



Reconceptualization of Diversion Governance in Juvenile Justice Systems: A Restorative Justice Approach to Prison Overcrowding Reduction in Indonesia


Muslim Mubarrok^{1*}, Ismail Koto²

¹Magister Ilmu Hukum Pasca Sarjana Universitas Muhammadiyah Sumatera Utara, Indonesia

²Universitas Muhammadiyah Sumatera Utara, Indonesia

*Corresponding Author: muslimmubarrok@gmail.com

Abstract: The increasing number of children in conflict with the law in Indonesia has not been matched by the optimal implementation of non-litigation mechanisms, thereby contributing to the problem of overcrowding in juvenile correctional institutions. Although diversion has been formally adopted within the juvenile justice system, its implementation remains limited and inconsistent across different stages of the judicial process. This study aims to analyze the reconceptualization of diversion as a restorative justice instrument to reduce overcrowding in juvenile correctional facilities in Indonesia. This research employs a normative legal method with statutory and conceptual approaches, supported by an analysis of relevant legal frameworks and scholarly literature on juvenile justice systems. The findings reveal that the implementation of diversion faces structural constraints, particularly its limited application at certain stages of the judicial process, lack of coordination among law enforcement agencies, and the persistence of a retributive paradigm in legal practice. As a result, diversion has not been fully effective in reducing the number of children entering correctional institutions, and the issue of overcrowding remains unresolved. This study highlights the need for a reconceptualization of diversion governance that is more integrative and grounded in restorative justice principles, by strengthening the roles of all stakeholders within the juvenile justice system. The contribution of this research lies in developing a conceptual framework positioning diversion as a

Received: December 31, 2025	Accepted: April 29, 2026	Published: May 5, 2026
<p>To Cite this Article: Mubarrok, M., & Koto, I. Reconceptualization of Diversion Governance in Juvenile Justice Systems: A Restorative Justice Approach to Prison Overcrowding Reduction in Indonesia. <i>Abdurrauf Law and Sharia</i>, 3.1 (2026), 14-26. https://doi.org/10.70742/arlash.v3i1.505</p>		
 <p>Copyright © 2026 by Author(s) This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License</p>		

systemic strategy for sustainable reform of juvenile justice, particularly in addressing prison overcrowding in Indonesia.

Keywords: Diversion, Restorative Justice, Juvenile Justice System, Overcrowding, Legal Governance

Abstrak: Peningkatan jumlah anak yang berhadapan dengan hukum di Indonesia tidak diimbangi dengan optimalisasi mekanisme penyelesaian non-litigasi, sehingga berkontribusi terhadap permasalahan overcrowding pada lembaga pemasyarakatan. Meskipun konsep diversifikasi telah diadopsi dalam sistem peradilan pidana anak, implementasinya masih cenderung terbatas dan belum konsisten pada setiap tahapan proses peradilan. Penelitian ini bertujuan untuk menganalisis rekonseptualisasi diversifikasi sebagai instrumen keadilan restoratif dalam mengurangi overcrowding lembaga pemasyarakatan anak di Indonesia. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual, yang didukung oleh analisis terhadap berbagai regulasi serta literatur terkait sistem peradilan pidana anak. Hasil penelitian menunjukkan bahwa implementasi diversifikasi masih menghadapi kendala struktural, terutama keterbatasan penerapan pada tahap tertentu dalam proses peradilan, kurangnya koordinasi antar aparat penegak hukum, serta dominannya paradigma retributif dalam praktik penegakan hukum. Kondisi ini menyebabkan diversifikasi belum optimal dalam menekan jumlah anak yang masuk ke lembaga pemasyarakatan, sehingga permasalahan overcrowding tetap berlangsung. Penelitian ini menegaskan bahwa diperlukan rekonseptualisasi tata kelola diversifikasi yang lebih integratif dan berbasis keadilan restoratif, dengan memperkuat peran semua aktor dalam sistem peradilan pidana anak. Kontribusi penelitian ini terletak pada pengembangan kerangka konseptual mengenai diversifikasi sebagai strategi sistemik dalam reformasi peradilan pidana anak, khususnya dalam mengatasi overcrowding secara berkelanjutan di Indonesia.

Kata kunci: Diversifikasi, Keadilan Restoratif, Sistem Peradilan Pidana Anak, Kepadatan Berlebih, Tata Kelola Hukum

Introduction

The increasing rate of juvenile delinquency constitutes a global phenomenon that poses significant challenges to the effectiveness of juvenile justice systems.¹ In many countries, conventional punitive approaches centered on incarceration have been increasingly criticized for their inability to optimally rehabilitate

¹ Samuel Tampubolon and Padrisan Jamba, "ANALISIS YURIDIS PELAKSANAAN DIVERSI DALAM TAHAP PENYIDIKAN KEPOLISIAN DITINJAU DARI SISTEM PERADILAN PIDANA ANAK," *Ensiklopedia Sosial Review* 2, no. 2 (2020), <https://doi.org/10.33559/esr.v2i2.487>.

children, while simultaneously generating structural issues such as overcrowding in correctional institutions.² This condition necessitates a reconsideration of how legal systems treat children in conflict with the law—not merely as offenders, but as individuals shaped by social and environmental factors.³

