



## COMPARATIVE IMPLEMENTATION OF CHILD PROTECTION LAW BETWEEN INDONESIA AND THE NETHERLANDS: A STUDY OF JUVENILE JUSTICE SYSTEM

Muhammad Ansori Lubis

Universitas Islam Sumatera Utara

Email: [ansoriboy67@gmail.com](mailto:ansoriboy67@gmail.com)

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### ABSTRACT

This research analyzes the comparative implementation of child protection law between Indonesia and the Netherlands with a focus on the juvenile justice system. Both countries have different approaches in handling children in conflict with the law, although both are based on the United Nations Convention on the Rights of the Child (CRC). Indonesia implements the juvenile criminal justice system as stipulated in Law Number 11 of 2012 with a restorative justice approach through diversion, while the Netherlands uses a system that emphasizes rehabilitative and preventive approaches with well-established diversion programs since the early 20th century. This study employs a normative juridical method with a comparative approach to analyze the legal framework, implementation, and effectiveness of both systems. The findings indicate that although Indonesia has adopted a restorative justice approach, its implementation still faces various challenges including inconsistent application of diversion, limited resources, and a legal culture still oriented toward punishment. The Netherlands, with longer experience, demonstrates success in reducing the number of children in the formal justice system through diversion programs such as Bureau Halt and integrated youth care approaches. This research recommends strengthening institutional capacity, harmonizing regulations, enhancing alternative sentencing programs, and learning from Dutch best practices to improve the effectiveness of child protection in Indonesia's justice system.

### 1. Introduction

Child protection is a fundamental issue in modern legal systems that reflects a nation's commitment to fulfilling human rights. The Convention on the Rights of the Child (CRC) adopted by the United Nations General Assembly in 1989 has become a universal foundation for regulating children's rights, including children in conflict with the law (United Nations, 1989). Indonesia and the Netherlands as state parties that have ratified the CRC have an obligation to implement the principles of child protection in their national legal systems, particularly in the context of juvenile justice systems (Liefwaard, 2019). Indonesia experienced a significant paradigm shift in handling children in conflict with the law with the enactment of Law Number 11 of 2012 on the Juvenile Criminal





Justice System (UU SPPA), which replaced Law Number 3 of 1997 on Juvenile Court. This fundamental change marked a transition from a retributive approach to a restorative justice approach through diversion mechanisms (Hasibuan et al., 2022). UU SPPA adopts the principle that the best interest of the child must be the primary consideration in every handling of child cases (Ernis, 2016).

The Netherlands, as one of the European countries with a progressive juvenile justice system, has developed a comprehensive approach to child protection since the early 20th century (Junger-Tas, 2004). The Dutch juvenile justice system is known for its emphasis on rehabilitation, reintegration, and diversion, integrating various social institutions and comprehensive youth care systems (Matthews et al., 2017). Bureau Halt, as the oldest diversion program in the Netherlands, has become an international model in handling minor juvenile delinquency outside the formal justice system (Boendermaker, 1991). Comparative research between Indonesia's and the Netherlands' juvenile justice systems becomes relevant for several reasons. First, Indonesia has a historical relationship with the Netherlands as a former colonial state that inherited the continental legal system (Sudarto, 2017). Second, both countries have the same commitment to child protection based on the CRC but with different social, cultural, and economic contexts (Tyldum, 2014). Third, learning from the more mature Dutch experience can provide valuable perspectives for developing Indonesia's juvenile justice system (Nur et al., 2020). Despite Indonesia's adoption of a restorative justice approach, its implementation still faces various challenges. Research shows inconsistency in diversion application, limited capacity of law enforcement officers, minimal supporting facilities, and a legal culture that still tends toward punishment (Sudiby & Fitriani, 2019). The number of children undergoing formal judicial processes and ending up in special juvenile correctional institutions remains relatively high, indicating that restorative justice implementation has not been optimal (Mansyur et al., 2025).

Research Questions Based on the background above, this research formulates the following problems: 1) What is the legal framework for child protection in the juvenile justice system in Indonesia and the Netherlands? 2) How does the implementation of juvenile justice systems compare between Indonesia and the Netherlands, particularly in aspects of diversion and restorative justice? 3) What challenges are faced in implementing juvenile justice systems in Indonesia and the Netherlands? 4) What lessons (best practices) can Indonesia adopt from the Netherlands' experience in juvenile justice systems?

