

Establishing the Dual Legitimacy of Diversion in the Juvenile Criminal Justice System (SPPA Law): Perspectives from National Law and Islamic Criminal Law

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Abstract

This study examined the normative legitimisation of diversion and restorative justice within Indonesia's juvenile criminal justice system (SPPA Law) and Islamic criminal law, and explored the implications for strengthening the reform. This study adopted a normative legal approach using statutory and conceptual methods. Primary legal materials included Law No. 11 of 2012 on the SPPA Law, Law No. 1 of 2023 on the Criminal Code, Law No. 1 of 2026 concerning the Adjustment of Criminal Provisions, Supreme Court Regulation No. 1 of 2024, Attorney General Regulation No. 15 of 2020, and Indonesian National Police Regulation No. 8 of 2021, supported by legal doctrines as well as classical and contemporary fiqh jinayah literature. The results showed that diversion possessed dual normative legitimacy, deriving from Indonesia's positive legal framework and Islamic criminal law through the principles of ta'zir, maqāṣid al-syarī'ah, justice (al-'adl), reconciliation (iṣlah), compassion (rahmah), and public interest (maṣlahah). This study proposed a Dual Normative Legitimacy Model that integrated national law and Islamic legal principles as a framework for implementing diversion. The proposed model contributed to juvenile criminal justice reform by strengthening regulatory harmonisation, promoting child protection, enhancing victim restoration, and supporting sustainable social reintegration.

Keywords: diversion; restorative justice; juvenile criminal justice; Islamic criminal law; *maqāṣid al-syarī'ah*; dual normative legitimacy.

Abstrak

Penelitian ini bertujuan untuk menganalisis bagaimana diversi dan restorative justice memperoleh legitimasi normatif dalam sistem peradilan pidana anak di Indonesia dan hukum pidana Islam, serta bagaimana legitimasi tersebut dapat memperkuat reformasi sistem peradilan pidana anak. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Bahan hukum primer meliputi Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, Undang-Undang Nomor 1 Tahun 2026 tentang Penyesuaian Ketentuan Pidana, Peraturan Mahkamah Agung Nomor 1 Tahun 2024, Peraturan Jaksa Agung Nomor 15 Tahun 2020, dan Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021, yang didukung oleh doktrin hukum serta literatur fikih jinayah klasik dan

kontemporer. Hasil penelitian menunjukkan bahwa diversi memiliki legitimasi normatif ganda (*dual normative legitimacy*), yaitu legitimasi yuridis yang bersumber dari sistem hukum nasional dan legitimasi normatif yang berlandaskan prinsip *ta'zir*, *maqāṣid al-syari'ah*, *al-'adl*, *al-iṣlah*, *al-raḥmah*, dan *maṣlahah*. Berdasarkan temuan tersebut, penelitian ini menawarkan Model Diversi Berbasis Legitimasi Normatif Ganda sebagai kerangka konseptual yang mengintegrasikan hukum nasional dan hukum pidana Islam. Model ini berimplikasi pada penguatan harmonisasi regulasi, peningkatan perlindungan anak, pemulihan hak korban, serta pengembangan kebijakan diversi yang lebih adil, humanis, dan berkelanjutan.

Kata Kunci: diversi; hukum pidana Islam; legitimasi normatif ganda; *maqāṣid al-syari'ah*; *restorative justice*; sistem peradilan pidana anak.

Introduction

The protection of children in conflict with the law has become the most significant concern in the contemporary criminal justice system and serves as a key indicator of a country's commitment to human rights, social justice, and the rule of law.¹ Children occupy a unique legal position because they are still developing physically, psychologically, emotionally, and socially, and they differ from adult offenders in criminal responsibility, rehabilitation needs, and the purpose of punishment.² Therefore, modern juvenile justice systems are increasingly transforming from punitive approaches that emphasise retribution to mechanisms that protect children's dignity while facilitating reintegration into society.

Developments in international law have substantially influenced the paradigm shift. The Convention on the Rights of the Child (CRC), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) collectively emphasise that detention should be used as a last resort and for the shortest appropriate period of time. These international instruments allow countries to prioritise diversion, rehabilitation, reconciliation, and social reintegration over incarceration.³ Restorative justice has been reported as a dominant paradigm in juvenile justice reform because the approach restores relationships damaged by crime, rather than punishing the offender.

¹ Ian D. Marder and Louise Forde, "Challenges in the Future of Restorative Youth Justice in Ireland: Minimising Intervention, Maximising Participation," *Youth Justice* 23, no. 2 (August 15, 2023): 201–25, <https://doi.org/10.1177/14732254221122568>.

² William R Wood, Masahiro Suzuki, and Hennessey Hayes, "Restorative Justice in Youth and Adult Criminal Justice," in *Oxford Research Encyclopedia of Criminology and Criminal Justice* (Oxford University PressNew York, NY, 2022), <https://doi.org/10.1093/acrefore/9780190264079.013.658>.

³ Jee Aei (Jamie) Lee and Yvon Dandurand, "Twenty Years of Growing Support for Restorative Justice: Presenting the Second Edition of the UN Handbook," *The International Journal of Restorative Justice* 3, no. 3 (November 2020): 419–30, <https://doi.org/10.5553/IJRJ.000052>.

Indonesia has responded to international developments by fundamentally reforming the SPPA Law.^{4,5} This law marks a significant shift from previous sentencing models by institutionalising diversion and restorative justice as the primary mechanisms for resolving juvenile criminal cases. Unlike conventional criminal proceedings focused on establishing guilt and imposing sanctions, the SPPA Act requires law enforcement officials to prioritise dialogue, reconciliation, victim participation, offender accountability, and social reintegration after meeting the statutory requirements. Therefore, diversion serves as a procedural alternative to criminal adjudication and a substantive legal instrument designed to protect children's rights while restoring social harmony.

The Indonesian legal system's commitment to restorative justice has become more comprehensive in recent years.⁶ In addition to the SPPA Law, the principles of restorative justice have been reinforced through Law No. 1 of 2023 on the Criminal Code, Law No. 1 of 2026 on the Adjustment of Criminal Provisions, Supreme Court Regulation No. 1 of 2024 on Guidelines for Handling Criminal Cases Based on Restorative Justice, Attorney General Regulation No. 15 of 2020 on the Discontinuation of Prosecution Based on Restorative Justice, and Indonesian National Police Regulation No. 8 of 2021 on the Handling of Criminal Cases Based on Restorative Justice. Collectively, these legal instruments indicate that restorative justice is no longer limited to juvenile justice but has expanded to play a broader role in criminal law reform. The proliferation of sector-specific regulations also raises important questions about normative coherence, institutional harmonisation, legal certainty, and consistent implementation across law enforcement agencies.

Although Indonesia has established a comprehensive legal framework for diversion and restorative justice, implementation remains inconsistent across regions and institutions. Data on the implementation of diversion in juvenile criminal cases should be presented to show the issue's practical significance. The inclusion of official statistics from institutions such as the Supreme Court of Indonesia, the Ministry of Law, the Ministry of Women's Empowerment and Child Protection, the Indonesian Child Protection Commission (KPAI), or the Central Statistics Agency (BPS) provides empirical evidence regarding the extent to which diversion is successfully implemented. This empirical evidence is necessary because legislation alone does not automatically guarantee effective implementation of restorative justice in practice.

⁴ Wahab Aznul Hidayat, "Penerapan Diversi Dalam Sistem Peradilan Pidana Anak," *JUSTISI* 5, no. 2 (2019): 84–96, <https://doi.org/10.33506/js.v5i2.543>.