In the Indonesian context, this issue becomes more complex with the growing number of children processed through formal judicial mechanisms, which directly contributes to the overcapacity of correctional institutions. Although, normatively, the state is obligated to provide legal protection for children—as stipulated in various statutory regulations—its implementation in practice remains inconsistent.⁴ Overcrowding not only diminishes the quality of rehabilitation programs but also increases the risks of violence, stigmatization, and failure of social reintegration among children.⁵

The urgency of this issue is further reinforced by the advancement of global juvenile justice reforms. Countries such as Norway and New Zealand have adopted restorative justice approaches that emphasize the resolution of cases outside formal judicial processes in order to minimize incarceration and enhance rehabilitation outcomes.⁶ Within this framework, diversion is positioned as a strategic instrument to reduce reliance on formal justice systems while simultaneously addressing the problem of overcrowding in a systemic manner.

² Wandu Subroto, “PERLUNYA KEADILAN RESTORATIF DALAM SISTEM PERADILAN ANAK TERHADAP KENAKALAN REMAJA,” *Jurnal Kelola: Jurnal Ilmu Sosial* 5, no. 1 (2022), <https://doi.org/10.54783/jk.v5i1.491>.

³ Bambang Surabangsa and Tajul Arifin, “PERADILAN PIDANA ANAK DI INDONESIA DALAM PERSPEKTIF HUKUM ISLAM,” *Hukum Islam* 22, no. 1 (2022), <https://doi.org/10.24014/jhi.v22i1.18402>.

⁴ Muhammad Hendri Yanova et al., “Pemahaman Anak Terhadap Kenakalan Remaja Dari Sudut Pandang Sistem Peradilan Pidana Anak Di SMPN 4 Martapura,” *AKM: Aksi Kepada Masyarakat* 5, no. 1 (2024), <https://doi.org/10.36908/akm.v5i1.1155>.

⁵ Septy Juwita Agustin Br Tobing, “Initiating Mental Health Services for Youth Involved in the Juvenile Justice System in Indonesia: Lessons from the US Systems of Care,” *Restorative : Journal of Indonesian Probation and Parole System* 2, no. 1 (2024), <https://doi.org/10.61682/restorative.v2i1.11>.

⁶ Bagas Pamungkas Pamungkas, “Reformasi Hukum Acara Pidana Untuk Meningkatkan Efektivitas Sistem Peradilan Dalam Mengatasi Kriminalitas,” *Ethics and Law Journal: Business and Notary* 1, no. 3 (January 2, 2024): 298–314, <https://doi.org/10.61292/eljbn.83>.

Diversion, as part of the restorative justice paradigm, refers to a mechanism that redirects the resolution of juvenile cases from formal judicial proceedings to non-litigation processes that emphasize restoration, accountability, and social reintegration. However, despite its incorporation into the national legal framework, the implementation of diversion in Indonesia continues to face both conceptual and practical challenges. Its application is often uneven across different stages of the judicial process, reflecting divergent legal interpretations, limited institutional capacity, and the continued dominance of a retributive paradigm in law enforcement practices.

Studies on the juvenile criminal justice system in Indonesia, particularly those concerning diversion and restorative justice, have been extensively conducted by previous scholars. However, research that explicitly examines the governance of case diversion in relation to the issue of prison overcrowding remains relatively limited.

The study conducted by Ariyanti Panu, Roy Marthen Moonti, and Ibrahim Ahmad (2025), entitled “*Reform of the Juvenile Criminal Justice System in Indonesia: Between Diversion, Restorative Justice, and the Protection of Children’s Rights*,” emphasizes the importance of reforming the juvenile criminal justice system through the integration of diversion and restorative justice approaches. The study demonstrates that diverting the resolution of juvenile cases from formal judicial processes to non-formal mechanisms constitutes a strategic measure to strengthen the protection of children’s rights and enhance the effectiveness of the justice system. Nevertheless, the research primarily focuses on normative aspects and the protection of children’s rights, without specifically addressing its implications for system governance or its impact on prison overcrowding.⁷

Furthermore, the study by Kartika Dita Ayu Rahmadani, I. Made Minggu Widyantara, and Ni Made Sukaryati Karma (2023), entitled “*Diversion Policy in the Juvenile Criminal Justice System as an Effort to Shift from Formal Judicial Processes*,” examines the implementation of diversion policy as a principal instrument within the juvenile justice system. The findings indicate that diversion plays a

⁷ Ariyanti Panu, Roy Marthen Moonti, and Ibrahim Ahmad, “Reformasi Sistem Peradilan Pidana Anak Di Indonesia Antara Diversi, Restoratif, Dan Perlindungan Hak Anak,” *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora* 2, no. 2 (2025), <https://doi.org/10.62383/progres.v2i2.1885>.

crucial role in preventing children from undergoing formal judicial processes that may generate adverse psychological and social consequences. However, this study predominantly concentrates on the implementation aspects of diversion policy and does not comprehensively explore governance dimensions or inter-institutional coordination in the execution of case diversion.⁸