1.3 Research Objectives This research aims to: 1) Analyze and compare the legal framework for child protection in the juvenile justice system in Indonesia and the Netherlands. 2) Evaluate the implementation of juvenile justice systems in both countries with a focus on diversion mechanisms and restorative justice approaches. 3) Identify challenges and obstacles in implementing juvenile justice systems in Indonesia and the Netherlands. 4) Formulate policy recommendations based on Dutch best practices to improve the effectiveness of Indonesia's juvenile justice system.

## 2. Research Method

**Research Type** This research employs a normative juridical method focusing on analysis of legal norms, legislation, and implementation of juvenile justice systems in Indonesia and the Netherlands (Rodriguez, 2007). The normative juridical method is chosen as it aligns with research objectives analyzing and comparing the legal framework for child protection in the context of juvenile justice systems (Van Ness & Strong, 2010). **Research Approaches** This research utilizes a comparative approach to compare juvenile justice systems between Indonesia and the Netherlands (Winterdyk, 2014). The comparative approach enables identification of similarities, differences, advantages, and disadvantages of each system, as well as learning best practices that can be adopted (Pruin & Dünkel, 2015). **Data Sources** a. **Primary Legal Materials** Primary legal materials include: a) Indonesia: Law Number 11 of 2012 on the Juvenile Criminal Justice System, Law Number 35 of 2014 on Amendments to Law Number 23 of 2002 on Child Protection, Supreme Court Regulations, and related court decisions. b) Netherlands: Youth Law (Jeugdwet) 2015, Penal Code (Wetboek van Strafrecht), Child and Youth Act 2015, and related juvenile justice regulations. c) International documents: Convention on the Rights of the Child 1989, United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). b. **Secondary Legal Materials** Secondary legal materials consist of high-reputation international law journals, textbooks on juvenile justice and comparative law, scientific articles indexed in Scopus and Web of Science, research reports from UNICEF, UNODC, and other international organizations (Zehr, 2005). c. **Tertiary Legal Materials** Tertiary legal materials include law dictionaries, legal encyclopedias on children, and online legal databases to support understanding of concepts and terminology (Platt, 1969). **Data Collection Techniques** Data is collected through library research by analyzing legal documents, scientific journals, government publications, and international organization reports (Willrich, 2003). This research also analyzes statistical data on child case handling, recidivism rates, and effectiveness of diversion programs in both countries (Wooldredge & Thistlethwaite, 2004). **Data Analysis** Collected data is analyzed qualitatively using descriptive-comparative methods (Weijers, 2017). Comparative analysis is conducted by comparing key aspects of juvenile justice systems in Indonesia and the Netherlands, including philosophical foundations, legal frameworks, institutional structures, diversion mechanisms, rehabilitation programs, and implementation effectiveness (Rap & Weijers, 2014).

## 3. Results And Discussion

**Legal Framework for Child Protection in Juvenile Justice Systems Indonesia: Legal Framework and Basic Principles** Indonesia has a comprehensive legal framework for child protection with Law Number 11 of 2012 on the Juvenile

Criminal Justice System as the main regulation (Suharto, 2021). UU SPPA marks a fundamental paradigm shift from a retributive approach to restorative justice with diversion as the main mechanism (Pradityo, 2016). This law defines children as individuals aged 12 years but not yet 18 years, establishing the limit of criminal responsibility and the age at which children can be processed through the criminal justice system (Jufri et al., 2019). Basic principles of UU SPPA include: 1) Best Interest of the Child: Every decision in the juvenile justice system must consider the best interest of the child, including physical, psychological welfare, and future prospects (Aprilianda et al., 2025). 2) Restorative Justice: An approach that prioritizes restoration of relationships between perpetrators, victims, and society through deliberation and mutual agreement (Kartini & Nasution, 2016). 3) Diversion: Transfer of child case resolution from formal criminal justice processes to resolution outside the court, prioritizing restorative justice approaches (Siregar & Prabowo, 2015). 4) Non-discrimination: Guarantee of equal treatment for every child without discrimination based on ethnicity, religion, race, class, gender, ethnic group, culture and language, legal status, birth order, and physical or mental condition (Kenedi, 2020).