⁵ Ian D. Marder, "Mapping Restorative Justice and Restorative Practices in Criminal Justice in the Republic of Ireland," *International Journal of Law, Crime and Justice* 70 (September 2022): 100544, <https://doi.org/10.1016/j.ijlcrj.2022.100544>.

⁶ Christian Gade, "Promoting Restorative Justice as de Jure Punishment: A Vision for a Different Future," *The International Journal of Restorative Justice* 5, no. 1 (April 2022): 37–54, <https://doi.org/10.5553/TIJRJ.000093>.

This study compiled Table 1 based on the 2024 Performance Report of the Supreme Court of Indonesia and the Supreme Court’s Annual Report. The data show trends in the resolution of juvenile criminal cases through diversion in district courts during 2021-2024.

Table 1. Juvenile Criminal Cases Resolved Through Diversion in Indonesian District Courts (2021–2024)

Year	Juvenile Criminal Cases	Diversion Cases	Diversion Rate (%)	Successful Diversion	Failed Diversion	Pending Diversion
2021	5,178	142	2.74	30	19	93
2022	5,533	67	1.21	27	35	5
2023	5,190	657	12.66	464	189	4
2024	4,960	996	20.08	424	173	399

Source: *Processed by the author from the Supreme Court of the Republic of Indonesia, Annual Report 2024 and Performance Report 2024.*⁷

Diversion implementation has shown a positive trend over the last four years, but results remain inconsistent. The number of juvenile criminal cases processed through diversion increased substantially from 142 cases (2.74%) in 2021 to 996 cases (20.08%) in 2024, indicating a stronger institutional commitment to restorative justice. This development reflects the increasing acceptance of diversion as an alternative mechanism for resolving juvenile criminal cases outside formal judicial proceedings. However, the data report that successful diversion has not become the dominant outcome of all diversion proceedings. For example, in 2024, only 424 cases reached successful diversion agreements, while 173 failed and 399 remained in process. These results show that the availability of legal instruments does not automatically ensure effective implementation of restorative justice, as practical challenges continue to affect diversion outcomes across jurisdictions.

The empirical evidence suggests that Indonesia has entered a transitional phase in implementing restorative justice. Although the number of diversion cases has increased considerably following policy strengthening through various legal instruments, institutional disparities, differing interpretations among law enforcement agencies, limited victim participation, and variations in local implementation continue to affect diversion's overall effectiveness. These empirical conditions suggest that Indonesia's challenge is no longer the absence of legal regulation but the need to ensure normative coherence and consistent implementation across all institutions responsible for juvenile criminal justice. These circumstances strongly justify a comprehensive normative analysis of diversion and restorative justice from the perspectives of Indonesian positive and Islamic criminal law.

⁷ Mahkamah Agung RI, “Laporan Kinerja Mahkamah Agung RI,” 2024, https://www.mahkamahagung.go.id/files/20250227150951_LAKIN_MA_2024_FINAL.pdf ?

To provide a comprehensive overview of Indonesia's evolving restorative justice framework, Table 2 chronologically maps the relevant legal instruments issued between 2012 and 2026, together with their principal contributions.

Table 2. Development of Restorative Justice Regulations in Indonesia

Year	Regulation	Main Contribution
2012	Law No. 11 of 2012 on the Juvenile Criminal Justice System	Introduced diversion and restorative justice as mandatory mechanisms in eligible juvenile cases.
2020	Attorney General Regulation No. 15 of 2020	Regulated termination of prosecution based on restorative justice.
2021	Indonesian National Police Regulation No. 8 of 2021	Introduced restorative justice as an investigative and policing approach.
2023	Law No. 1 of 2023 (Indonesian Criminal Code)	Reinforced restorative justice within the national criminal law reform agenda.
2024	Supreme Court Regulation No. 1 of 2024	Provided judicial guidelines for adjudicating criminal cases based on restorative justice.
2026	Law No. 1 of 2026 concerning the Adjustment of Criminal Provisions	Harmonised criminal provisions following the enactment of the new Criminal Code.

Source: *Compiled by the author from Indonesian legislation.*

Table 2 illustrates the development of restorative justice regulation in Indonesia from 2012 to 2026, reflecting a shift from a single legislative framework to sectoral, multi-institutional regulation. Beginning with Law No. 11 of 2012 on the Juvenile Criminal Justice System, which introduced diversion as a mandatory mechanism, each pillar of law enforcement subsequently adopted the concept through its own instrument: the Attorney General's Office (2020), the police (2021), the new Criminal Code (2023), and the Supreme Court (2024), culminating in Law No. 1 of 2026 on harmonising criminal provisions. This staggered, institution-specific development suggests that Indonesia's principal challenge is no longer the absence of a legal basis, but the lack of a coherent, integrated system across law enforcement institutions.

Previous studies have extensively examined diversion and restorative justice from various perspectives. Hidayat (2020) analysed the implementation of diversion in the juvenile justice system and emphasised the importance of institutional commitment.⁸ Rasiwan, Haris, and Suwanta (2025) evaluated the effectiveness of diversion under the SPPA Act and identified institutional capacity as the main obstacle to successful implementation.⁹ Bachmid (2025) discussed child protection within the juvenile justice system from a legal perspective.¹⁰ Meanwhile, Marder

⁸ Hidayat, "Penerapan Diversi Dalam Sistem Peradilan Pidana Anak."

⁹ Iwan Rasiwan, Abdul Haris, and Yusup Maulana Suwanta, "Effectiveness Of The Implementation Of Diversion In The Juvenile Criminal Justice System," *Case Law: Journal of Law* 6, no. 1 (2025): 79–89, <https://doi.org/10.25157/caselaw.v6i1.4755>.

¹⁰ Atila Amalia Bachmid, "Perlindungan Anak Dalam Sistem Peradilan Pidana Anak: Kebijakan Dan Pelaksanaannya Di Indonesia," *Iuris Studia: Jurnal Kajian Hukum* 6, no. 1 (May 30, 2025), <https://doi.org/10.55357/is.v6i1.838>.

(2022) explored restorative justice as a contemporary criminal justice paradigm in an international comparative context.¹¹ From an Islamic criminal law perspective, Lestari (2024) examined *ta'zir*, while Rakib (2021) discussed children's legal capacity (*mukallaf*) in criminal fiqh.¹² These studies have significantly enriched the academic understanding of juvenile justice, restorative justice, and Islamic criminal law.

Several important issues remain underexplored. First, previous studies have analysed diversion from legal, institutional, or implementation perspectives without comprehensively examining its broader normative legitimacy. Second, studies that systematically integrate Indonesian juvenile criminal law with jurisprudence remain limited, even though the Indonesian legal system is pluralistic and Islamic legal values significantly influence the development of national law. Third, contemporary studies rarely examine the normative coherence among the various restorative justice regulations enacted after the SPPA Law, including the new Criminal Code, Supreme Court Regulation No. 1 of 2024, Attorney General Regulation No. 15 of 2020, and Indonesian National Police Regulation No. 8 of 2021. Therefore, existing studies have not fully clarified whether the restorative justice framework represents a coherent criminal justice policy or a collection of regulations specific to each institution.