Meanwhile, the research conducted by Atila Amalia Bachmid (2025), entitled “*Child Protection in the Juvenile Criminal Justice System: Policies and Their Implementation in Indonesia*,” highlights the importance of a rehabilitative approach and multi-stakeholder participation within the juvenile justice system. The study affirms that the application of diversion and restorative justice can facilitate the recovery of children and ensure the protection of their rights. However, its focus remains confined to issues of protection and policy implementation, without explicitly linking these aspects to structural challenges such as prison overcapacity.⁹

Based on these three studies, it can be observed that prior research has predominantly focused on normative dimensions, child protection, and the implementation of diversion. Nonetheless, a significant research gap persists regarding how diversion is positioned within the broader governance framework of the juvenile justice system and its implications for reducing prison overcrowding. Accordingly, this study seeks to address this gap by analyzing the reconceptualization of diversion governance within the juvenile justice system through a restorative justice approach, as well as examining its contribution to alleviating prison overcrowding in Indonesia through a normative legal approach combined with conceptual analysis.

This study argues that the suboptimal effectiveness of diversion is not solely attributable to regulatory shortcomings, but also to fragmented implementation and weak coordination among law enforcement institutions. Accordingly, the objectives of this study are to: (1) analyze the conceptual framework of diversion within the restorative justice paradigm; (2) identify structural constraints in its implementation across various stages of the juvenile

⁸ Kartika Dita et al., “Kebijakan Diversi Dalam Sistem Peradilan Pidana Anak Sebagai Upaya Pengalihan Peradilan Formal,” *Jurnal Analogi Hukum* 5, no. 1 (2023).

⁹ “Perlindungan Anak Dalam Sistem Peradilan Pidana Anak : Kebijakan Dan Pelaksanaannya Di Indonesia,” *Iuris Studia: Jurnal Kajian Hukum* 6, no. 1 (2025), <https://doi.org/10.55357/is.v6i1.838>.

justice process; and (3) evaluate the potential of diversion as a systemic strategy for reducing overcrowding in correctional institutions in Indonesia.

Conceptually, this research contributes to the development of a diversion governance framework that is understood not merely as a legal mechanism, but as a strategic instrument in the reform of the juvenile justice system. More broadly, it offers an analytical perspective on the challenges of translating restorative justice principles into institutional practice, particularly within the context of developing countries.

Method

This study employs a normative legal research design with a qualitative-analytical approach, focusing on the examination of norms, concepts, and practices within the juvenile justice system. The approaches applied include the statutory approach to review various regulations related to diversion and the juvenile justice system in Indonesia, the conceptual approach to analyze the concepts of restorative justice and diversion governance, and a limited comparative approach through the examination of diversion practices in a global context as a basis for analytical reflection.

The data used in this study consist of secondary sources, including primary, secondary, and tertiary legal materials. Primary legal materials comprise relevant statutory regulations, particularly the Law on the Juvenile Justice System and its supporting regulations. Secondary legal materials include scholarly literature, academic journals, and previous research findings relevant to the topics of diversion and restorative justice. Meanwhile, tertiary legal materials are utilized to strengthen conceptual understanding and legal terminology.

Data collection was conducted through a systematic and structured library research method, involving the review of relevant legal sources and academic literature. In this process, the researcher also performed a critical selection of sources to ensure the validity and relevance of the data employed.

Data analysis was carried out qualitatively through legal reasoning techniques, combined with systematic and teleological interpretation of legal norms. This approach was used to understand the interrelation among legal provisions as well as the underlying objectives of regulations concerning diversion. In addition, conceptual analysis was employed to examine how

restorative justice principles are translated into diversion practices within the juvenile justice system.

To enhance the validity of the analysis, this study applies literature triangulation by comparing various legal sources and academic studies to obtain a comprehensive understanding. The researcher also adopts academic reflexivity by acknowledging the analytical position in interpreting legal norms, thereby ensuring that the findings are not merely descriptive but also critically address the gap between normative frameworks and their implementation.

Result and Discussion

Implementation of Diversion in the Juvenile Justice System in Indonesia

The implementation of diversion within the juvenile justice system in Indonesia has been normatively regulated under Law Number 11 of 2012 concerning the Juvenile Justice System (SPPA). This regulation mandates diversion efforts at every stage of the judicial process, ranging from investigation and prosecution to court examination. Such provisions reflect the state's commitment to adopting restorative justice principles, which prioritize the best interests of the child.¹⁰ Conceptually, diversion is designed to shield children from the adverse effects of formal judicial processes, such as stigmatization and the risk of repeated criminalization. Furthermore, diversion promotes participatory conflict resolution by involving offenders, victims, and the community. Accordingly, diversion is not merely procedural in nature but also embodies a substantive dimension in the protection of children's rights.

However, in practice, the implementation of these provisions continues to face various challenges. The discrepancy between normative frameworks and practical realities indicates that the effectiveness of diversion requires deeper examination, given its strategic position within the juvenile justice system. An analysis of its application is therefore essential to assess the extent to which its legal objectives have been genuinely achieved.¹¹

¹⁰ Amelia Putri Dehi, "Optimalisasi Diversi Dalam Sistem Peradilan Pidana Anak: Upaya Strategis Melindungi Hak Dan Masa Depan Anak Di Indonesia," *IURIS STUDIA: Jurnal Kajian Hukum* 6, no. 1 (2025).