UU SPPA stipulates that diversion must be attempted at the investigation, prosecution, and examination of child cases in court with conditions that the committed crime is threatened with imprisonment under 7 years and is not a repeated crime (Yutirsa, 2013). The diversion process involves the child and/or parents/guardians, victims and/or parents/guardians, community supervisors, and professional social workers (Setyorini et al., 2020). Netherlands: Legal Framework and Juvenile Justice Tradition The Netherlands has a long tradition of juvenile justice systems separate from adult justice systems since the early 20th century (Junger-Tas, 2004). The Dutch juvenile justice legal framework is regulated in several main regulations including the Dutch Penal Code (Wetboek van Strafrecht), Youth Law (Jeugdwet), and Child and Youth Act 2015 (Weijers, 2017). This system sets the age of criminal responsibility at 12 years, while criminal majority is at age 18, with flexibility to apply juvenile criminal law to young adults up to age 23 (Rap & Weijers, 2014). Basic principles of the Dutch juvenile justice system include: 1) Rehabilitation over Punishment: The system is designed to help children reintegrate into society through education, therapy, and rehabilitation programs (Dünkel, 2016b). 2) Prevention and Early Intervention: Emphasis on preventing juvenile delinquency and early intervention through cooperation between schools, social workers, and local communities (Chester & Parker, 2017). 3) Swift and Effective Response: Intervention must be carried out as quickly as possible after the crime occurs to maximize educative and preventive effects (Clarke, 2015). 4) Individualized Approach: Each child case is handled individually considering age, maturity level, family background, and specific child needs (Schiraldi et al., 2024). 5) Diversion and Non-Judicial Approaches: Prioritization of resolution outside



court through various diversion programs such as Bureau Halt for minor offenses (Loeber et al., 2013).

The Adolescent Criminal Law (Adolescentenstrafrecht) enacted in 2014 expanded the possibility of applying juvenile criminal law to young adults up to age 23, reflecting modern understanding of brain development and psychological maturity continuing into the mid-20s (Ishida, 2015). Legal Framework Comparison Comparison of child protection legal frameworks between Indonesia and the Netherlands shows several significant similarities and differences: Similarities: a) Both countries set the age of criminal responsibility at 12 years and age of majority at 18 years. b) Both committed to the principle of best interest of the child as mandated in the CRC. c) Both adopt restorative justice approaches and diversion as main mechanisms in handling children in conflict with the law. d) Both have separate juvenile justice systems from adult justice systems. Differences: e) Age Flexibility: The Netherlands provides greater flexibility by allowing application of juvenile criminal law up to age 23 for young adults, while Indonesia limits it to under 18 years (Matthews et al., 2017). f) System History and Maturity: The Dutch juvenile justice system has developed since the early 20th century with over 100 years of experience, while Indonesia only experienced significant reform since 2012 (Christiansen & Bakhtiar, 2025). g) System Integration: The Netherlands has stronger integration between juvenile justice system and youth care and social services, creating a comprehensive multi-disciplinary approach (van der Laan et al., 2017). h) Diversion Programs: The Netherlands has more established and institutionalized diversion programs such as Bureau Halt, while Indonesia is still in the development and consolidation phase of diversion programs (Boendermaker, 1991).

Juvenile Justice System Implementation: Comparative Analysis Diversion Mechanisms in Indonesia Diversion is the main pillar in Indonesia's juvenile criminal justice system, defined as the transfer of child case resolution from criminal justice processes to processes outside criminal justice (Wahyudi, 2015). UU SPPA stipulates that diversion must be attempted at every examination level: investigation, prosecution, and examination of cases in court (Erdianti & Al-Fatih, 2016). Diversion Implementation: Diversion is implemented through deliberation involving the child and/or parents/guardians, victims and/or parents/guardians, community supervisors, and professional social workers based on restorative justice approaches (Rado & Badilla, 2019). The diversion process is conducted within a maximum of 30 days from the start of diversion, and the results of the diversion agreement are written in the form of a diversion agreement (Rachmawati, 2020). Diversion results can take the form of: 1. Peace with or without compensation 2. Return to parents/guardians 3. Participation in education or training at educational institutions or LPKS for a maximum of 3 months 4. Community service for a maximum of 3 months Challenges in Diversion Implementation in Indonesia: Despite diversion being regulated in