Based on the description above, this study addresses the gap by offering a more comprehensive normative analysis of diversion and restorative justice in the SPPA Law, from the perspectives of national and Islamic law. Unlike previous studies focused on implementation or interpretation, this study integrates a doctrinal analysis of Indonesian criminal law with the philosophical principles of *fiqh jinayah*, specifically *ta'zir*, *al-'adl*, *işlah*, *rahmah*, *maşlahah*, and *maqāṣid al-syar'ah*. The study examines the relationships among various restorative justice provisions within the Indonesian legal system to assess normative coherence and implications for juvenile criminal justice reform. Using an integrated approach, the study analysed diversion and restorative justice, legal coherence in contemporary Indonesian criminal law reform, and normative legitimacy from an Islamic criminal law perspective. This study also contributes theoretically and practically to the sustainable development of restorative justice as a humane, child-centred, and culturally valid model of juvenile criminal justice.

Methods

This normative legal study analyses the concepts of diversion and restorative justice under the SPPA Law in Indonesia and examines the normative legitimacy from the perspective of Islamic law¹³ using statutory and conceptual approaches.¹⁴ A

¹¹ Marder, "Mapping Restorative Justice and Restorative Practices in Criminal Justice in the Republic of Ireland."

¹² Abdur Rakib, "Mukallaf Sebagai Subjek Hukum Dalam Fiqh Jinayah," *Hakam: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 5, no. 2 (December 28, 2021), <https://doi.org/10.33650/jhi.v5i2.3585>.

¹³ Yati Nurhayati et al., "Metodologi Normatif Dan Empiris Dalam Penyelesaian Perselisihan," *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021): 1–20, <https://ojs.bdproject.co.id/index.php/jphi/article/view/14>.

¹⁴ Muhaimin, *Metode Penelitian Hukum* (Nusa Tenggara Barat: Mataram University Press, 2020).

legislative approach was adopted to examine various legal provisions governing diversion and restorative justice, including Law No. 11 of 2012 on the SPPA Law, Law No. 1 of 2023 on the Criminal Code, Law No. 1 of 2026 on the Adjustment of Criminal Provisions, Supreme Court Regulation No. 1 of 2024, Attorney General Regulation No. 15 of 2020, Indonesian National Police Regulation No. 8 of 2021, as well as various international legal instruments, such as the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (*Beijing Rules*), and the United Nations Guidelines for the Prevention of Juvenile Delinquency (*Riyadh Guidelines*).

Meanwhile, the study used a conceptual approach to examine doctrines, principles, and theories related to restorative justice, child protection, criminal law, and Islamic criminal law, particularly *ta'zir*, *maqāṣid al-shari'ah*, *al-'adl*, *iṣlah*, *rahmah*, and *maṣlahah*. The study also adopted primary, secondary, and tertiary legal sources. Primary legal sources comprised legislation and relevant international legal instruments. Secondary legal sources included books, scholarly journal articles, research, and expert opinions related to diversion, restorative justice, and Islamic criminal law. Tertiary legal materials included legal dictionaries, encyclopedias, and other reference sources that supported understanding of concepts. The legal materials were collected through library study and qualitatively analysed using a prescriptive-analytical method through legal interpretation, harmonisation of laws and regulations, and an analysis of legal doctrines and principles of Islamic law. The results were synthesised to construct an argument on the compatibility of diversion and restorative justice in Indonesia's SPPA Law with the values of justice, public welfare, and child protection as defined by Islamic law.

Results and Discussion

Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia (SPPA Law)

Diversion and restorative justice form the cornerstone of Indonesia's Juvenile Criminal Justice System (SPPA Law).¹⁵ Introducing these concepts marks a paradigm shift in enforcing juvenile criminal law from a retributive justice approach to one that prioritises protection, rehabilitation, and the best interests of the child.¹⁶ This paradigm shift is based on the understanding that children in conflict with the law have characteristics that differ from adult offenders. Therefore, resolving juvenile criminal matters must focus on guiding, rehabilitating, and reintegrating the child to help them fulfil their social role appropriately within society.

¹⁵ Nashriana Nashriana et al., "Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement," *Srinwijaya Law Review* 7, no. 2 (July 31, 2023): 318–34, <https://doi.org/10.28946/slrev.Vol7.Iss2.2427.pp318-334>.

¹⁶ Yul Ernis, "Diversi Dan Keadilan Restoratif Dalam Penyelesaian Perkara Tindak Pidana Anak Di Indonesia (Diversion And Restorative Justice In Case Settlement Of Juvenile Justice System In Indonesia)," *Jurnal Ilmiah Kebijakan Hukum* 10, no. 2 (February 13, 2016): 163–74, <https://doi.org/10.30641/kebijakan.2016.V10.163-174>.

This paradigm shift aligns with developments in international law that regard child protection as part of fulfilling human rights.¹⁷ The Convention on the Rights of the Child (CRC) affirms that every child in conflict with the law has the right to be treated with respect for dignity and human worth. The Beijing Rules and the Riyadh Guidelines allow states to prioritise resolving criminal cases involving children outside the formal judicial process through restorative mechanisms. From this perspective, criminal punishment is a last resort (*ultimum remedium*), while resolution through dialogue, deliberation, reconciliation, and restoring social relationships better aligns with the goal of child protection.

Restorative justice views criminal acts as violations of the state's legal norms and as harms to victims, offenders, families, and society.¹⁸ Resolving criminal cases cannot be limited to punishing the perpetrator; it must also focus on restitution, conflict resolution, and restoring social relationships disrupted by the crime. Howard Zehr explained that restorative justice involves all parties affected by a crime working together to achieve a just resolution, emphasising restitution, holding the offender accountable, and restoring social relationships. This perspective shows that restorative justice has a different orientation than the conventional system, which places greater emphasis on retribution and punishment.

Indonesia adopted the paradigm through Law No. 11 of 2012 on the SPPA Law.¹⁹ This law establishes diversion as a mechanism pursued at every stage of the criminal justice process, including investigation, prosecution, and trial. The policy shows that diversion is an alternative way to resolve cases and a legal obligation for law enforcement officials, provided they meet the requirements specified by law. Therefore, diversion's primary objective is to spare children from the formal judicial process and protect their psychological well-being while ensuring a more just resolution.

The provisions regarding diversion in the SPPA Law raise normative issues that require further study. Article 7(2) of the SPPA Law stipulates that diversion may apply only to criminal offences punishable by imprisonment of less than seven years, and it excludes repeat offences.²⁰ The provisions are cumulative since the requirements must be met simultaneously. Diversion cannot be granted even

¹⁷ Claudia Carolina Indra Putri, "Juridical Review of Restorative Justice in the Juvenile Justice System through Diversion," *IJCLS (Indonesian Journal of Criminal Law Studies)* 4, no. 1 (May 30, 2019): 1–8, <https://doi.org/10.15294/ijcls.v4i1.36288>.

¹⁸ Wikan Sinatrio Aji, "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia," *Journal of Indonesian Legal Studies* 4, no. 1 (April 23, 2019): 73–88, <https://doi.org/10.15294/jils.v4i01.23339>.

¹⁹ Ernis, "Diversi Dan Keadilan Restoratif Dalam Penyelesaian Perkara Tindak Pidana Anak Di Indonesia (Diversion And Restorative Justice In Case Settlement Of Juvenile Justice System In Indonesia)."

²⁰ Azhary Ramadhan, Kamarusdiana Kamarusdiana, and Soefyanto Soefyanto, "Penyelesaian Kasus Tindak Pidana Anak Melalui Diversi Dalam Perspektif Sistem Peradilan Pidana Anak," *Journal of Legal Research* 3, no. 1 (February 10, 2021): 129–44, <https://doi.org/10.15408/jlr.v3i1.19581>.

though a settlement has been reached between the victim and the offender or when it is in the best interests of the child to resolve the case outside the judicial process. The provision often raises issues because not all cases carrying a potential sentence of more than seven years are equally serious.