¹¹ Wikan Sinatrio, "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia," *Journal of Indonesian Legal Studies* 4, no. 1 (2019), <https://doi.org/10.15294/jils.v4i01.23339>.

To date, the application of diversion remains suboptimal and tends to be limited to the early stages of the judicial process, particularly at the investigation level. At this stage, law enforcement officers, especially the police, possess relatively broader discretionary authority to resolve cases outside the court system. However, once cases proceed to the prosecution stage, the opportunity for diversion becomes increasingly constrained. This condition demonstrates an inconsistency in the implementation of legal norms that are intended to apply across all stages of the judicial process. Consequently, diversion has yet to function as an integrated mechanism. These limitations also reflect differing levels of understanding among law enforcement officials regarding the concept and objectives of diversion, further exacerbated by the absence of standardized operational guidelines.¹²

At subsequent stages, such as prosecution and court examination, the likelihood of applying diversion becomes even more limited. As a result, many juvenile cases continue through formal judicial proceedings and ultimately lead to sentencing. Normatively, however, diversion should be prioritized before cases proceed further within the justice system. This situation indicates a systemic tendency to retain a retributive approach. Although the legal framework has evolved, its implementation remains influenced by traditional paradigms centered on punishment. In addition to these factors, administrative and procedural barriers frequently hinder the implementation of diversion, thereby compelling children to undergo legal processes that may adversely affect their psychological and social development.

The tendency of law enforcement officials to favor penal over non-penal approaches further demonstrates that regulatory reforms have not been fully accompanied by corresponding changes in legal culture. Formal judicial processes are often perceived as providing greater procedural certainty, whereas diversion is viewed as offering less legal certainty. This perception constitutes a significant obstacle to optimizing diversion. In contrast, from a restorative justice perspective, out-of-court resolution is more capable of achieving

¹² Musa Darwin Pane and Alvina Rahim, "TINJAUAN HUKUM TERHADAP KEBIJAKAN DIVERSI DALAM SISTEM PERADILAN PIDANA ANAK DI INDONESIA," *USRAH: Jurnal Hukum Keluarga Islam* 6, no. 1 (2025), <https://doi.org/10.46773/usrah.v6i1.1639>.

substantive justice by taking into account the interests of all parties, including victims and the broader community.¹³

On the other hand, limited coordination among law enforcement institutions also affects the effectiveness of diversion. The juvenile justice system involves multiple institutions, including the police, prosecution service, courts, and correctional institutions, which are expected to operate in an integrated manner. In practice, however, each institution tends to function independently within its respective authority, without strong synergy. As a result, the implementation of diversion becomes inconsistent and fragmented, and often stalls at one stage without progressing to subsequent stages. This condition indicates that the challenges of diversion are not merely normative but also structural in nature.¹⁴

A lack of understanding of the concept of restorative justice constitutes another factor influencing the implementation of diversion. Some law enforcement officials continue to perceive diversion merely as an administrative procedure, whereas it embodies a philosophical dimension aimed at restoring social relationships disrupted by criminal acts. The limited availability of training and socialization further exacerbates this issue, resulting in diversion failing to achieve its substantive objectives to their fullest extent.

In addition, community involvement in the diversion process remains very limited. Within the restorative justice framework, the community plays a crucial role in supporting case resolution. This low level of participation is attributable to insufficient understanding of diversion mechanisms, as well as the absence of a clear system to actively engage the community. Consequently, the implementation of diversion tends to be formalistic and has yet to meaningfully address its broader social dimensions.

These conditions contribute to an increasing number of children being placed in correctional institutions. The suboptimal implementation of diversion results in many juvenile cases continuing through formal judicial

¹³ Panu, Moonti, and Ahmad, "Reformasi Sistem Peradilan Pidana Anak Di Indonesia Antara Diversi, Restoratif, Dan Perlindungan Hak Anak."

¹⁴ Rista Zullibar PA, Jamaluddin Jamaluddin, and Muhammad Nur, "IMPLEMENTASI DIVERSI SISTEM PERADILAN PIDANA ANAK DALAM TAHAP PENUNTUTAN OLEH JAKSA DI WILAYAH KEJAKSAAN NEGERI ACEH SELATAN," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 11, no. 1 (June 16, 2023): 155, <https://doi.org/10.29103/sjp.v11i1.9945>.

processes, thereby exacerbating the longstanding problem of overcrowding within Indonesia's correctional system. Such overcrowding not only affects the physical conditions of these institutions but also diminishes the quality of rehabilitation programs and increases the risks of violence and human rights violations.

Overcrowding also generates long-term implications for the social reintegration of children. An uncondusive environment, compounded by social stigma and negative experiences during incarceration, can hinder psychological development and increase the risk of recidivism. This situation clearly contradicts the objectives of the juvenile justice system, which emphasize rehabilitation and resocialization. In this context, diversion becomes a crucial instrument for mitigating such adverse impacts.¹⁵

The implementation of diversion in Indonesia continues to face a range of structural, cultural, and institutional challenges. The gap between normative frameworks and practical realities indicates that legal reform has not yet been fully realized. A more comprehensive approach is therefore required, encompassing the strengthening of institutional capacity, the harmonization of understanding among law enforcement officials, and the enhancement of community participation. Through an integrated strategy, diversion holds significant potential to function more effectively as an instrument of restorative justice and to contribute to the development of a more humane and equitable juvenile justice system.

