justice in the New Criminal Code in Indonesia: A Prophetic Legal Study. *Rechtsidee*, 11. <https://doi.org/10.21070/jjhr.v11i0.836>
- Flora, H. S. (2025). Restorative Justice Sebagai Pendekatan Efektif Untuk Perlindungan Korban: Mengutamakan Keadilan dan Pemulihan. *Jurnal Hukum Justice*, 2(2), 78–89.
- Fp, H. A., & Widjajanti, E. (2025). Pembaharuan Hukum Pidana Anak Melalui Penerapan Restorative Justice di Indonesia. *Locus Journal of Academic Literature Review*, 4(2), 69–79. <https://doi.org/https://doi.org/10.56128/ljoalr.v4i2.430>
- Hambali, A. R. (2019). Penerapan Diversi terhadap Anak yang Berhadapan dengan Hukum dalam Sistem Peradilan Pidana. *Jurnal Ilmiah Kebijakan Hukum*, 13(1), 15–30. <https://doi.org/10.30641/kebijakan.2019.V13.15-30>

- Hariyono, T. (2021). Mediasi Penal sebagai Alternatif Upaya Penyelesaian Perkara Pidana di Luar Pengadilan. *Jurnal Penegakan Hukum dan Keadilan*, 2(1), 1–18. <https://doi.org/https://doi.org/10.18196/jphk.v2i1.8731>.
- Hikmah, W., & Fitriani. (2024). Pidana Mati Bersyarat (Conditional Capital Punishment) Sebagai Jalan Tengah Pro-Kontra Pidana Mati di Indonesia. *Al-Ahkam: Jurnal Hukum Pidana Islam*, 6(2), 256–270.
- Kakoe, S., Ruba'i, M., & Madjid, A. (2020). Perlindungan Hukum Korban Penipuan Transaksi Jual Beli Online Melalui Ganti Rugi Sebagai Pidana Tambahan. *Jurnal Legalitas*, 13(02), 115–128. <https://doi.org/10.33756/jelta.v13i02.7612>
- Kimbrell, C. S., Wilson, D. B., & Olaghere, A. (2023). Restorative Justice Programs and Practices in Juvenile Justice: An Updated Systematic Review and Meta - Analysis for Effectiveness. *Criminology & Public Policy*, 22(1), 161–195. <https://doi.org/10.1111/1745-9133.12613>
- Margono, R. (2025). *Menghapus Stigma: Rehabilitasi dan Reintegrasi Mantan Narapidana*. Yayasan Putra Adi Dharma.
- Marzuki, P. M. (2016). *Penelitian Hukum*. Kencana Prenadamedia Group.
- Meilando, A., Ismed, M., & Basuki, B. (2025). Kepastian Hukum Terhadap Diversi dalam Tindak Pidana Penyertaan (Deelneming) pada Tingkat Penuntutan. *Cendekia : Jurnal Penelitian dan Pengkajian Ilmiah*, 2(2), 262–273. <https://doi.org/10.62335/cendekia.v2i2.960>
- Melati, A. F. A., Syawaludin, S., & Utoyo, M. (2023). Analisis Yuridis Restorative Justice dalam Kepastian Hukum Terhadap Anak Pelaku Tindak Pidana. *Lexstricta : Jurnal Ilmu Hukum*, 2(2), 95–104. <https://doi.org/10.46839/lexstricta.v2i2.20>
- Monica Gabriela Sumangkut, G., Mawuntu, R. J., & Karwur, G. M. F. (2022). Eksistensi Sistem Peradilan Pidana Anak dan Perlindungan Hukum Anak Pelaku Tindak Pidana Menurut Undang-Undang Nomor 11 Tahun 2012. *Lex Crimen*, 11(1), 107–116.
- Munajat, M. (2022). *Hukum Pidana Anak di Indonesia* (Cetakan I). Sinar Grafika.
- Panu, A., Moonti, R. M., & Ahmad, I. (2025). Reformasi Sistem Peradilan Pidana Anak di Indonesia Antara Diversi, Restoratif, dan Perlindungan Hak Anak. *Politika Progresif: Jurnal Hukum, Politik dan Humaniora*, 2(2), 276–293. <https://doi.org/10.62383/progres.v2i2.1885>
- Peraturan Pemerintah Nomor 43 Tahun 2017 Tentang Pelaksanaan Restitusi Bagi Anak Yang Menjadi Korban Tindak Pidana (2017).
- Perdana, E. S., & Huda, M. (2026). Perlindungan Hukum Terhadap Anak Pelaku Pencabulan Anak Berdasarkan Asas Keadilan. *Jurnal Ilmu Sosial dan Humaniora*, 2(1), 52–64.
- Rahardjo, S. (2006). *Hukum dalam Jagat Ketertiban*. UKI Press.
- Rahardjo, S. (2012). *Ilmu Hukum*. PT. Citra Aditya Bakti.