The restrictions indicate a discrepancy between the objectives of diversion and the normative framework established by the SPPA Law when analysed from the perspective of restorative justice philosophy. Restorative justice focuses on the extent to which the harm caused by a criminal act can be remedied through an agreement among the parties, while considering the interests of the victim, the offender, and society. Using the severity of the criminal penalty as the criterion for determining whether diversion is possible reduces flexibility in resolving juvenile criminal cases and limits the scope for applying restorative justice. Under certain conditions, cases carrying a potential criminal sentence of more than seven years are resolved through sincere reconciliation, the restoration of harm, and assurances that the child will not repeat the offence.

The issue becomes clearer when compared with developments in international law.²¹ The Convention on the Rights of the Child, the Beijing Rules, and General Comment No. 24 on Children's Rights in the Juvenile Justice System do not specify a particular threshold for the severity of criminal charges as a primary condition for applying diversion. These instruments place greater emphasis on assessing the child's circumstances, the extent of the harm caused, the victim's interests, the prospects for rehabilitation, and the child's best interests. This approach taken by international law is more substantive than formalistic. This difference shows that the provisions on diversion in the SPPA Law tend to limit the scope for applying restorative justice compared with international standards, which are more flexible and oriented toward children's rehabilitation.

Developments in national criminal law policy suggest a growing emphasis on applying restorative justice.²² This is reflected in Law No. 1 of 2023 on the Criminal Code, Attorney General's Regulation No. 15 of 2020 on the Termination of Prosecution Based on Restorative Justice, and Indonesian National Police Regulation No. 8 of 2021 on the Handling of Criminal Offences Based on Restorative Justice. Supreme Court Regulation No. 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. These regulations show that restorative justice has become a broader paradigm within the criminal justice system and is no longer limited to juvenile criminal cases.

These regulations have not fully harmonised standards.²³ Each law enforcement agency has different mechanisms, requirements, and scopes of application

²¹ Nashriana et al., "Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement."

²² Ibid.

²³ Anwar Dahlan, Muhammad Rinaldy Bima, and Hardianto Djanggih, "Judges' Legal Reasoning in Determining the Success or Failure of Diversion in Juvenile Justice: A Normative Analysis of

for restorative justice, depending on its institutional authority. This leads to differences in how the law is interpreted and applied because the principles of legal certainty and uniformity in law enforcement have not been fully realised. Indonesia has expanded the institutional application of restorative justice but has not fully established an integrated regulatory framework within a single national criminal justice system.

The Philosophical Foundations of Diversion and Restorative Justice

The concept of diversion is inseparable from the development of the restorative justice paradigm, which emerged as a critique of the conventional criminal justice system. In the retributive paradigm, a criminal offence is viewed as a violation against the state. Therefore, the judicial process primarily aims to establish the offender's guilt and impose a punishment commensurate with the offence. This approach positions the state as the party most harmed, while the interests of the victim, the family, and the community are often given less attention. Criminal case resolution is more oriented toward punishment than toward redressing the harm caused by the crime.

Criticism of the retributive approach led to the restorative justice paradigm, which views criminal acts as social conflicts that damage relationships among the offender, the victim, families, and the community. Therefore, criminal cases should be resolved to punish the offender, restore the victim's losses, rebuild disrupted social relationships, and allow the offender to take responsibility for their actions. Howard Zehr stated that restorative justice involves the parties affected by a crime jointly determining a just resolution through restitution, offender accountability, and social reconciliation.²⁴ Success in resolving a case is measured by how fully the crime restores damaged social relationships. Tony Marshall reinforces this view, defining restorative justice as a process in which all parties with a stake in a criminal offence work to address its implications.²⁵ This definition shows that restorative justice places victims, offenders, families, and the community at the centre of the criminal justice process. Therefore, justice is understood as a collaborative process to restore the disrupted social balance.

From the perspective of modern legal theory, John Braithwaite, through the concept of "Reintegrative Shaming," argues that punishing offenders should not lead to permanent stigmatisation.²⁶ According to Braithwaite, resolving cases requires distinguishing between rejecting the act committed and readmitting the

Indonesian Court Decisions," *Al-Ishlah: Jurnal Ilmiah Hukum* 28, no. 2 (December 30, 2025): 133–45, <https://doi.org/10.56087/enf7mg34>.

²⁴ Howard Zehr, *The Little Book of Restorative Justice* (Good Books, 2002).

²⁵ Tony Marshall, *Restorative An Overview* (London: Home Office Research Development and Statistic Directorate, 1999).

²⁶ Risma Elvariani and Sidik Sunaryo, "Refleksi Moralitas Dalam Keadilan Restoratif Sebagai Alternatif Penyelesaian Tindak Pidana," *AKADEMIK: Jurnal Mahasiswa Humanis* 5, no. 3 (September 1, 2025): 1275–86, <https://doi.org/10.37481/jmh.v5i3.1525>.

perpetrator into society after they take responsibility.²⁷ This concept is relevant in juvenile criminal cases because children are still developing their character and have a greater chance of reforming than adult offenders. Punitive sentencing has the potential to affect a child's psychological development and increase the likelihood of recidivism. This line of thinking aligns with modern theories of the purposes of criminal punishment, which view punishment as a means of retribution and an instrument for protecting society, preventing crime, rehabilitating offenders, and restoring social balance. In the context of children in conflict with the law, this orientation gains stronger legitimacy because its primary goal is to ensure children's optimal growth and development without neglecting victims' or society's interests. The success of resolving juvenile criminal cases can be measured by the justice system's ability to help the child become a responsible individual capable of reintegrating into society. This paradigm has since been adopted in various international legal instruments.

The CRC affirms that every child in conflict with the law has the right to be treated with respect for human dignity and to resume a constructive role in society. The Beijing Rules reinforce this principle by allowing states to minimise formal judicial proceedings against children and develop alternative dispute resolution mechanisms outside the court system. Meanwhile, the Riyadh Guidelines emphasise preventing juvenile delinquency through social, educational, and family-based approaches.²⁸ General Comment No. 24 (2019) of the United Nations Committee on the Rights of the Child emphasises that diversion should be the primary option in resolving criminal cases of children, provided the rights of victims and the interests of society are not disregarded.

Developments in international law have significantly shaped juvenile criminal justice policy. This is reflected in Law No. 11 of 2012 on the SPPA Law, which establishes diversion as a legal obligation at every stage of the criminal justice process. Unlike the previous Juvenile Court Law, which was litigation-oriented, the SPPA Law shifted the approach to resolving criminal cases toward a more humane approach by establishing the best interests of the child as the primary principle. This change shows that lawmakers view criminal punishment as a last resort (*ultimum remedium*) after all restorative resolution mechanisms have proven unfeasible.

²⁷ Ibid.