The Gap between the Normative Framework and the Practice of Diversion

The limited implementation of diversion reflects a clear gap between legal norms (*law in books*) and their practical application (*law in action*). Normatively, the juvenile justice system in Indonesia has adopted the restorative justice paradigm, which places the best interests of the child as a fundamental principle. This principle emphasizes that the handling of children in conflict with the law must prioritize protection, rehabilitation, and social reintegration. Within this framework, diversion is positioned as a primary instrument to shield children from the adverse effects of formal judicial processes. However,

¹⁵ Natalia Khmelevska and Marianna Muravyeva, "Innovative Approaches to Juvenile Justice Reform: A Finnish-Ukrainian Experience," *Revista Amazonia Investiga* 13, no. 82 (October 30, 2024): 186-96, <https://doi.org/10.34069/AI/2024.82.10.15>.

the existence of such norms does not fully guarantee effective implementation in practice. This indicates that the success of legal regulation is determined not only by its substance but also by how it is applied. This gap further reflects underlying structural issues within the legal system.¹⁶

In practice, the retributive paradigm continues to dominate law enforcement processes involving children. Law enforcement officials tend to perceive criminal acts as violations that must be addressed through formal mechanisms culminating in punishment. This orientation demonstrates that the justice system remains focused on punishment as its primary objective, which does not always align with the principles of child protection. The persistence of this paradigm also indicates resistance to the shift toward restorative justice. Moreover, this approach often overlooks the social dimensions of crimes involving children, resulting in less comprehensive case resolution.¹⁷

The tendency to rely on formal mechanisms also reflects a limited understanding of the concept of restorative justice. Diversion is frequently perceived merely as an administrative procedure rather than as a substantive mechanism aimed at achieving restoration. In fact, from a restorative perspective, diversion constitutes a dialogical process involving offenders, victims, and the community.¹⁸ This lack of understanding leads to its implementation often being reduced to mere formality, without producing meaningful outcomes. In many cases, the participation of victims and the community remains minimal, thereby preventing the achievement of restorative objectives in an optimal manner.

Beyond paradigm-related factors, limitations in institutional capacity also pose significant obstacles. Several law enforcement institutions are not yet supported by adequate human resources to effectively implement diversion.

¹⁶ Siti Zubaidah et al., "Integrating Tradition into Legal Reform: Reconstructing the Role of Reconciliatory Customary Judges in Diversion Processes within the Interplay of Islamic, Customary, and National Law," *Jurnal Ilmiah Mizani* 12, no. 2 (2025), <https://doi.org/10.29300/mzn.v12i2.8439>.

¹⁷ Zubaidah et al.

¹⁸ Zelki Marfinas, Fuad Rahman, and Ramlah, "Efektifitas Penerapan Sanksi Terhadap Tindak Pidana Anak Dalam Perspektif Hukum Positif Dan Hukum Pidana Islam Di Wilayah Hukum Polresta Jambi," *Jurnal Greenation Sosial Dan Politik* 3, no. 3 (2025), <https://doi.org/10.38035/jgsp.v3i3.420>.

The lack of training and education on restorative justice contributes to the limited competence of officials in facilitating such processes. This condition also affects the quality of decision-making at each stage of diversion, resulting in inconsistent implementation.

The absence of clear and operational technical guidelines further complicates the implementation of diversion. Although it has been regulated by law, detailed implementation procedures remain limited. Consequently, law enforcement officials interpret and apply diversion differently, leading to inconsistent practices across regions. This lack of clarity also has the potential to create legal uncertainty and undermine trust in the diversion mechanism.

Weak synergy among law enforcement institutions further exacerbates this condition. The juvenile justice system involves multiple agencies with their respective authorities; however, coordination among them has not been functioning optimally. Each institution tends to operate in a sectoral manner without strong integration, resulting in diversion processes that do not proceed consistently from one stage to the next. The lack of inter-institutional communication also constitutes a significant barrier to maintaining the continuity of diversion processes.

This issue cannot be separated from the governance aspect of the juvenile justice system. Effective governance requires coordination, transparency, and accountability at every stage of the process. In practice, however, these principles have not been fully implemented, as evidenced by the limited availability of evaluation mechanisms and monitoring systems for diversion practices. Consequently, the success of diversion implementation remains difficult to measure objectively.

The gap between normative frameworks and practice also indicates a problem in the internalization of legal values. Existing regulations have not been fully understood or embraced by practitioners in the field, resulting in restorative justice principles not yet being embedded within the legal culture. Diversion is therefore often positioned merely as a formal obligation rather than as a substantive approach to case resolution.

The limitations in the implementation of diversion demonstrate that the challenges faced are multidimensional, encompassing regulatory, institutional, legal-cultural, and governance aspects. This condition calls for a more comprehensive approach, including a paradigm shift, the strengthening of

institutional capacity, and the improvement of coordination and oversight mechanisms. Through an integrated strategy, diversion can function more effectively as an instrument of restorative justice and contribute to the realization of a more just and humane juvenile justice system.

