

# Revitalization Of The Diversion Model In The Legal Protection Of Child Offenders Of Aggravated Theft In The Perspective Of The Indonesian Criminal Justice System

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**ABSTRACT**— Although diversion is designed as a mechanism for resolving juvenile cases outside the formal criminal justice system with a restorative justice orientation aimed at repairing relationships between offenders, victims, and the community, its implementation in Indonesia remains significantly constrained. In particular, child offenders of aggravated theft, who face penalties exceeding seven years under Article 7 paragraph (2) of the Juvenile Criminal Justice System Law (UU SPPA), are largely excluded from diversion. This limitation exposes a critical gap between the principles of restorative justice and the rigid application of legal provisions, raising questions about the system's capacity to provide equitable and meaningful protection for children while balancing the interests of victims and the community. This condition causes children to continue facing formal judicial processes that generate emotional pressure, stigma, and obstacles to rehabilitation and social reintegration. This study employs a combined normative–empirical legal research method to examine regulations, doctrines, and the practice of diversion in the field through interviews, observations, and questionnaires. The findings show that law enforcement officials are reluctant to apply Supreme Court Regulation No. 4 of 2014 because aggravated theft is viewed as a serious crime, and they are concerned about the consequences of not detaining the child, resulting in diversion rarely being implemented at either the investigation or prosecution stages. A comparative analysis with the Netherlands and France reveals that both countries apply diversion without restricting it based on the severity of the statutory penalty, emphasizing law enforcement discretion, education, dialogue, and restoration through mechanisms such as *Halt-afdoening* and *médiation pénale*. Therefore, Indonesia needs to revitalize its diversion system by reformulating Article 7 paragraph (2) of the Juvenile Criminal Justice System Law so that diversion may be applied more broadly to all juvenile offenses, including aggravated theft, as long as there is potential for restoration and the victim's willingness to participate. Such reformulation is essential to realizing substantive restorative justice, reducing stigmatization, and ensuring the legal protection and future development of children.

**Keywords:** Diversion, Children, Restorative Justice, Juvenile Criminal Justice System, Procedural Reform.

## 1. Introduction

Children are gifts from God Almighty who possess inherent value, dignity, and worth as complete human beings, and whose existence must be respected. To uphold this dignity, the state is obliged to provide special protection for children, especially in the context of legal protection when they come into conflict with the justice system. By ratifying the Convention on the Rights of the Child, Indonesia has

affirmed its commitment to ensuring that all children, including those in conflict with the law, receive proper treatment, access to legal assistance, non-discriminatory protection, and an environment that supports the fulfillment of their rights, development, and well-being in accordance with applicable international standards.<sup>1</sup> UNICEF defines this group of children as Children in Especially Difficult Circumstances (CEDC), namely children who face severe conditions due to the unmet fulfillment of their basic needs and the high likelihood of experiencing violence outside the family environment, particularly when they are within state authority systems. Given their heightened level of vulnerability, they require special attention in the form of regulations capable of providing effective protection, as well as supervision and safeguards that ensure the rights and personal safety of the child.<sup>2</sup> According to the views of Wanjku Kaime-Atterhog, the perspective of the Convention on the Rights of the Child (CRC) positions children who come into contact with the legal system as part of the group known as *children in need of special protection* (CNSP). This category refers to children who are considered to be in exceptional circumstances and therefore require enhanced protection and more intensive intervention from the state as well as other relevant stakeholders.<sup>3</sup>

In social dynamics, children often encounter situations that may lead to unlawful behavior, prompting complainants to bring such cases to law enforcement authorities. However, once a case enters the law enforcement process, the parties involved often have no space to divert or terminate the case, even when they have reached an amicable settlement and agreed not to pursue the matter in court. This difficulty arises because the offense committed carries a potential sentence of seven years' imprisonment, leading law enforcement officers to assert that the case is not a complaint-based offense (*delik aduan*) and that reconciliation does not eliminate the unlawful nature of the act. Consequently, the handling of the case continues through investigation, prosecution, and ultimately, trial.<sup>4</sup>

The phenomenon of legal violations committed by children reflects a variety of cases that raise concern and present an ongoing challenge for multiple stakeholders to address comprehensively. According to data compiled by the Directorate General of Corrections of the Ministry of Law and Human Rights, the number of children in conflict with the law has shown an increasing trend during the period from 2020 to 2023. As of August 2023, the number had approached 2,000 children, consisting of 1,467 children detained and still undergoing judicial processes, while 526 children were serving sentences as convicted inmates in correctional facilities.<sup>5</sup> Children who are undergoing detention are placed in various correctional institutions according to their category and rehabilitation needs. Currently, 1,190 children are housed in Special Child Development Institutions (*Lembaga Pembinaan Khusus Anak/LPKA*), while 7 other children are placed in Women's Correctional Institutions (*Lembaga Pemasyarakatan Perempuan/LPP*). Compared to the previous three years, the number of children involved in legal cases had never reached 2,000. In 2020 and 2021, data show that approximately 1,700 children were involved in legal problems, and this number rose again to around 1,800 in the following year. This pattern of increase strongly indicates that Indonesian children are currently in an unfavorable situation, one that is becoming

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<sup>1</sup>Shehzad Noorani, Konvensi Hak Anak: Versi anak anak, Unicef, "Konvensi Hak Anak: Versi anak anak", online: <<https://www.unicef.org/indonesia/id/konvensi-hak-anak-versi-anak-anak#:~:text=Pemerintah bertanggung jawab memastikan semua,dan dipenuhi untuk tiap anak.&text=Pemerintah harus membantu keluarga melindungi,dan mewujudkan potensinya secara penuh.>>.

<sup>2</sup> Adi Hardiyanto Wicaksono & Pujiyono. (2015). Kebijakan pelaksanaan diversi sebagai perlindungan bagi anak yang berkonflik dengan hukum pada tingkat penuntutan di Kejaksaan Negeri Kudus. *Law Reform*, 11(1),hal 14.

<sup>3</sup> Wanjku Kaime-Atterhog (2005), "The Social Context of Children in Especially Difficult Circumstances (CEDC)," ESCAP HRD Course on Psychosocial and Medical Services for Sexually Abused and Sexually Exploited Children and Youth, p. 6.