²⁸ Renhard Harve, *Penyelarasan Aturan Tentang Sistem Peradilan Pidana Anak* (Yogyakarta: Deepublish, 2024), [https://books.google.co.id/books?hl=id&lr=&id=v74yEQAAQBAJ&oi=fnd&pg=PP1&dq=Riyadh+Guidelines+menekankan+pentingnya+pencegahan+kenakalan+anak+melalui+pendekatan+sosial,+pendidikan,+dan+keluarga,+sedangkan+General+Comment+No.+24+\(2019\)+dari+Komite+Hak+Anak+Perserikatan+Bangsa-Bangsa+menegaskan+bahwa+diversi+harus+menjadi+pilihan+utama+dalam+penyelesaian+perkara+pidana+anak+sepanjang+tidak+mengabaikan+hak-hak+korban+dan+kepentingan+masyarakat.&ots=vyZKkRnCjs&sig=3ZLyqWNB0i6AofAL-sL2Hxy86dI&redir_esc=y](https://books.google.co.id/books?hl=id&lr=&id=v74yEQAAQBAJ&oi=fnd&pg=PP1&dq=Riyadh+Guidelines+menekankan+pentingnya+pencegahan+kenakalan+anak+melalui+pendekatan+sosial,+pendidikan,+dan+keluarga,+sedangkan+General+Comment+No.+24+(2019)+dari+Komite+Hak+Anak+Perserikatan+Bangsa-Bangsa+menegaskan+bahwa+diversi+harus+menjadi+pilihan+utama+dalam+penyelesaian+perkara+pidana+anak+sepanjang+tidak+mengabaikan+hak-hak+korban+dan+kepentingan+masyarakat.&ots=vyZKkRnCjs&sig=3ZLyqWNB0i6AofAL-sL2Hxy86dI&redir_esc=y).

Upon closer examination, the philosophy of restorative justice is not fully reflected in the law's normative framework. The law requires enforcement officials to pursue diversion at every stage of the judicial process. However, Article 7(2) of the SPPA Act limits diversion to criminal offences punishable by imprisonment of less than seven years and that are not repeat offences. This limitation suggests that diversion is applied based on the classification of criminal penalties, rather than on the need for victim restitution, the child's best interests, or the potential for successful rehabilitation. Restorative justice centres on healing and participatory conflict resolution. Several cases carrying criminal penalties of more than seven years may have a high likelihood of peaceful resolution when the victim's losses have been compensated, genuine reconciliation has been achieved, and the social environment supports the child's rehabilitation. Some cases with criminal penalties of less than seven years fail to reach a diversion agreement because the perpetrator and the victim lack good faith. Therefore, using the severity of the criminal penalty as the primary parameter for applying diversion does not reflect the restorative-justice values that underpin the enactment of the SPPA Law.

Reforms to the SPPA Law have successfully shifted legal policy from a repressive to a restorative approach. However, this paradigm shift has not been fully accompanied by a reformulation of legal norms capable of accommodating the principles of restorative justice. Further analysis is needed on the suitability of diversion provisions in various national regulations, as well as the possibility of harmonising them with the principles of Islamic criminal law, which will serve as the philosophical foundation discussed in the following subsection.

The Normative Legitimacy of Diversion from the Perspective of Islamic Criminal Law

The development of restorative justice in the modern criminal justice system is often viewed as a new idea arising from contemporary legal thought.²⁹ Islamic criminal law (*fiqh jinayah*) views punishment as a means of achieving justice, safeguarding the public interest, restoring social relationships, and protecting the rights of individuals and society.³⁰ Although the term “diversi” is not explicitly mentioned in classical Islamic legal literature, its underlying substance aligns with several fundamental principles developed in *fiqh jinayah*.

From the perspective of Islamic law, law enforcement aims to impose sanctions (*uqubah*), promote the public good (*jalb al-maṣāliḥ*), and prevent harm (*dar'u al-mafāṣid*). These principles form the foundation of the entire Islamic legal

²⁹ Wiyono Harsono and Wisnu Aryo Dewanto, “Pendekatan Teoritis Dan Praktis Keadilan Restoratif Dalam Sistem Hukum Modern,” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 3 (2025): 5815–24, <https://ejournal.yayasanpendidikanzurriyatulquran.id/index.php/AlZayn/article/view/2192>.

³⁰ Noviyatul Badriyah, Achmad Fuaddin, and Ibnatul Mardiyah, “Implementation of Qisas Law in Criminality (Jinayat): Historical Analysis, and Contemporary Challenges,” *Al-Afham: Journal of Islamic Studies* 2, no. 1 (April 30, 2025): 29–45, <https://doi.org/10.62509/ajis.v2i1.291>.

system, including criminal law.³¹ Resolving a criminal case can be understood as an effort to balance the rights of Allah (*ḥaqq Allah*) and the individual (*ḥaqq al-'abd*), as well as the interests of society (*ḥaqq al-jamā'ah*). This perspective shows that Islamic criminal law is oriented toward retribution and the establishment of justice.

The concept most relevant to diversion is *ta'zīr*, and the nash does not define this type of sanction precisely. Therefore, authorities (*ulil amri*) determine its form and severity, considering public interest, the degree of the offender's fault, the victim's circumstances, and society's interests. Islamic law gives the state broad discretion to choose the most effective form of case resolution to achieve legal objectives. In this context, diversion can be understood as a form of modern *ta'zīr* policy since resolution is based on punishment, accountability, reconciliation, rehabilitation, and the restoration of social relationships.³² This understanding is reinforced by the theory of *maqāṣid al-syarī'ah*, which identifies the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), reason (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*) as the primary objectives of Islamic law.^{33,34} From the perspective of children in conflict with the law, the use of diversion directly supports several objectives. Diversion gives children the opportunity to continue their education, safeguard psychological development, avoid social stigma, and maintain family relationships and social connections.³⁵ The concept protects the interests of the child as the perpetrator and supports the protection of life, reason, and progeny, which are the primary objectives of *maqāṣid al-syarī'ah*.

The normative justification for diversity can be found in the principle of *al-'adl* (justice). In Islamic law, justice is understood as putting things in their proper place (*wad'u al-syai' fī mahallih*).³⁶ Therefore, the treatment of children cannot be equated with that of adult offenders, since their maturity, ability to understand the consequences of their actions, and potential for rehabilitation differ. Providing an

³¹ Nor Soleh, "Restorative Justice Dalam Hukum Pidana Islam Dan Kontribusinya Bagi Pembaharuan Hukum Pidana Materiil Di Indonesia," *Isti'dal: Jurnal Studi Hukum Islam* 2, no. 2 (2015), <https://ejournal.unisnu.ac.id/JSHI/article/view/640>.

³² Eka Novianty Wahyuni Ekaa, "Diversion for Children Perpetrating Narcotics Crimes Perspective of Jinayah Fiqh and the Juvenile Criminal Justice System Law," *DELICTUM: Jurnal Hukum Pidana Islam* 3, no. 1 (October 1, 2024): 87–112, <https://doi.org/10.35905/delictum.v3i1.10949>.

³³ Achmad Suhaili, "Integrasi Maqāṣid Al-Syarī'Ah Dalam Praktik Peradilan Agama Di Indonesia: Studi Alternatif Penyelesaian Sengketa Keluarga," *Mabahits: Jurnal Hukum Keluarga Islam* 6, no. 1 (May 18, 2025): 29–42, <https://doi.org/10.62097/mabahits.v6i01.2236>.

³⁴ Chindya Puspa Devi and Aminuddin Aminuddin, "Maqāṣid Al-Syarī'Ah Sebagai Basis Perlindungan Perempuan Dari Kekerasan," *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum* 9, no. 2 (November 24, 2025): 185–95, <https://doi.org/10.52266/sangaji.v9i2.5357>.

³⁵ Wahab Aznul Hidayat, "The Role of Witness and Victim Protection Agency for Imekko Tribe in Criminal Justice System in Sorong," *Law and Justice* 8, no. 2 (2023): 176–91, <https://doi.org/10.23917/laj.v8i2.2363>.