Reconceptualizing Diversion as a Systemic Strategy to Address Overcrowding

From a theoretical perspective, diversion constitutes an integral component of the restorative justice paradigm, which emphasizes restoration, participation, and shared responsibility. This approach emerges from critiques of conventional criminal justice systems that are overly oriented toward punishment. Within the restorative framework, crime is understood as a social conflict that causes harm to multiple parties, rather than merely a violation against the state. Its resolution therefore requires the active involvement of offenders, victims, and the community. Diversion serves as a key instrument for operationalizing these principles in practice through processes of dialogue, restoration, and reconciliation. Accordingly, diversion functions not only as a procedural alternative but also as a substantive approach to achieving justice, while reflecting a strong philosophical dimension within the juvenile justice system.¹⁹

From the perspective of restorative justice, the resolution of juvenile criminal cases is not solely offender-oriented but also takes into account the interests of victims and the community. This approach emphasizes the restoration of social relationships disrupted by criminal acts. Victims are given the opportunity to express the harm they have experienced, while offenders are encouraged to take direct responsibility. The community, in turn, acts as both mediator and supervisor. This mechanism fosters a more inclusive and participatory form of resolution, in contrast to conventional systems that tend to be formalistic. In the context of children, this approach is particularly relevant as it considers their psychological and social development.²⁰

A diversion approach grounded in restorative justice is also consistent with international practices across various countries. Many jurisdictions have adopted non-litigation mechanisms as the primary strategy for handling juvenile cases, demonstrating reductions in incarceration rates and improvements in

¹⁹ Zelki Marfinas, Rahman, and Ramlah.

²⁰ Zelki Marfinas, Rahman, and Ramlah.

social reintegration outcomes. In addition to being more efficient in terms of cost and time, these practices affirm that diversion is not merely a normative concept but one that has proven effective in practice. International experiences may serve as valuable references, although they must be adapted to Indonesia's specific social and cultural context.²¹

Compared to countries such as Norway and New Zealand, the implementation of diversion in Indonesia remains partial. In these countries, diversion is not merely an alternative but constitutes the primary approach within the juvenile justice system. Consistent policies, strong institutional support, and a clear understanding of restorative justice principles among law enforcement officials enable more effective implementation. This contrast highlights opportunities for improving practices in Indonesia through contextually appropriate adaptation.

The effectiveness of diversion is highly dependent on policy integration and institutional capacity. In jurisdictions where it has been successfully implemented, all stages of the justice system demonstrate a shared commitment to restorative justice principles, supported by strong inter-agency coordination. In contrast, implementation in Indonesia remains fragmented, resulting in diversion not yet functioning optimally. System integration thus represents a key factor that must be strengthened through the collective commitment of all stakeholders.²²

Based on the findings of this study, a reconceptualization of diversion within Indonesia's juvenile justice system is necessary. Diversion should be understood not merely as a procedural mechanism, but as a systemic governance strategy. This approach emphasizes the integration of legal norms, institutional structures, and implementation practices, thereby enabling diversion to function as an instrument of reform. A shift in perspective thus becomes a crucial initial step in shaping the future direction of policy.

²¹ Nabilla N. Afifah, "Perbandingan Antara Pendekatan Keadilan Restoratif Dan Pendekatan Hukuman Adat Dalam Kasus Tindak Pidana Ringan," *Syntax Idea* 6, no. 6 (2024): 2804-16, <https://doi.org/10.46799/syntax-idea.v6i6.3749>.

²² Wido Bhernard Gabriel Sihombing, "Inkonsistensi Pengaturan Keadilan Restoratif Dalam Sistem Peradilan Pidana Di Indonesia Inconsistency Of Restorative Justice Regulations In The Criminal Justice System In Indonesia," *Jurnal Hukum Lex Generalis* 6, no. 7 (2025).

Such reconceptualization entails strengthening coordination among law enforcement institutions, enhancing the capacity of officials, and expanding the role of the community. Effective coordination will ensure the consistent application of diversion at every stage of the process, while improved institutional capacity will support the quality of its implementation. At the same time, greater community involvement will enhance both the legitimacy and effectiveness of case resolution processes, rendering diversion more inclusive and socially responsive.

This approach has important implications for reinforcing the role of diversion as a strategic instrument to reduce the number of children entering correctional institutions. Resolving cases outside custodial settings not only alleviates the institutional burden but also improves the quality of child rehabilitation by preventing exposure to high-risk environments. This, in turn, supports the development of a more humane justice system aligned with human rights principles, with sustainable long-term impacts.

The success of diversion should not be measured solely by the number of cases diverted, but also by the quality of the outcomes achieved. Effective diversion facilitates victim restoration, fosters offender accountability, and restores social harmony. Moreover, its success is reflected in its capacity to prevent recidivism. Accordingly, diversion must be evaluated comprehensively to ensure its continuous development and its contribution to the reform of Indonesia's juvenile justice system.

Conclusion

This study concludes that the implementation of diversion within Indonesia's juvenile justice system remains suboptimal, partial, and not yet systemically integrated. Although it has been normatively established within the framework of restorative justice, its practical application tends to be limited to the early stages of the judicial process, particularly at the investigation level. As a result, the majority of juvenile cases continue through formal judicial proceedings and culminate in sentencing. This condition indicates that diversion has not yet fully functioned as a primary instrument for reducing the incarceration of children or addressing overcrowding in correctional institutions. These findings affirm that the success of legal policy is determined not only by its normative strength but also by the effectiveness of its implementation. In this context,

diversion remains in a transitional phase between normative frameworks and practical application, reflecting underlying structural challenges within the juvenile justice system.