- Rambey, G. (2023). Peniadaan Pidana dalam Perspektif Restoratif Justice. *Iuris Studia: jurnal kajian hukum*, 4(1), 22–35. <https://doi.org/https://doi.org/10.55357/is.v4i1.333>
- Rofrofil Akmal, A. W. & Erik Wibowo. (2025). Analisis Perlindungan Hak Pelaku Tindak Pidana Anak dalam UU No. 11 Tahun 2012 Perspektif Teori Keadilan John Rawls. *al-Battar: Jurnal Pamungkas Hukum*, 2(1), 78–91. <https://doi.org/10.63142/al-battar.v2i1.159>
- Rosayu, I., Sidqi, F. A., & Herlina, S. (2022). Analisis Hak-Hak Anak Sebagai Tersangka Berdasarkan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan AnaK. *Universitas Islam Kalimantan*.
- Saifullah. (2024). *Teori Hukum: Saripati Pemikiran Teoritisi Hukum*. Rumpun Dua Belas.
- Samekto, Fx. A. (2025). *Memahami Ajaran Hukum Gustav Radbruch*. Rajawali Press.
- Santoso, A., Hartoyo, & Moh. Taufik. (2025). Peradilan Pidana Anak di Indonesia: Analisis terhadap Perlindungan dan Implementasi Upaya Diversi. *Politika Progresif: Jurnal Hukum, Politik dan Humaniora*, 2(1), 196–211. <https://doi.org/10.62383/progres.v2i1.1337>
- Sarutomo, B. (2021). Penyebab Anak di Bawah Umur Melakukan Tindak Pidana Pencurian di Kabupaten Demak. *International Journal of Law Society Services*, 1(1), 46–63. <https://doi.org/10.26532/ijlss.v1i1.14741>
- Soekanto, S. (2013). *Faktor-faktor yang Memengaruhi Penegakan Hukum*. PT Raja Grafindo Persada.
- Syafruddin, S. (2022). Settlement of Juvenile Offenders Based on Restorative Justice. *Jurnal Ius Kajian Hukum dan Keadilan*, 10(3), 571–580. <https://doi.org/10.29303/ius.v10i3.1018>
- Tarigan, D. P., Shodiq, M., & Ismed, M. (2025). Penerapan Pemenuhan Hak Restitusi Terhadap Anak Korban Tindak Pidana Kekerasan Demi Kepastian Hukum. *Sinergi: Jurnal Riset Ilmiah*, 2(1), 336–345. <https://doi.org/10.62335/q3e83712>
- Tomalili, R., & Ariadi, A. (2022). Penerapan Diversi Melalui Pendekatan Keadilan Restoratif (Restoratif Justice) Yang Dilakukan Oleh Hakim Anak di Pengadilan Negeri Unaaha. *Sibatik Journal: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, dan Pendidikan*, 1(5), 543–554. <https://doi.org/10.54443/sibatik.v1i5.62>
- Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak (2012).
- Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak (2014).
- Vashishth, A., Dudeja, S., & Teena. (2024). System of Restorative Justice and Juvenile Justice in India: A Brief Comparative Study with the Latin American System. *Mexican Law Review*, 16(2), 131–143. <https://doi.org/10.22201/ijj.24485306e.2024.2.18895>
- Wibowo, E., & Akmal, A. W. R. (2025). Analisis UU No. 11 Tahun 2012 Terhadap Perlindungan Hak Pelaku Tindak Pidana Anak Perspektif Maqashid Syariah Ibnu Asyur. *Al-Ahkam: Jurnal Hukum Pidana Islam*, 7(1), 1–13.

Wibowo, E., & Humaidi. (2025). Analysis of Law No. 11 of 2012 on the Protection of the Rights of Children Who Commit Crimes from a Legal Sociology Perspective. *Al-Hurriyah: Jurnal Hukum Islam*, 10(1), 55–66.

Yunus, A. S., & Dahri, I. (2021). *Restorative Justice di Indonesia*. Guepedia.

Zenegger, T. A., Ismansyah, & Zurnetti, A. (2024). Urgensi Pelaksanaan Diversi Terhadap Anak yang Berkonflik dengan Hukum dalam Undang Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak dalam Pengulangan Tindak Pidana (Studi kasus terhadap Perkara Nomor 3/Pid.Sus Anak/2022.PN.Pnn dan Nomor 4/Pid.Sus-Anak/2022.PN.Pnn). *Unes Law Review*, 6(4), 12120–12133. <https://doi.org/https://doi.org/10.31933/unesrev.v6i4>