³⁶ Andika Dwi Amrianto, "Pemulihan Hak Korban Salah Tangkap Berdasarkan Perspektif Teori Keadilan," *Jurnal Hukum Samudra Keadilan* 18, no. 1 (March 8, 2023): 33–52, <https://doi.org/10.33059/jhsk.v18i1.6419>.

opportunity for resolution through diversion reflects substantive justice because it considers children's specific characteristics while respecting victims' rights and society's interests.

The principle of *al-islāh* (peace and reconciliation) is closely connected to restorative justice. The Qur'an and the hadith strongly promote resolving disputes through peace. In criminal law, reconciliation between the offender and the victim aims to end the conflict and restore social relationships disrupted by the criminal act. Diversion applies this principle through deliberations involving the offender, the victim, family members, community mentors, social workers, and the community to achieve a fair resolution for all parties.

Al-rahmah (compassion) is a defining characteristic of Islamic law. Compassion means ensuring that law enforcement continues to consider humanitarian work and the offender's opportunity for rehabilitation. In juvenile criminal cases, an overly repressive approach risks depriving the child of the opportunity to reform. Therefore, diversion aligns with the value of *rahmah* because it allows the child to recognise mistakes, make amends for the harm caused, and reintegrate into society.

The theory of *maṣlahah* reinforces diversion's normative legitimacy. According to Imam al-Ghazali and al-Syatibi, a legal policy can be justified if it achieves the public good and does not conflict with Sharia principles.³⁷ In this view, diversion offers multidimensional benefits, including protecting children's development, restoring victims' rights, reducing the burden on correctional institutions, strengthening community participation, and preventing recidivism. Therefore, the concept has individual and broader social benefits.

From the perspective of *siyāsah syar'iyah*, the state has the authority to establish legal policies not explicitly detailed in the nash, provided they serve the public interest. The Indonesian legislature's policy regulating diversion through the SPPA Law constitutes a valid form of *ijtihad siyāsī* because it aims to protect children, reduce the negative impacts of criminal punishment, and strengthen restorative justice. Diversion actualises Sharia values within a modern national legal system.

Another aspect that strengthens the legitimacy of diversion is *ablīyyah* (capacity for responsibility). In *fiqh jinayah*, children do not possess the same capacity for criminal responsibility as adults because intellectual development and maturity are not fully formed. This is because an educational (*ta'dīb*) and rehabilitative approach is prioritised over punishment. This view aligns with Indonesia's SPPA Law, which treats punishment as a last resort (*ultimum remedium*) and prioritises diversion as a case-resolution mechanism.

³⁷ Bahrul Hamdi, "Konsep Implementasi Mashlahah Menurut Al-Ghazali, Asy-Syatibi Dan Najmuddin At-Thufi (Studi Komparatif Analitis Pemikiran Hukum Islam)," *Al-Hurriyah: Jurnal Hukum Islam* 2, no. 2 (2017): 219–231, <https://ejournal.uinbukittinggi.ac.id/alhurriyah/article/view/402>.

Reconstruction of the Diversion System Based on National Law and Islamic Law

The implementation of diversion has developed significantly since the enactment of Law No. 11 of 2012 on the SPPA Law. Diversion is viewed as a legal obligation pursued at every stage of the juvenile criminal justice process. This development has been reinforced through various sectoral regulations, including Law No. 1 of 2023 on the Criminal Code, Attorney General Regulation No. 15 of 2020, Indonesian National Police Regulation No. 8 of 2021, and Supreme Court Regulation No. 1 of 2024. The regulations show that the restorative justice paradigm has become the guiding principle for national criminal law reform.

The analysis in the previous subsection shows that these regulations have not been fully harmonised. Article 7 (2) of the SPPA Law limits diversion through formal parameters, including criminal penalties and the status of repeat offences. This approach places greater emphasis on classifying criminal offences than on assessing the specific circumstances of the case, the extent of the victim's recovery, the child's best interests, or the offender's prospects for rehabilitation. The primary objectives of restorative justice, namely the restoration of social relationships and the protection of children, have not been fully realised in certain cases.

Discussions of normative legitimacy from the perspective of Islamic criminal law indicate that diversion has a strong foundation in *fiqh jinayah*. The principles of *ta'zir*, *maqāṣid al-syar'iyyah*, *al-'adl*, *al-iṣlāḥ*, *al-raḥmah*, *maṣlaḥah*, *siyāsah syar'iyyah*, and the concept of *ahliyyah* suggest that resolving juvenile criminal cases should aim to rehabilitate, restore, protect victims' rights, and promote the public good. Islamic law provides a moral justification for diversion and offers a normative foundation for developing SPPA Law.

The main weakness of diversion is the failure to integrate the values embedded in the national legal system with the principles of Islamic criminal law into a single, cohesive normative framework. These legal systems have developed in parallel. National law places greater emphasis on legal certainty through normative restrictions, while Islamic law emphasises public interest, justice, and flexibility in resolving cases. Both systems share the same objectives: protecting children, restoring victims' rights, and maintaining public order. A model was proposed for reconstructing the diversion system based on dual normative legitimacy (*dual normative legitimacy model*). This model assumes that diversion effectiveness depends on formal legitimacy derived from legislation and requires substantive legitimacy as part of the "living law" in Indonesian society. Integrating these two sources of legitimacy creates a diversion system that provides legal certainty and gains broader social and moral acceptance.

In the proposed model, the reconstruction is carried out through four main pillars. The first pillar is normative reconstruction, namely harmonising the SPPA Law with other restorative justice regulations through an interpretation that prioritises child protection, victims' interests, and restoration as the primary orientation for applying diversion. This harmonisation must balance diversion's

requirements, procedures, and success indicators to prevent differences in interpretation among investigators, prosecutors, and judges.

The second pillar is to reconstruct the parameters for applying diversion. Restrictions on diversion based on the threat of criminal punishment are no longer adequate due to the evolving paradigm of restorative justice. Therefore, diversion must be based on more substantive indicators, such as the extent of the victim's recovery, the offender's willingness to take responsibility, a psychological assessment of the child, family support, social and environmental conditions, and the potential for rehabilitation. Whether diversion is appropriate depends on the offence category and the likelihood of achieving the goal of restoration.

The third pillar is institutional reconstruction. Law enforcement officials implement diversion and must involve stakeholders with child-protection expertise, including community counsellors, professional social workers, psychologists, community leaders, religious leaders, and child protection agencies. From an Islamic legal perspective, including religious and community leaders has strategic value as social mediators to strengthen the process of *iṣlah* (reconciliation) and rebuild relationships among the perpetrator, the victim, and the community.

The fourth pillar is reconstructing the orientation toward justice. The current diversion system shows an administrative bias because it often measures success by achieving a peace agreement. Indicators of diversion's success should not stop at the existence of an agreement. Still, they must include the restoration of victims' rights, the rehabilitation of children, the continuity of education, the reintegration of children into society, and a low rate of recidivism. This approach aligns with the concept of *maqāṣid al-ṣyari'ah*, which prioritises the protection of life, reason, lineage, and the public interest over the formal resolution of criminal cases.