The synthesis of findings indicates that the limitations in diversion implementation are influenced by interrelated factors, including the dominance of the retributive paradigm, limited institutional capacity, weak inter-agency coordination, and the suboptimal understanding of restorative justice principles among law enforcement officials. In practice, diversion is often reduced to an administrative procedure rather than functioning as a substantive mechanism for achieving restoration. The limited involvement of both the community and victims further diminishes its effectiveness. This demonstrates that the challenges surrounding diversion are multidimensional and cannot be separated from the broader governance of the juvenile justice system. Its effectiveness is highly dependent on the integration of legal norms, institutional capacity, and legal culture.

From a theoretical perspective, this study contributes by reconstructing the understanding of diversion from a mere procedural mechanism into a governance strategy within a restorative justice-based juvenile justice system. Diversion is not only viewed as an alternative means of case resolution but also as an instrument for transforming the legal paradigm from retributive to restorative. This perspective expands existing scholarship, which has largely been normative and technical, while emphasizing the importance of integrating legal, institutional, and social dimensions. Through this approach, diversion is understood as a dynamic and contextual process, contributing to the development of restorative justice theory, particularly within the context of developing countries.

From a practical perspective, the findings of this study indicate the need for policy reform and strengthened implementation of diversion. Measures that can be undertaken include enhancing coordination among law enforcement institutions, improving the capacity of officials through restorative justice training, and developing more operational technical guidelines. Expanding the role of the community is also a crucial factor in increasing the effectiveness of diversion. Optimizing this mechanism has the potential to reduce the number of children entering correctional institutions, alleviate overcrowding, and improve the quality of rehabilitation. Moreover, this approach can reduce the

workload of law enforcement officials and state expenditures, thereby positioning diversion as an efficient and humane policy instrument.

This study has several limitations. The normative approach employed, supported by limited case studies, has not fully captured empirical dynamics across different regions. Limitations in data regarding the implementation of diversion at each stage of the judicial process have also affected the depth of analysis. Future research is recommended to adopt empirical or mixed-method approaches with broader geographical coverage. Longitudinal studies are necessary to assess the long-term effectiveness of diversion, while cross-national comparative research may enrich policy perspectives. Further research development is essential to strengthen the evidence base for reforming the juvenile justice system.

This study underscores that diversion is not merely an administrative instrument but forms part of a broader paradigm transformation within the juvenile justice system. Its success does not lie in the formality of its application, but in its capacity to achieve restoration, substantive justice, and social reintegration. Diversion must therefore be understood as a dynamic, contextual, and sustainable process, supported by all stakeholders. Through an integrated approach, diversion can serve as a strategic solution to reduce juvenile incarceration and address overcrowding, while promoting the realization of a more humane and equitable justice system. In this way, restorative justice moves beyond a conceptual framework and becomes a tangible practice within the juvenile justice system.

Acknowledgement

The authors would like to express their sincere gratitude to all parties who provided support during the research process and the preparation of this article. Appreciation is extended to those who contributed through academic support, facilities, and other forms of assistance that enabled the successful completion of this research.

Author Contributions Statement

MM contributed to the conceptualization of the study, data collection, data analysis, and manuscript drafting. IK contributed to the methodology, validation, and manuscript revision. All authors have read and approved the final version of the manuscript.

AI Usage Statement

The authors declare that the use of Artificial Intelligence (AI) in this research was limited to supportive functions, such as language editing, grammar checking, and improving clarity and readability. AI was not used to generate the main ideas, conduct substantive analysis, interpret data, or draw scientific conclusions. The authors take full responsibility for the originality, accuracy, and academic integrity of the entire content of this article.

Conflict of Interest

The authors declare that there is no conflict of interest regarding the research and publication of this article.

References

- Dehi, Amelia Putri. "Optimalisasi Diversi Dalam Sistem Peradilan Pidana Anak: Upaya Strategis Melindungi Hak Dan Masa Depan Anak Di Indonesia." *IURIS STUDIA: Jurnal Kajian Hukum* 6, no. 1 (2025).
- Dita, Kartika, Ayu Rahmadani, I Made, Minggu Widyantarai, Ni Made, and Sukaryati Karma. "Kebijakan Diversi Dalam Sistem Peradilan Pidana Anak Sebagai Upaya Pengalihan Peradilan Formal." *Jurnal Analogi Hukum* 5, no. 1 (2023).
- Juwita Agustin Br Tobing, Septy. "Initiating Mental Health Services for Youth Involved in the Juvenile Justice System in Indonesia: Lessons from the US Systems of Care." *Restorative: Journal of Indonesian Probation and Parole System* 2, no. 1 (2024). <https://doi.org/10.61682/restorative.v2i1.11>.
- Khmelevska, Natalia, and Marianna Muravyeva. "Innovative Approaches to Juvenile Justice Reform: A Finnish-Ukrainian Experience." *Revista Amazonia Investiga* 13, no. 82 (October 30, 2024): 186–96. <https://doi.org/10.34069/AI/2024.82.10.15>.
- Musa Darwin Pane, and Alvina Rahim. "TINJAUAN HUKUM TERHADAP KEBIJAKAN DIVERSI DALAM SISTEM PERADILAN PIDANA ANAK DI INDONESIA." *USRAH: Jurnal Hukum Keluarga Islam* 6, no. 1 (2025). <https://doi.org/10.46773/usrah.v6i1.1639>.
- N. Afifah, Nabilla. "Perbandingan Antara Pendekatan Keadilan Restoratif Dan Pendekatan Hukuman Adat Dalam Kasus Tindak Pidana Ringan." *Syntax Idea* 6, no. 6 (2024): 2804–16. [https://doi.org/10.46799/syntax-](https://doi.org/10.46799/syntax-idea)

idea.v6i6.3749.