<sup>4</sup>Sulis Setyowati, Problematika Penerapan Diversi Dalam Penyelesaian Perkara Tindak Pidana Anak Dalam Mewujudkan Keadilan Restoratif. (2024). *UNES Law Review*, 6(4), hal 11679-11693. <https://doi.org/10.31933/unesrev.v6i4.2126>

<sup>5</sup> Mohamad Revaldy Fairuzzen dkk., "Menelusuri Akar Masalah: Faktor Penyebab Angka Kriminalitas Anak di Bawah Umur," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, Vol. 2, No. 4 (Desember 2024), hal. 1948.

increasingly problematic and requires serious attention from all stakeholders.<sup>6</sup>

Data from the Indonesian Child Protection Commission (KPAI) shows that physical and sexual violence remain the most common types of crimes committed by children, indicating a high risk of child involvement in criminal behaviour. In 2020, physical violence accounted for 29.2% of all crimes, while sexual violence accounted for 22.1%, indicating that child prevention and protection are still not optimal.<sup>7</sup> Sexual violence often occurs in cases of extramarital sexual relations involving children under the age of 18, whether by force or without force, indicating the high vulnerability of children to exploitation and abuse. In addition, KPAI data from 2020 recorded various other crimes involving children, such as theft (11.1%), traffic accidents (10.6%), psychological violence such as threats and intimidation (5.5%), sodomy or paedophilia (5.5%), possession of sharp weapons (5.5%), involvement in abortion cases (5%), and murder (4%), indicating that children are still often involved in various criminal acts that risk harming themselves and society.<sup>8</sup>

The application of diversion for children in conflict with the law (ABH) is still very limited, and the cause is unclear, whether it is due to the threat of criminal punishment of more than seven years or other factors. Data from the Directorate General of Corrections of the Ministry of Law and Human Rights as of 25 August 2023 shows that the majority of ABH (1,089 children or 72.3% of all child prisoners) received prison sentences of more than one year, indicating a lack of seriousness in the implementation of the diversion scheme. Proportionally, cases of children in conflict with the law show an increasing trend in the 2020–2023 period. As of 26 August 2023, nearly 2,000 children were recorded in conflict with the law, with 1,467 detained and undergoing trial, and 526 serving sentences as prisoners. The 2020 KPAI report ‘Implementation of the Juvenile Criminal Justice System’, summarised by Litbang Kompas, noted that of the 29,228 children handled by the police between 2017 and 2020, only 4,126 cases (14.1%) were resolved through diversion. This low proportion indicates that the majority of children still have to undergo lengthy investigations and trials, thereby losing important opportunities to learn and develop.<sup>9</sup> Data from the Directorate General of Corrections of the Ministry of Law and Human Rights shows that in 2023, the majority of children in conflict with the law received prison sentences of more than one year. There were 1,089 category B1 child prisoners as of 25 August 2023, indicating that children continue to face long sentences despite being in a developmental stage. The length of these sentences reflects that children who commit serious offences must still undergo a rigorous legal process, indicating that the protection of children by the state and society is still not optimal, given that the most conducive environment for child development—a safe family and community—has been replaced by correctional institutions.

The existence of the Indonesian Child Protection Commission (KPAI) demonstrates the state's commitment to protecting children in contact with the law. However, the implementation of the KPAI's duties and authorities based on Law No. 35 of 2014 and Law No. 11 of 2012 still faces various obstacles. Monitoring through the Monitoring Division to prevent violence against children, whether as victims, perpetrators, or witnesses, is not always effective. Vulnerable children continue to face the risk of inadequate treatment, as their rights differ from those of adults and require special protection that is often not fully met.

Various criminal cases involving children and bringing them into legal processes reflect a real social phenomenon that raises concern among families, communities, and even law enforcement authorities.

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<sup>6</sup>Kartika Dita Ayu Rahmadani dkk., “Kebijakan Diversi dalam Sistem Peradilan Pidana Anak sebagai Upaya Pengalihan Peradilan Formal,” *Jurnal Analogi Hukum*, Vol. 5, No. 1 (2023), hlm. 106–113

<sup>7</sup> *Laporan Kinerja Tahun 2020 Komisi Perlindungan Anak Indonesia* “Perlindungan Anak Di Era Pandemi Covid-19”. link website: <https://www.kpai.go.id/publikasi/siaran-pers-laporan-kinerja-tahun-2020-komisi-perlindungan-anak-indonesia-perlindungan-anak-di-era-pandemi-covid-19>

<sup>8</sup>Yohanes Advent Krisdamarjati, *Data Komisi Perlindungan Anak Indonesia menunjukkan bahwa tindak kekerasan fisik dan kekerasan seksual adalah dua jenis tindak kriminal yang paling banyak dilakukan oleh anak*, KOMPAS, 29 Agt 2023, link website <https://www.kompas.id/artikel/meningkatnya-kasus-anak-berkonflik-hukum-alarm-bagi-masyarakat-dan-negara>

<sup>9</sup>Ibid.,

Among the most common forms of offenses committed by children are sexual intercourse (*statutory rape*) and theft.<sup>10</sup> The treatment of children who commit criminal offenses fundamentally differs from that of adult offenders. Indonesian law requires a clear separation between children and adults, both in terms of legal procedures and rehabilitation, whereby children must be placed in special institutions suited to their developmental needs. Law Number 11 of 2012 emphasizes that legal proceedings involving children must prioritize the principle of restorative justice, as stipulated in Article 5 paragraph (1). This principle aims to restore the relationship between the offender and the victim while helping the child regain social functioning so that they may reintegrate into society and avoid reoffending.

The definition of a child according to Article 1 paragraph (1) of Law Number 23 of 2002 does not take into account that some individuals under the age of 18, including foetuses, may not necessarily be mentally and physically ready to face legal or social demands. Shanty Dellyana criticises the practice of considering someone to be an adult solely on the basis of certain legal provisions, even though their mental and physical development is not yet optimal, so that this kind of classification can lead to injustice for children. Even in the provisions of Article 1 paragraph (1) of Law No. 35 of 2014, which amends Law No. 23 of 2002 on Child Protection, the age limit of 18 years is still normative and does not adequately address the complexity of child development, so that the legal protection provided is often not fully in line with the needs and vulnerabilities of children.<sup>11</sup>