Based on these four pillars, the reconstruction of the diversion system can be understood as a transformation from a model oriented toward legal compliance to restorative legitimacy. In the legal compliance model, diversion success is measured by adherence to legal procedures. Conversely, in the restorative legitimacy model, success is determined by the legal system's ability to achieve substantive justice through victim restitution, juvenile rehabilitation, community protection, and the promotion of social welfare. This shift in orientation reflects the actualisation of restorative justice values in line with the objectives of the SPPA Law and the principles of *fiqh jinayah*.

The proposed reconstruction is not intended to replace the existing diversion system, but to refine the normative framework by integrating national and Islamic law. This integration yields a Dual Normative Legitimacy-Based Diversion Model: a model for resolving juvenile criminal cases that derives binding force from legislation while drawing ethical, moral, and social legitimacy from *maqāṣid al-ṣyari'ah*, *ta'zīr*, *maṣlahah*, *al-'adl*, and *al-iṣlah*. This model provides a new conceptual framework for developing diversion policies in Indonesia. In this context, the SPPA Law guarantees legal certainty and realises restorative justice oriented toward child protection, victim rehabilitation, and the public good.

Conclusion

In conclusion, diversion is a key instrument in Indonesia's SPPA Law, representing a paradigm shift from a retributive approach toward restorative justice. Legally, Law No. 11 of 2012 on the SPPA provides a strong basis for diversion through non-litigious mechanisms oriented toward child protection, victim restoration, and restoring social relationships. However, diversion faces normative limitations, primarily because Article 7(2) of the Juvenile Criminal Justice System Law (UU SPPA) restricts eligibility based on the severity of the criminal penalty and the status of repeat offences. This approach does not fully reflect the philosophy of restorative justice, prioritising restoration, the best interests of the child, and rehabilitation as the primary objectives of criminal case resolution. Diversion's legitimacy is grounded in a strong normative foundation within Islamic criminal law (*fiqh jinayah*). The principles of *ta'zir*, *maqāsid al-syarī'ah*, *al-'adl*, *al-iṣlāḥ*, *al-rahmah*, *maṣlahah*, *siyāsah syar'iyah*, and the concept of *ahliyyah* show that Islamic law views criminal case resolution as a means of achieving the public interest, protecting victims' rights, rehabilitating offenders, and maintaining social balance. Therefore, diversion is substantively coherent with the fundamental objectives and values of Islamic criminal law. These results suggest that national and Islamic law complement each other in establishing a more just and humane SPPA Law.

This study's main contribution is the development of the Dual Normative Legitimacy Model of Diversion. This conceptual model integrates the juridical legitimacy of national law with the normative legitimacy of the principles of *fiqh jinayah*. The concept is built on four pillars of reconstruction, namely the harmonisation of restorative justice regulations, the reformulation of diversion application parameters based on substantive indicators, institutional strengthening of multi-disciplinary actors, including religious and community leaders, and the reorientation of diversion success indicators from procedural compliance toward victim restoration, juvenile rehabilitation, social reintegration, and the public good. This reconstruction offers a more comprehensive approach than the current system because it treats legal certainty, restorative justice, and Islamic legal values as an integrated system.

References

- Aji, 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 (April 23, 2019): 73–88. <https://doi.org/10.15294/jils.v4i01.23339>.
- Amrianto, Andika Dwi. "Pemulihan Hak Korban Salah Tangkap Berdasarkan Perspektif Teori Keadilan." *Jurnal Hukum Samudra Keadilan* 18, no. 1 (March 8, 2023): 33–52. <https://doi.org/10.33059/jhsk.v18i1.6419>.
- Bachmid, Atila Amalia. "Perlindungan Anak Dalam Sistem Peradilan Pidana Anak : Kebijakan Dan Pelaksanaannya Di Indonesia." *Iuris Studia: Jurnal Kajian Hukum*

- 6, no. 1 (May 30, 2025). <https://doi.org/10.55357/is.v6i1.838>.
- Badriyah, Noviyatul, Achmad Fuaddin, and Ibnatul Mardiyah. "Implementation of Qisas Law in Criminality (Jinayat): Historical Analysis and Contemporary Challenges." *Al-Afham: Journal of Islamic Studies* 2, no. 1 (April 30, 2025): 29–45. <https://doi.org/10.62509/ajis.v2i1.291>.
- Dahlan, Anwar, Muhammad Rinaldy Bima, and Hardianto Djanggih. "Judges' Legal Reasoning in Determining the Success or Failure of Diversion in Juvenile Justice: A Normative Analysis of Indonesian Court Decisions." *Al-Isblah: Jurnal Ilmiah Hukum* 28, no. 2 (December 30, 2025): 133–45. <https://doi.org/10.56087/enf7mg34>.
- Ekaa, Eka Novianty Wahyuni. "Diversion for Children Perpetrating Narcotics Crimes: A Perspective of Jinayah Fiqh and the Juvenile Criminal Justice System Law." *DELICTUM: Jurnal Hukum Pidana Islam* 3, no. 1 (October 1, 2024): 87–112. <https://doi.org/10.35905/delictum.v3i1.10949>.
- Elvariani, Risma, and Sidik Sunaryo. "Refleksi Moralitas Dalam Keadilan Restoratif Sebagai Alternatif Penyelesaian Tindak Pidana." *AKADEMIK: Jurnal Mahasiswa Humanis* 5, no. 3 (September 1, 2025): 1275–86. <https://doi.org/10.37481/jmh.v5i3.1525>.
- Ernis, Yul. "Diversi Dan Keadilan Restoratif Dalam Penyelesaian Perkara Tindak Pidana Anak Di Indonesia (Diversion And Restorative Justice In Case Settlement Of Juvenile Justice System In Indonesia)." *Jurnal Ilmiah Kebijakan Hukum* 10, no. 2 (February 13, 2016): 163–74. <https://doi.org/10.30641/kebijakan.2016.V10.163-174>.
- Gade, Christian. "Promoting Restorative Justice as de Jure Punishment: A Vision for a Different Future." *The International Journal of Restorative Justice* 5, no. 1 (April 2022): 37–54. <https://doi.org/10.5553/TIJRJ.000093>.
- Hamdi, Bahrul. "Konsep Implementasi Mashlahah Menurut Al-Ghazali, Asy-Syatibi Dan Najmuddin At-Thufi (Studi Komparatif Analitis Pemikiran Hukum Islam)." *Al-Hurriyah: Jurnal Hukum Islam* 2, no. 2 (2017): 219–231. <https://ejournal.uinbukittinggi.ac.id/alhurriyah/article/view/402>.
- Harsono, Wiyono, and Wisnu Aryo Dewanto. "Pendekatan Teoritis Dan Praktis Keadilan Restoratif Dalam Sistem Hukum Modern." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 3 (2025): 5815–24. <https://ejournal.yayasanpendidikandzurriyatulquran.id/index.php/AlZayn/article/view/2192>.
- Hidayah, Wahab Aznul. "Penerapan Diversi Dalam Sistem Peradilan Pidana Anak." *JUSTISI* 5, no. 2 (2019): 84–96. <https://doi.org/10.33506/js.v5i2.543>.
- . "The Role of Witness and Victim Protection Agency for Imekko Tribe in Criminal Justice System in Sorong." *Law and Justice* 8, no. 2 (2023): 176–91. <https://doi.org/10.23917/laj.v8i2.2363>.
- Hutchinson, Terry, and Nigel Duncan. "Defining and Describing What We Do: Doctrinal Legal Research." *Deakin Law Review* 17, no. 1 (October 1, 2012): 83. <https://doi.org/10.21153/dlr2012vol17no1art70>.