- PA, Rista Zullibar, Jamaluddin Jamaluddin, and Muhammad Nur. "IMPLEMENTASI DIVERSI SISTEM PERADILAN PIDANA ANAK DALAM TAHAP PENUNTUTAN OLEH JAKSA DI WILAYAH KEJAKSAAN NEGERI ACEH SELATAN." *Suloh:Jurnal Fakultas Hukum Universitas Malikussaleh* 11, no. 1 (June 16, 2023): 155. <https://doi.org/10.29103/sjp.v11i1.9945>.
- Pamungkas, Bagas Pamungkas. "Reformasi Hukum Acara Pidana Untuk Meningkatkan Efektivitas Sistem Peradilan Dalam Mengatasi Kriminalitas." *Ethics and Law Journal: Business and Notary* 1, no. 3 (January 2, 2024): 298–314. <https://doi.org/10.61292/eljbn.83>.
- Panu, Ariyanti, Roy Marthen Moonti, and Ibrahim Ahmad. "Reformasi Sistem Peradilan Pidana Anak Di Indonesia Antara Diversi, Restoratif, Dan Perlindungan Hak Anak." *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora* 2, no. 2 (2025). <https://doi.org/10.62383/progres.v2i2.1885>.
- "Perlindungan Anak Dalam Sistem Peradilan Pidana Anak : Kebijakan Dan Pelaksanaannya Di Indonesia." *Iuris Studia: Jurnal Kajian Hukum* 6, no. 1 (2025). <https://doi.org/10.55357/is.v6i1.838>.
- Sihombing, Wido Bhernard Gabriel. "Inkonsistensi Pengaturan Keadilan Restoratif Dalam Sistem Peradilan Pidana Di Indonesia Inconsistency Of Restorative Justice Regulations In The Criminal Justice System In Indonesia." *Jurnal Hukum Lex Generalis* 6, no. 7 (2025).
- Sinatrio, Wikan. "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia." *Journal of Indonesian Legal Studies* 4, no. 1 (2019). <https://doi.org/10.15294/jils.v4i01.23339>.
- Subroto, Wandu. "PERLUNYA KEADILAN RESTORATIF DALAM SISTIM PERADILAN ANAK TERHADAP KENAKALAN REMAJA." *Jurnal Kelola: Jurnal Ilmu Sosial* 5, no. 1 (2022). <https://doi.org/10.54783/jk.v5i1.491>.
- Surabangsa, Bambang, and Tajul Arifin. "PERADILAN PIDANA ANAK DI INDONESIA DALAM PERSPEKTIF HUKUM ISLAM." *Hukum Islam* 22, no. 1 (2022). <https://doi.org/10.24014/jhi.v22i1.18402>.
- Tampubolon, Samuel, and Padrisan Jamba. "ANALISIS YURIDIS PELAKSANAAN DIVERSI DALAM TAHAP PENYIDIKAN

KEPOLISIAN DITINJAU DARI SISTEM PERADILAN PIDANA ANAK.” *Ensiklopedia Sosial Review* 2, no. 2 (2020). <https://doi.org/10.33559/esr.v2i2.487>.

Yanova, Muhammad Hendri, Rahmatul Huda, Parman Komarudin, Akhmad Hulaify, Siti Nazula Elfa, and Evaliany Mustika. “Pemahaman Anak Terhadap Kenakalan Remaja Dari Sudut Pandang Sistem Peradilan Pidana Anak Di SMPN 4 Martapura.” *AKM: Aksi Kepada Masyarakat* 5, no. 1 (2024). <https://doi.org/10.36908/akm.v5i1.1155>.

Zelki Marfinas, Fuad Rahman, and Ramlah. “Efektifitas Penerapan Sanksi Terhadap Tindak Pidana Anak Dalam Perspektif Hukum Positif Dan Hukum Pidana Islam Di Wilayah Hukum Polresta Jambi.” *Jurnal Greenation Sosial Dan Politik* 3, no. 3 (2025). <https://doi.org/10.38035/jgsp.v3i3.420>.

Zubaidah, Siti, Musakkir, Syamsuddin Muchtar, Wiwie Heryani, and Ahmad Masum. “Integrating Tradition into Legal Reform: Reconstructing the Role of Reconciliatory Customary Judges in Diversion Processes within the Interplay of Islamic, Customary, and National Law.” *Jurnal Ilmiah Mizani* 12, no. 2 (2025). <https://doi.org/10.29300/mzn.v12i2.8439>.