According to Article 1 paragraph (2) of Law Number 11 of 2012 on the Juvenile Criminal Justice System, the term “children in contact with the law” includes children who are in conflict with the law, children as victims, and children who serve as witnesses to a criminal act. A child in conflict with the law—hereinafter referred to as “the Child”—is an individual who is at least 12 years old but not yet 18 years old and is suspected of committing a criminal offense. Although Article 1 paragraph (3) affirms a similar definition, the use of the term “in contact with the law” does not fully eliminate the risk of stigmatization, as this normative label is largely superficial; in practice, children may still be treated as if they have committed serious offenses, without consideration for their mental and emotional development. The state’s approach, which appears to “avoid assigning negative labels,” in fact conceals the legal system’s inability to provide protection that truly respects the rights and dignity of children throughout the legal process.<sup>12</sup> A child in such circumstances is referred to as a child in conflict with the law. A child in conflict with the law may be defined as a child who is suspected, accused, or acknowledged to have violated criminal law.<sup>13</sup> Children in conflict with the law not only cause harm to the victims but also to themselves, their families, and the surrounding community.<sup>14</sup> Krohn (2015) argues that juvenile delinquency—or in this context, children in conflict with the law—is a global issue, and more importantly, that academics and practitioners have much to learn and can develop cooperation with other countries in addressing this problem.<sup>15</sup>

In the context of Law Number 11 of 2012 on the Juvenile Criminal Justice System, children who commit criminal offenses carrying a penalty of seven years or more are still required to undergo the full

<sup>10</sup> Dewi Wahyu Lestari & Hervina Puspitosari Humani, “Residivis Anak Pelaku Tindak Pidana dalam Perspektif Kriminologi,” *Hukum dan Masyarakat Madani*, Vol. 14, No. 2 (November 2024), hal 388–402.

<sup>11</sup> Bambang Waluyo Gilang Arizona & Maydika Ramadan (2023), “Legal Views in Indonesia on Children with Problems with the Law,” *International Journal of Social Science and Human Research*, Vol. 6, No. 5, hlm. 2637–2640..

<sup>12</sup> Eka Putri, F. J., Sulistiani, L., & Takariawan, A. (2021). Perlindungan hukum terhadap anak berkonflik dengan hukum dalam sistem peradilan pidana anak: Studi pada lembaga penyelenggaraan kesejahteraan sosial Yayasan Pendidikan Islam I’anatush-Shibyan. *Jurnal Poros Hukum Padjadjaran*, 3(1), 114–129.

<sup>13</sup> Ika Saimima (2008), “Perlindungan Terhadap Anak yang Berkonflik dengan Hukum,” *Jurnal Kajian Ilmiah Lembaga Penelitian Ubhara Jaya*, Vol. 9, No. 3, hlm. 938–957.

<sup>14</sup> Rahmat Syarif Hidayat et al. (2022), “Children in Conflict with the Law: Understanding the Risk and Protective Factors and Its Implications for Prevention Efforts,” *Asian Social Work Journal*, Vol. 7, No. 2, hlm. 19–31, diakses online: <https://msocialwork.com/index.php/aswj/article/view/204>

<sup>15</sup> Marvin D. Krohn & Jodi Lane (eds.) (2015), *The Handbook of Juvenile Delinquency and Juvenile Justice* (Hoboken, NJ: Wiley), hlm. 40..

legal process—including investigation and inquiry by the police, prosecution by the public prosecutor, and a series of court hearings—without the possibility of diversion. The complexity and lengthy nature of this formal process have prompted various opinions among scholars and law enforcement officials, who argue for the need for alternative mechanisms that are more oriented toward the best interests of the child. One such approach is **restorative justice**, a concept introduced by Albert Eglash in 1977, who classified criminal justice systems into three main forms: retributive justice, distributive justice, and restorative justice.<sup>16</sup>

Although the principles of restorative justice have great potential to improve the quality of social life, their implementation remains limited because the Juvenile Criminal Justice System Law (SPPA) has not yet accommodated cases involving children facing severe criminal penalties, preventing these principles from being applied consistently. This situation highlights a tension between formal legal certainty and the need for a more humanistic restorative approach, raising questions about the effectiveness of the current juvenile justice system. Therefore, the development of diversion as a formal instrument needs to be seriously considered so that law enforcement not only emphasizes sanctions but also supports social rehabilitation, victim empowerment, and the reintegration of children into society.<sup>17</sup>

Although restorative justice has been institutionalized through the Juvenile Criminal Justice System Law (SPPA), its application being limited only to cases with penalties of less than seven years highlights a misalignment between the principles of restorative justice and legal practices that emphasize formal legal certainty. The inability to apply diversion to cases with severe penalties raises questions about the effectiveness of the juvenile justice system in providing equitable and humane protection. Therefore, the development and expansion of diversion as a more inclusive formal instrument should be seriously considered so that the objectives of social rehabilitation, restoration, and the reintegration of children into society can be consistently achieved.<sup>18</sup>

Restorative justice has become a widely used alternative in handling juvenile cases because it offers a resolution that prioritizes not only punitive aspects but also comprehensive recovery for all parties involved. Within this concept, all parties connected to a criminal act—including the offender, the victim, and the community—are engaged in a dialogic process to formulate appropriate restorative measures and determine the most effective mechanism for resolving the offense.<sup>19</sup> The shifting paradigm of punishment in the contemporary era demonstrates that a retributive approach, which emphasizes retaliation, is no longer sufficient to address the complexity of criminal acts. Studies on the social dynamics underlying crime reveal that criminal behavior is not merely a violation of state rules but also a form of social conflict that damages relationships between the offender, the victim, and the community. In this context, legal responses that focus solely on punishment often fail to repair the harm suffered by victims, whether material or psychological. Therefore, a more comprehensive approach is needed—one that is capable of delivering substantive justice by restoring the disrupted social relationships.

he views of Eddy O.S. Hiariej reinforce the urgency of implementing restorative justice as a goal of modern punishment. According to him, punishment should be directed toward restoring the justice needed by the victim, rather than merely imposing sanctions on the offender. The concept of restorative justice emerges from the understanding that crime creates sociological conflict that requires resolution through dialogue, the offender's active responsibility, and concrete forms of restitution. Thus, restorative justice

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<sup>16</sup> Rick Sarre (2007), "Understanding Victims and Restorative Justice," dalam James Dignan, *Restorative Justice* (Maidenhead, Berkshire, UK: Open University Press, 2005), *Current Issues in Criminal Justice* (Carlton South, Victoria, Australia), hlm. 94.