- Lee, Jee Aei (Jamie), and Yvon Dandurand. "Twenty Years of Growing Support for Restorative Justice: Presenting the Second Edition of the UN Handbook." *The International Journal of Restorative Justice* 3, no. 3 (November 2020): 419–30. <https://doi.org/10.5553/IJRJ.000052>.
- Lestari, Wilda. "Ta'zir Crimes in Islamic Criminal Law: Definition, Legal Basis, Types and Punishments." *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam* 5, no. 1 (March 30, 2024): 22. <https://doi.org/10.58836/al-qanun.v5i1.21486>.
- Marder, Ian D. "Mapping Restorative Justice and Restorative Practices in Criminal Justice in the Republic of Ireland." *International Journal of Law, Crime and Justice* 70 (September 2022): 100544. <https://doi.org/10.1016/j.ijlcrj.2022.100544>.
- Marder, Ian D., and Louise Forde. "Challenges in the Future of Restorative Youth Justice in Ireland: Minimising Intervention, Maximising Participation." *Youth Justice* 23, no. 2 (August 15, 2023): 201–25. <https://doi.org/10.1177/14732254221122568>.
- Muhaimin. *Metode Penelitian Hukum*. Nusa Tenggara Barat: Mataram University Press, 2020.
- Naim, Sokhib, Wahab Aznul Hidayat, Valentino Cirilo Sambang, and Sabrin S Hi Mustafa. "Perwujudan Restitutio in Integrum Sebagai Hak Anak Korban Tindak Pidana: The Realization of Restitutio in Integrum as the Right of Child Victims of Crime." *USM Law Review* 8, no. 3 (2025): 1683–96. <https://doi.org/10.26623/julr.v8i3.12668>.
- Nashriana, Nashriana, Desia Rakhma Banjarani, Marwin S Del Rosario, and Vera Novianti. "Enhancing Restorative Justice in Indonesia: Exploring Diversion Implementation for Effective Juvenile Delinquency Settlement." *Srinwijaya Law Review* 7, no. 2 (July 31, 2023): 318–34. <https://doi.org/10.28946/slrev.Vol7.Iss2.2427>.pp318-334.
- Nurhayati, Yati, MYasir Said, Fakultas Hukum, Universitas Lambung Mangkurat JlBrigjen Hasan Basry, Kota Banjarmasin, Jl H Brigjen Hasan Basri Komplek Polsek Banjarmasin Utara Jalur, and Provinsi Kalimantan Selatan. "Metodologi Normatif Dan Empiris Dalam Penyelesaian Perselisihan." *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021): 1–20. <https://ojs.bdproject.co.id/index.php/jphi/article/view/14>.
- Puspa Devi, Chindya, and Aminuddin Aminuddin. "Maqāṣid Al-Syarīʿah Sebagai Basis Perlindungan Perempuan Dari Kekerasan." *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum* 9, no. 2 (November 24, 2025): 185–95. <https://doi.org/10.52266/sangaji.v9i2.5357>.
- Putri, Claudia Carolina Indra. "Juridical Review of Restorative Justice in the Juvenile Justice System through Diversion." *IJCLS (Indonesian Journal of Criminal Law Studies)* 4, no. 1 (May 30, 2019): 1–8. <https://doi.org/10.15294/ijcls.v4i1.36288>.
- Rakib, Abdur. "Mukallaf Sebagai Subjek Hukum Dalam Fiqih Jinayah." *HAKAM: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 5, no. 2 (December 28, 2021). <https://doi.org/10.33650/jhi.v5i2.3585>.
- Ramadhan, Azhary, Kamarusdiana Kamarusdiana, and Soefyanto Soefyanto.

- “Penyelesaian Kasus Tindak Pidana Anak Melalui Diversi Dalam Perspektif Sistem Peradilan Pidana Anak.” *Journal of Legal Research* 3, no. 1 (February 10, 2021): 129–44. <https://doi.org/10.15408/jlr.v3i1.19581>.
- Rasiwan, Iwan, Abdul Haris, and Yusup Maulana Suwanta. “Effectiveness Of The Implementation Of Diversion In The Juvenile Criminal Justice System.” *Case Law: Journal of Law* 6, no. 1 (2025): 79–89. <https://doi.org/10.25157/caselaw.v6i1.4755>.
- Renhard Harve. *Penyelarasan Aturan Tentang Sistem Peradilan Pidana Anak*. Yogyakarta: Deepublish, 2024. [https://books.google.co.id/books?hl=id&lr=&id=v74yEQAAQBAJ&oi=fnd&pg=PP1&dq=Riyadh+Guidelines+menekankan+pentingnya+pencegahan+kenakalan+anak+melalui+pendekatan+sosial,+pendidikan,+dan+keluarga,+sedangkan+General+Comment+No.+24+\(2019\)+dari+Komite+Hak+Anak+Perserikatan+Bangsa-Bangsa+menegaskan+bahwa+diversi+harus+menjadi+pilihan+utama+dalam+penyelesaian+perkara+pidana+anak+sepanjang+tidak+mengabaikan+hak-hak+korban+dan+kepentingan+masyarakat.&ots=vyZKkRnCs&sig=3ZLyqWNB0i6AofAL-sL2Hxy86dI&redir_esc=y](https://books.google.co.id/books?hl=id&lr=&id=v74yEQAAQBAJ&oi=fnd&pg=PP1&dq=Riyadh+Guidelines+menekankan+pentingnya+pencegahan+kenakalan+anak+melalui+pendekatan+sosial,+pendidikan,+dan+keluarga,+sedangkan+General+Comment+No.+24+(2019)+dari+Komite+Hak+Anak+Perserikatan+Bangsa-Bangsa+menegaskan+bahwa+diversi+harus+menjadi+pilihan+utama+dalam+penyelesaian+perkara+pidana+anak+sepanjang+tidak+mengabaikan+hak-hak+korban+dan+kepentingan+masyarakat.&ots=vyZKkRnCs&sig=3ZLyqWNB0i6AofAL-sL2Hxy86dI&redir_esc=y).
- RI, Mahkamah Agung. “Laporan Kinerja Mahkamah Agung RI,” 2024. https://www.mahkamahagung.go.id/files/20250227150951_LAKIN_MA_2024_FINAL.pdf
- Soleh, Nor. “Restorative Justice Dalam Hukum Pidana Islam Dan Kontribusinya Bagi Pembaharuan Hukum Pidana Materiil Di Indonesia.” *Isti'dal: Jurnal Studi Hukum Islam* 2, no. 2 (2015). <https://ejournal.unisnu.ac.id/JSHI/article/view/640>.
- Suhaili, Achmad. “Integrasi Maqāṣid Al-SyarāʿAh Dalam Praktik Peradilan Agama Di Indonesia: Studi Alternatif Penyelesaian Sengketa Keluarga.” *Mabahits: Jurnal Hukum Keluarga Islam* 6, no. 1 (May 18, 2025): 29–42. <https://doi.org/10.62097/mabahits.v6i01.2236>.
- Tony Marshall. *Restorative Justice: An Overview*. London: Home Office Research, Development and Statistics Directorate, 1999.
- Wood, William R, Masahiro Suzuki, and Hennessey Hayes. “Restorative Justice in Youth and Adult Criminal Justice.” In *Oxford Research Encyclopedia of Criminology and Criminal Justice*. Oxford University Press, New York, NY, 2022. <https://doi.org/10.1093/acrefore/9780190264079.013.658>.
- Zehr, Howard. *The Little Book of Restorative Justice*. Good Books, 2002.



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