<sup>17</sup> George Pavlich (2002), "Towards an Ethics of Restorative Justice," dalam *Restorative Justice and the Law*, diedit oleh L. Walgrave (Oregon: Willan Publishing), hlm. 1..

<sup>18</sup> Zenny Rezania Dewantary (2016), "Keadilan Restoratif dan Pembatasan Diversi pada Undang-Undang 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak," *Veritas Justitia*, Vol. 2, No. 2, hlm. 303–313.

<sup>19</sup> Andrew von Hirsch et al. (2003), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (Oregon: Hart Publishing), hlm. 44.

becomes a more humanistic and effective solution for repairing harm, fostering reconciliation, and restoring social equilibrium. This approach aligns with the development of Indonesian legal policy, which increasingly accommodates the resolution of cases through penal mediation, diversion, and law enforcement discretion.<sup>20</sup>

The juvenile case registered under Number 9/Pid.Sus.Anak/2023/PN Btl reveals fundamental weaknesses in the implementation of diversion for children involved in aggravated theft. Although Article 363 of the Indonesian Criminal Code (KUHP) prescribes a penalty of up to seven years' imprisonment, which formally should render diversion inapplicable under Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) and Supreme Court Regulation No. 4 of 2014, field practice shows inconsistent application of diversion, indicating a significant gap between legal provisions and their implementation. This case illustrates the dilemma faced by law enforcement officials, who are often caught between the interests of child protection and the rights of victims, while also exposing the rigidity and limitations of legal regulations that fail to accommodate the need for substantive justice for children. This situation raises serious doubts about the effectiveness of the juvenile justice system in upholding the principle of the best interests of the child and providing proportional legal protection for juvenile offenders.<sup>21</sup>

From the perspective of restorative justice theory, this situation indicates the existence of a legal gap regarding diversion mechanisms for offenses carrying higher criminal penalties but which, socially, still allow for restorative settlement. As emphasized by Eddy O.S. Hiariej, the objective of punishment under a restorative justice framework should focus on restoring justice for the victim while simultaneously rehabilitating the child offender, rather than merely imposing punishment. The restriction of diversion for child offenders facing serious charges prevents the achievement of substantive justice and risks subjecting children to an overly formalistic legal process, thereby neglecting the best interest of the child and the goal of social reintegration that should constitute the core of the juvenile criminal justice system.<sup>22</sup>

## 2. Materials and Methods

### A. Methods

This study employs a combined legal research method (normative–empirical), which integrates normative legal research and empirical legal research to obtain a comprehensive understanding of the legal issues. Normative legal research focuses on law as norms through the analysis of legislation, legal principles, doctrines, theories, and other legal literature, enabling conceptual answers to legal problems. Meanwhile, empirical legal research centers on primary data obtained directly from the community or relevant stakeholders through observations, interviews, or questionnaires in order to understand how the law is applied in practice. The stages of this combined research include a normative analysis, which examines regulations related to the application of diversion based on restorative justice principles—such as Law No. 11 of 2012 on the Juvenile Criminal Justice System and Supreme Court Regulation No. 4 of 2014 on Guidelines for Diversion Implementation—and an empirical analysis that investigates how law enforcement officials implement diversion for child offenders. This approach enables the study to produce a comprehensive analysis that encompasses both normative aspects and empirical realities in the field.<sup>23</sup> Normative legal research is a type of research that examines law as norms, rules, legal principles, legal

<sup>20</sup> Saheli Chakrabarty & Nirbindu Banerjee (2025), "From Domestic Application to ICC: Analysing the Integration of 'Restorative Justice' in International Criminal Law," *Kathmandu School of Law Review*, Vol. 13, no 1, hlm. 35–56,

<sup>21</sup> Mufida, A. Z., & Pujiyono, P. (2024). Legal Protection Through Diversion in Child Crimes Based on the Juvenile Justice System Law (SPPA Law). *International Journal of Social Science Research and Review*, 7(9), 308-317. <https://doi.org/10.47814/ijssrr.v7i9.2361>.

<sup>22</sup> Eddy O.S. Hiariej (2018), *Tujuan Pemidanaan di Era Kontemporer dan Restorative Justice* (Jakarta: Pustaka Hukum), hlm 7

<sup>23</sup> Muhaimin (2020), *Metode Penelitian Hukum, Pertama* (Mataram: Mataram University Press), hlm. 3.0.

doctrines, legal theories, and other legal literature in order to answer the legal issues under study. Empirical legal research, on the other hand, is research based on primary data obtained directly from the community as the first source through fieldwork, including observations, interviews, or questionnaires. The combined legal research method consists of two stages: normative legal analysis and empirical legal analysis. The normative analysis examines legal regulations and theories, while the empirical analysis studies the application of law in real-life situations. This approach enables the research to understand the law both conceptually and practically.<sup>24</sup>

## B. Materials

### 1. Suboptimal Diversion Models in Fulfilling Legal Protection for Children Who Commit Aggravated Theft Crimes

Diversion serves as a method of resolving cases involving children outside the formal criminal justice system in order to protect the rights and best interests of the child. Law No. 11 of 2012 on SPPA emphasises that diversion aims to achieve reconciliation, avoid the detention of children, involve the community, and instil responsibility. This approach, which is in line with the principles of restorative justice, helps children in conflict with the law to avoid the stigma and negative effects of formal court proceedings.<sup>25</sup>

Diversion still places children in situations involving victims, perpetrators, and the community, so the risk of social pressure and stigma remains. Although diversion diverts the resolution of children's cases from the criminal justice system, involvement in alternative mechanisms outside the court does not completely eliminate the possibility of psychological or social impacts. Referring children's cases to community-based services can pose challenges, such as a lack of adequate monitoring or protection. The implementation of diversion at any stage of the proceedings still has the potential to cause negative effects on children due to their interaction with the justice system or a community that is not fully prepared to support them.<sup>26</sup>

Although Law No. 11 of 2012 recognises diversion based on restorative justice, its application is limited to criminal offences with a maximum sentence of less than seven years and which are not repeat offences, meaning that many serious cases still have to go through the formal criminal justice process. This restorative justice approach may not always achieve adequate results, especially if children or communities are not fully prepared to participate in the process. The cosmopolitan philosophy that underpins this approach can be difficult to understand or apply consistently, thereby hindering the effectiveness of diversion in practice.<sup>27</sup> With the enactment of Law No. 11 of 2012 on SPPA, Indonesia no longer prioritises retributive justice, which pays little attention to victims. The legal process, which was previously entirely in the hands of the state, is no longer the only option. For children, restorative justice is not carried out through formal criminal proceedings, but through diversion to resolve cases more fairly for all parties.<sup>28</sup>

Diversion allows children to resolve legal issues together with the victim and the community without going through formal court proceedings, with the assistance of facilitators such as police officers, prosecutors, or judges. This approach reduces negative labeling of the child, prevents future

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<sup>24</sup> *ibid.*, 152.

<sup>25</sup> Dyah Listyarini (2017), "Juvenile Justice System Through Diversion and Restorative Justice Policy," *Diponegoro Law Review*, Vol. 2, No. 1, hlm. 5.

<sup>26</sup> Rodliyah. (2019). *Diversi sebagai salah satu bentuk perlindungan terhadap anak yang berhadapan dengan hukum (ABH) / Diversion as legal protection towards children with conflict with law*. *Jurnal IUS*, 7(1). <https://doi.org/10.29303/ius.v7i1.847>

<sup>27</sup> M. Ali Zaidan (2016), *Kebijakan Kriminal* (Jakarta: Sinar Grafika), hlm. 44

<sup>28</sup> Faisal. (2021). Reformulasi syarat diversi: Kajian ide dasar sistem peradilan pidana anak. *Masalah-Masalah Hukum*, 50(3), hlm 331–338.

delinquent behavior, alleviates the burden on the courts, and is simpler and more cost-effective.<sup>29</sup> Diversion assists child offenders in a manner that is more educational and beneficial, whereas formal court proceedings often make children feel frightened, confused, and stressed. Although the trial may result in acquittal or conviction, the experience of formal court hearings often leaves an emotional burden on the child.<sup>30</sup>

The diversion approach through restorative justice allows authorities to facilitate communication between a child offender involved in aggravated theft and the victim. In addition, diversion encourages educational measures that support the child's social reintegration into the community. This aligns with the paradigm of Law No. 11 of 2012 on the Juvenile Criminal Justice System, which emphasizes that the legal treatment of children must differ from that of adults.<sup>31</sup>

Through the implementation of restorative justice via the diversion model, child offenders are spared from negative stigma and can continue their lives, including seeking suitable employment, without being burdened by a repressive judicial process. Children are also not forced to bear the long-term consequences of a criminal record. This approach emphasizes repairing the harm caused by the crime and mitigating its impact, while offering a contextual and humanistic form of punishment compared to the retributive paradigm. Furthermore, the diversion model can help reduce overcrowding in correctional institutions, which have historically been overcapacity and contributed to the increase of criminal behavior within them.<sup>32</sup>

The case of aggravated theft in Bantul Regency, Special Region of Yogyakarta, Indonesia, demonstrates that diversion for child offenders was not implemented because the offense carries a penalty exceeding seven years, in accordance with Article 7 paragraph (2) of Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA). An interview with the Head of the Child Protection Unit (Kanit PPA) at the Bantul Police Criminal Investigation Unit revealed that, "at the investigation and prosecution stages, diversion cannot be applied because the required penalty threshold exceeds seven years, so the child must undergo the formal judicial process." This explanation confirms that, in practice, diversion can only be applied at the court stage, whereas during investigation and prosecution, the child still faces a formal legal process that is repressive in nature. This situation indicates a tangible gap between normative provisions and the substantive objectives of child legal protection, which should be the primary focus of the juvenile criminal justice system.

This issue can be analyzed in greater depth. Theoretically, the concept of child protection law affirms that children are special legal subjects who require a different approach from adults. This principle focuses on protecting children's rights, ensuring the fulfillment of their best interests, and preventing stigmatization that may hinder their social and psychological development. On the other hand, restorative justice theory emphasizes that the justice system should restore relationships between the victim, the offender, and the community, while also promoting the social reintegration of the child. This concept aligns with the diversion approach, which allows children to learn to take responsibility for their actions, communicate with victims, and receive educational guidance.

However, the reality in Bantul Regency shows that the implementation of diversion remains limited. Child offenders involved in aggravated theft, despite meeting the needs for psychological protection and social reintegration, still undergo formal legal processes that generate emotional stress,

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<sup>29</sup> Kelibia, M. U. (2023). *Upaya diversi terhadap anak yang melakukan tindak pidana dalam perspektif keadilan restoratif*. IBLAM Law Review, 3(3), 426.

<sup>30</sup> Jodi A Quas, "Maltreated Children's Understanding of and Emotional Reactions to Dependency Court Involvement" (2010) 27:1 Behav Sci Law 97–117 at 2.

<sup>31</sup> Tomalili, R. (2022). *Penerapan diversi melalui pendekatan keadilan restoratif (restoratif justice) yang dilakukan oleh hakim anak di Pengadilan Negeri Unaaha*. SIBATIK Journal, 1(5), hlm 543.

<sup>32</sup> Hambali, A. R. (2020). *Penegakan hukum melalui pendekatan restorative justice penyelesaian perkara tindak pidana*. Kalabbirang Law Journal, 72. Hambali, A. R. (2020). *Penegakan Hukum Melalui Pendekatan Restorative Justice Penyelesaian Perkara Tindak Pidana*. Kalabbirang Law Journal, 2(1), 69-77..

fear, and the potential for stigmatization due to a criminal record. This indirectly hinders the achievement of substantive legal objectives, namely child protection and the remediation of crime impacts. Moreover, this limitation reflects that the formal provisions in the SPPA have not been fully aligned with restorative justice principles, thus preventing the maximization of diversion at the investigation and prosecution stages.

The concept of cosmovision emphasizes that human life is part of the entirety of human existence, and therefore every legal action must consider humanitarian aspects and the restoration of social relationships. Philosophically, diversion emphasizes a humanistic and educational approach, which differs from the retributive justice paradigm that tends to focus solely on punishment without considering social reintegration and the psychological development of the child.

The application of diversion in Indonesia under Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) is limited because it can only be applied to offenses punishable by less than seven years of imprisonment and that are not repeat offenses. This limitation in Article 7 paragraph (2) creates obstacles when dealing with cases such as aggravated theft, which carries a penalty exceeding seven years, preventing children from accessing diversion at the investigation and prosecution stages. As a result, the primary objectives of restorative justice—namely, the restoration of relationships between the offender, the victim, and the community, as well as optimal protection of children’s rights—are not fully achieved. This indicates a gap between the normative goals of the SPPA, which prioritize the best interests of the child, and the practical reality, which still subjects children to formal judicial processes that may result in stigma and long-term psychological impacts.<sup>33</sup>

In contrast, the Netherlands and France, both of which adhere to civil law systems, implement diversion mechanisms with a much more flexible approach and without restrictions based on specific criminal penalties. The Netherlands employs the *Halt-afdoening* system, which allows the police or the *Halt* agency to offer out-of-court settlements for various minor cases, including theft, as long as they do not involve serious violence.<sup>34</sup> In France, through the *Ordonnance* of 1945 and the penal mediation mechanism, wide discretion is granted to the police and prosecutors to terminate juvenile cases and replace them with educational measures such as counseling, restitution, or rehabilitation programs, without rigid limitations based on the severity of the criminal penalty.<sup>35</sup> Both countries prioritize education, social reintegration, and restorative justice, in contrast to Indonesia, which tends to be formalistic, resulting in a narrow scope for diversion and limited adaptability to the objectives of child protection. Diversion is not merely a procedural mechanism but an instrument to restore the interests of victims, offenders, and the community, while minimizing the negative impacts of formal legal processes. This philosophical analysis underscores that the law should be oriented toward substantive justice and humanity, rather than mere formality. Therefore, revitalization and procedural reform are necessary so that diversion can be applied more optimally—not only at the court stage but also from the investigation and prosecution stages—thus fully realizing child legal protection and the principles of restorative justice.<sup>36</sup>

## 2. Problems in Providing Legal Protection for Children Who Commit Criminal Acts of Aggravated Theft

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<sup>33</sup> Marlina, *Peradilan Pidana Anak di Indonesia*, Bandung: Refika Aditama, 2009

<sup>34</sup> Ministry of Justice and Security, *The Dutch Juvenile Justice System*; Junger-Tas, J., “Youth Justice in the Netherlands,” *European Journal on Criminal Policy and Research*.

<sup>35</sup> *Ordonnance No. 45-174 du 2 février 1945 relative à l'enfance délinquante*; Wyvekens, Anne, “Juvenile Justice in France: From Education to Penal Mediation,” University of Paris.

<sup>36</sup> Hambali, A. R. (2020). *Penegakan Hukum Melalui Pendekatan Restorative Justice Penyelesaian Perkara Tindak Pidana*. *Kalabbirang Law Journal*, 2(1), hlm 69-77

Although the perpetrator's child can participate in the diversion process during the investigation, prosecution, and court proceedings, its implementation often faces practical obstacles. The deliberation process involving the child, parents or guardians, victims and/or victims' parents, community counsellors, and professional social workers can be complicated and cause emotional stress for the child. In addition, the principle of restorative justice, which is the basis of diversion, cannot always be applied consistently, making it difficult to achieve the goal of effective recovery for the child and the victim.<sup>37</sup>

Although diversion is intended to resolve juvenile cases through discussions between the victim and the perpetrator, this process can be halted if one of the parties is absent, thereby hindering the resolution of the case. The transfer of children's cases from the criminal justice system to out-of-court mechanisms is not always effective, as the involvement of various parties—such as the community, counsellors, police, prosecutors, or judges—can create complexity and potential conflict. Furthermore, resolution through mediation or restorative dialogue may fail to achieve adequate justice if one party is unwilling to cooperate, thereby limiting the practical application of diversion as an alternative to formal court proceedings.<sup>38</sup> Although Law No. 11 of 2012 defines diversion as the transfer of juvenile cases from the criminal justice system to mechanisms outside the formal court system, this creates uncertainty because the decision remains in the hands of law enforcement officials. Their authority to determine whether a case should proceed or be discontinued, as well as the actions taken, can lead to inconsistencies and potential abuse of policy. As a result, children who should receive legal protection may face injustice or unequal treatment in diversion practices.<sup>39</sup>

Although the juvenile justice system provides protection through diversion, its implementation does not always guarantee the full rights and interests of children. The broad concept of child protection can be difficult to realise, meaning that aspects of children's physical, mental and social development may not be fully protected. As a result, children in conflict with the law remain at risk of negative impacts or inadequate treatment even when diversion is applied.<sup>40</sup> Although children are the future generation of the nation who should have sufficient opportunities to develop, in practice, protection for them is often not optimal. The responsibility of society to ensure that children's rights and obligations are fulfilled is not always carried out consistently, so that children's mental, physical and social growth can be disrupted. Although Law No. 11 of 2012 and the principle of restorative justice provide for diversion mechanisms, the application of these mechanisms is limited to cases involving certain criminal charges and depends on the interpretation of law enforcement officials, so that many children in conflict with the law still face the risk of inadequate protection. Supreme Court Regulation (Perma) No. 4 of 2014, which expands the application of diversion, still leaves gaps, as it only applies if at least one of the charges carries a sentence of less than seven years, so that the goal of comprehensive child protection is often not achieved.

A challenge in implementing diversion for aggravated theft cases following the enactment of Supreme Court Regulation (Perma) Number 4 of 2014 is that law enforcement officers consider theft to be a criminal offense punishable by seven years of imprisonment. Even if the charge is formulated as an alternative offense—such as theft—diversion is not applied.<sup>41</sup> Supreme Court Regulation (Perma) Number 4 of 2014 mandates diversion for offenses charged under alternative indictments.

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<sup>37</sup> Rodliyah, "Diversi Sebagai Salah Satu Bentuk Perlindungan Terhadap Anak Yang Berhadapan Dengan Hukum (Abh) Diversion As Legal Protection Towards Children With Conflict With Law" (2019) 7:1 Jurnal IUS: Jurnal Hukum dan Keadilan, hlm 182–194.

<sup>38</sup> *Ibid* at 183.

<sup>39</sup> Setyorini, E. H., et al. (2023). The effectiveness of diversion through restorative justice for handling children in the East Java Police. *SASI*, 29(158), hlm 59–74..

<sup>40</sup> Rodliyah, *Op.,Cit.*, hlm 185.

<sup>41</sup> Wardani, M., & Manthovani, K. (2014). Perma Nomor 4 tahun 2014 sebagai produk optimalisasi efisiensi peradilan pidana anak. *jurnal hukum*, 1(November), hlm 154–170..

However, this provision is rarely utilized in practice because law enforcement officers, including police and prosecutors, seldom apply Perma Number 4 of 2014.<sup>42</sup> One major obstacle to implementing diversion is that it prevents detention, which makes police and prosecutors reluctant to apply it in aggravated theft cases, even when charges are alternative offenses.

Although diversion should be applied at the investigation, prosecution and court examination stages through deliberation, this process can be disrupted if one of the parties does not participate, making it difficult to achieve restorative goals. Approaches that emphasise dialogue, reconciliation and social reintegration do not always succeed in protecting children's rights or reducing stigma, especially when support from the community or authorities is limited. Although Law No. 11 of 2012 defines diversion as the transfer of children's cases to out-of-court settlements, in practice its application is often inconsistent. The humanistic basis of diversion, which emphasises children's rights to physical, mental and social development, can fail to be implemented if the actual conditions on the ground are not supportive.

In practice, however, diversion in cases of aggravated theft faces challenges. Even though Perma No. 4 of 2014 allows diversion for alternative or cumulative charges, law enforcement rarely applies it, fearing serious crimes automatically require detention. This gap between law and practice shows that child protection is not fully realized and highlights the need for procedural reform and better socialization of diversion to achieve restorative justice.

The implementation of diversion in aggravated theft cases in Indonesia faces several complex challenges. Normatively, Law No. 11 of 2012 limits diversion to cases with criminal penalties under seven years, while aggravated theft carries a penalty above this threshold, effectively preventing diversion at the investigation and prosecution stages. Although Supreme Court Regulation No. 4 of 2014 allows diversion for alternative charges, law enforcement—especially police and prosecutors—are often reluctant to apply it, perceiving theft as a serious crime that requires detention. Procedural barriers are reinforced by institutional concerns that diversion would prevent detaining juvenile offenders, so diversion is rarely used despite restorative and deliberative mechanisms being explicitly provided in the SPPA. As a result, the main objectives of child protection and restorative justice are not fully achieved, as children must still go through formal court processes that may cause emotional stress, stigma, and hinder social reintegration.

In contrast, the Netherlands and France demonstrate more flexible and child-centered diversion models. The Netherlands, through the *Halt-afdoening* system, allows out-of-court resolution even for certain theft cases without strict penalties, giving police and *Halt* institutions broad discretion to apply educational and restorative measures. France, under the *Ordonnance de 1945*, also grants police and prosecutors wide authority to implement diversion and *médiation pénale*, emphasizing the principle of *primauté de l'éducatif*, which prioritizes the child's education over punitive measures. Both countries do not treat criminal penalties as a barrier to diversion, focusing instead on dialogue, restoration, and social reintegration. Compared to Indonesia, the Netherlands and France show that procedural flexibility, officer discretion, and a strong emphasis on child education are key to successful diversion, even in serious cases such as aggravated theft.

### **3. Reconstruction of a Diversion Model That Can Provide Legal Protection for Children Who Commit Aggravated Theft.**

The principle of restorative justice through diversion is regulated in the Juvenile Criminal Justice System Law, but in practice it has not fully satisfied public expectations of justice. Justice is understood as an ideal moral truth, both regarding actions and individuals. The purpose of justice is

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<sup>42</sup> *Ibid* at 168.

to protect the truth and the rights of every person. Judges are not only defenders of the law but also enforcers of justice, who must interpret the law accurately based on Pancasila and prevailing regulations.<sup>43</sup>

Rehabilitation programs with a populist approach must respect two principles of justice. First, they should ensure equality of rights and opportunities for the widest possible fundamental freedoms, providing the same level of freedom to everyone. Second, they should address social and economic inequalities so that benefits are accessible to all, regardless of whether individuals come from privileged or disadvantaged backgrounds.<sup>44</sup> Therefore, the principle of difference requires that the basic structure of society be arranged so that gaps in access to essential goods—such as welfare, income, and prestige—benefit those who are most disadvantaged.<sup>45</sup>

The justice referred to here is restorative justice, a judicial process that not only punishes the offender according to their actions but also involves the offender, their family, the victim, the victim's family, and relevant parties to collectively address the impact of the crime, including its future implications. This approach emphasizes community involvement, process integrity, and prioritizes the needs and safety of the victim.<sup>46</sup> Restorative justice also provides a new framework for law enforcement to handle crimes in a more participatory and humane manner. Under the SPPA, diversion is regulated with certain limitations. Article 7 stipulates that diversion must be carried out at the investigation, prosecution, and court stages, but only for offenses with prison terms under seven years and not for repeat offenses. Article 9 paragraph (1a) emphasizes that law enforcement must consider the category of the offense—the lighter the offense, the greater the likelihood of diversion. This highlights a limitation in the application of diversion, as the offense category determines a child's opportunity to receive restorative treatment.<sup>47</sup> The severity of the punishment a child receives depends on the seriousness of the offense committed.<sup>48</sup> Article 7 of the SPPA shows a distinction in diversion application: children facing prison terms over seven years are excluded, while those under seven years and not repeat offenders may receive diversion. This means the goal of diversion—to instill responsibility and prevent reoffending—is not fully achieved. Meanwhile, Article 64(g) of Law No. 23 of 2002 on Child Protection emphasizes protecting children in conflict with the law from arrest, detention, or imprisonment.

Diversion is a right for every child and should not be restricted. Children involved in aggravated theft who can be rehabilitated deserve diversion. Every child should have the opportunity to reform, as imprisonment as the ultimate punishment remains overly harsh and not always effective. Therefore, Article 7(1) of the SPPA should be revised or supplemented to allow wider diversion. Internationally, diversion is recognized as the most effective method for handling children in conflict with the law.<sup>49</sup>

Diversion is a process that shifts the resolution of juvenile offenses to a restorative dialogue, involving investigators, prosecutors, and the court system. Police, as first responders, have the authority to initiate diversion due to their direct contact with the community.

Applying restorative justice-based diversion significantly reduces the number of children in

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<sup>43</sup> R. H. Wibowo, "Pendekatan Keadilan Restoratif dalam Penghentian Penuntutan Berdasarkan Keadilan Restoratif," *Jurnal Hukum Progresif*, vol. 9, no. 2, pp. 146-157,

<sup>44</sup> Sunaryo, "Konsep Fairness John Rawls, Kritik, dan Relevansinya" (2022) 19:1 *Jurnal Konstitusi* at 1.

<sup>45</sup> Arianto, Y. F., et al. (2025). Konsep keadilan restoratif dalam perspektif teori keadilan John Rawls. *Nusantara: Jurnal Pendidikan, Seni, Sains, dan Sosial Humaniora*, 3(1), hlm 1–19

<sup>46</sup> *Ibid* at 11.

<sup>47</sup> Muliani, S., et al. (2023). Reformulasi syarat pelaksanaan diversi dalam sistem peradilan pidana anak di Indonesia. *Jurnal Pembangunan Hukum Indonesia*, 5(2), hlm 358–373..

<sup>48</sup> *Ibid*.

<sup>49</sup> Utari, I. M. S. N. P. S., & Setiabudhi, I. K. R. S. (2018). Diskriminasi penerapan diversi terhadap anak yang melakukan tindak pidana. *Kertha Wicara*, 7(2), 1–15..

detention or correctional facilities. Comprehensive implementation lowers court cases, decreases institutional populations, and reduces state expenses for incarceration. It also prevents children from becoming criminalized, allows them to reintegrate without stigma, and fosters responsibility through the involvement of victims, families, and society. This approach motivates children to reform, avoid repeating offenses, and emphasizes restoring balance among offenders, victims, and the community while providing educational and rehabilitative measures for a better future, along with cultivating empathy, self-awareness, and social cohesion.<sup>50</sup>

In practice, law enforcement often struggles to apply Perma No. 4 of 2014 and tends to follow the SPPA Law, which limits diversion to cases with sentences under seven years. As a result, children involved in aggravated theft rarely receive diversion at the investigation or prosecution stages, leaving the objectives of child protection, victim restitution, and offender rehabilitation unmet. This uncertainty creates a gap between restorative justice principles and the formal, repressive legal practice, exposing children to stigma and emotional stress. Regulatory reform is needed to allow broader diversion, in line with restorative justice principles and comprehensive child protection.. Padmo Wahyono states, “Legal politics is a fundamental policy that determines the direction, form, and content of laws to be created, implemented, and enforced, as well as policies related to laws that will be applied in the future.”<sup>51</sup> Meanwhile, C.F.G. Sunaryati Hartono views legal politics as a tool or means and a set of measures that the government can use to create the desired national legal system, through which the ideals of the Indonesian nation can be realized..<sup>52</sup>

"The reformulation of Article 7 paragraph (2) letter a of the Child Criminal Justice System Law, which currently limits diversion only to criminal acts punishable by less than 7 years of imprisonment, has been proposed. The Netherlands, through the *Halt-afdoening* system, grants broad authority to the police and *Halt* institutions to resolve juvenile cases—including theft—outside the court system without a specific criminal penalty threshold, as long as the case is deemed appropriate and the offender is willing to cooperate. France, through the 1945 *Ordonnance* and *médiation pénale*, also allows diversion for various types of juvenile offenses, as the primary consideration is not the severity of the criminal threat but the extent to which an educational approach can restore the relationship between the offender and the victim. Both countries place education, rehabilitation, and social reintegration of children as the central values of their juvenile justice systems. In light of the successes of the Netherlands and France, Indonesia needs to reconstruct Article 7 paragraph (2) of the Child Criminal Justice System Law by expanding the scope of diversion without limiting it to certain criminal penalties, so that aggravated theft cases can still be handled through restorative pathways if there is potential for recovery and victim agreement. This reconstruction aligns with the goals of restorative justice, the mandate for child protection, and the direction of national legal politics, which prioritizes child development within Indonesia’s legal system.

### 3. Conclusions

Diversion as a mechanism for resolving juvenile cases outside the criminal justice system is oriented toward restorative justice; however, its implementation in Indonesia remains limited due to Article 7 paragraph (2) of the Child Criminal Justice System Law, which restricts diversion for criminal acts punishable by more than seven years, including aggravated theft. This normative limitation forces children to undergo formal judicial processes, causing emotional pressure, stigma, and hindering the goals of rehabilitation and social reintegration. In comparison, the Netherlands and France grant broad discretion

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<sup>50</sup> Mendes, J. (2014). *Rule of law and participation: A normative analysis of internationalized rulemaking as composite procedures*. *International Journal of Constitutional Law*, 12(2), hlm 370–401

<sup>51</sup> Wahjono, Padmo. 1986. *Indonesia Negara Berdasarkan Atas Hukum*. Jakarta: Ghalia Indonesia. hlm 60.

<sup>52</sup> Syaekani, I., & Thohari, A. A. (2004). *Dasar-dasar politik hukum*. Jakarta: Raja Grafindo Persada, hlm 26–31.

without limiting diversion based on the severity of the offense, demonstrating that both countries prioritize educational principles, rehabilitation, and the best interests of the child.

Diversion based on restorative justice principles and a humanistic approach fundamentally provides children the opportunity to learn responsibility without negative labeling or long-term stigma. However, in practice—particularly in cases of aggravated theft—its implementation in Indonesia faces significant obstacles because law enforcement officials are reluctant to apply Supreme Court Regulation No. 4 of 2014 and remain focused on offenses deemed severe. This results in diversion rarely being carried out during the investigation or prosecution stages, leaving children exposed to a repressive formal judicial process. In contrast, the Netherlands and France grant broad discretion to authorities to apply diversion even in serious cases for the best interests of the child, highlighting that child legal protection in Indonesia remains suboptimal. Therefore, procedural reforms, increased socialization, and a paradigm shift among law enforcement personnel are urgently needed to ensure that the implementation of restorative justice is comprehensive and consistent at every stage of the juvenile justice process.

To achieve more effective legal protection for child offenders, including those involved in aggravated theft, Indonesia needs to revitalize its diversion system by adopting the progressive practices implemented in the Netherlands and France. Both countries do not limit diversion based on the severity of the criminal penalty; rather, they prioritize the best interests of the child, opportunities for rehabilitation, and educational potential as the main basis for decision-making. The Netherlands, through the *Halt-afdoening* system, and France, through *médiation pénale*, grant broad discretion to authorities to resolve juvenile cases outside the court system without being constrained by criminal penalty structures, thereby maximizing opportunities for recovery, dialogue, and social responsibility. By adopting these approaches, Indonesia needs to reformulate Article 7 paragraph (2) of the Child Criminal Justice System Law so that diversion can be applied more broadly across all categories of offenses, including those with high criminal penalties, as long as there is potential for rehabilitation and victim consent. This step allows for a more substantive implementation of restorative justice, reduces stigmatization, and supports the social reintegration of children as envisioned by the modern juvenile justice system.

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