UU SPPA, its implementation faces various challenges: 1. Implementation Inconsistency: There are differences in understanding and practice of diversion in various regions, causing inconsistency in its application (Sudibyo & Fitriani, 2019). 2. Limited Resources: Shortage of community supervisors, professional social workers, and trained diversion facilitators hampers the effectiveness of the diversion process (Nugroho, 2020). 3. Retributive Legal Culture: Law enforcement officials' paradigm still oriented toward punishment rather than restorative approaches (Wacquand, 2009). 4. Limited Facilities: Minimal adequate Child Temporary Placement Institutions (LPAS), Special Child Development Institutions (LPKA), and Social Welfare Implementation Institutions (LPKS) (Cahyaningtyas, 2015). Data from the Directorate General of Corrections shows that although since 2014 there has been an increase in non-imprisonment decisions (from 23% to 45%), the number of children undergoing formal judicial processes remains relatively high, indicating that diversion has not been optimally applied (Saefudin, 2020).

**Diversion Mechanisms in the Netherlands** The Netherlands has a comprehensive and well-structured diversion system that has developed over several decades. This system emphasizes quick and effective resolution outside the formal justice system (Junger-Tas, 2004). **Main Diversion Programs:** a. **Bureau Halt Bureau Halt** is the oldest and most famous diversion program in the Netherlands, established to handle cases of vandalism and other minor offenses committed by children (Boendermaker, 1991). The program operates based on principles of: • **Quick Response:** Intervention is carried out immediately after the crime occurs • **Restitution:** Children must provide compensation to victims • **Active Participation:** Children themselves develop alternative "punishment" proposals with parental and victim consent • **Monitoring:** Halt organizes and monitors the implementation of approved plans If children refuse to participate or fail in the program, an official report is sent to the public prosecutor who can decide to proceed with formal processing (International Centre for Prison Studies, 2010). b. **Police and Judicial Discretion** Dutch police have great discretionary power in handling children who commit minor offenses, including the ability to give official warnings or refer children to diversion programs without involving the justice system (Council of Europe Committee of Ministers, 2003). c. **Child Protection Council (Raad voor de Kinderbescherming)** This institution is responsible for advising juvenile courts on the most appropriate measures for children, including diversion recommendations, child protection, and supervision (RSJ, 2023). **Success of Dutch Diversion Programs:**

1. **High Diversion Rate:** The majority of child cases are resolved through diversion and do not enter the formal justice system
2. **Reduced Recidivism:** Diversion programs have proven effective in reducing recidivism rates
3. **Social Integration:** Approaches emphasizing social reintegration and education rather than stigmatization
4. **Systemic Support:** Strong integration between justice system, social services, schools, and local communities. Restorative Justice

Approach Indonesia: The restorative justice approach in Indonesia is realized through diversion mechanisms involving deliberation between perpetrators, victims, and related parties to reach agreements prioritizing restoration over retaliation (Kristian & Tanuwijaya, 2015). The principle of musyawarah mufakat (deliberation to reach consensus), which is an Indonesian cultural value, aligns with the concept of restorative justice (Garcia, 2020). Despite being conceptually aligned with local values, restorative justice implementation in Indonesia faces challenges in changing the mindset of law enforcement officials and society still tending toward retributive approaches (Sudarto, 2017). Research shows that understanding of restorative justice among law enforcement officials remains diverse, causing inconsistency in its application (Agung, 2018). Netherlands:

The Netherlands has implemented restorative justice principles in the juvenile justice system for a long time, integrated into various programs and policies (Rap & Weijers, 2014). This approach includes:

1. Victim-Offender Mediation: Mediation between perpetrators and victims to achieve understanding and mutual agreement
2. Family Group Conferencing: Involving families of perpetrators and victims in the resolution process
3. Community Service: Community service as a form of responsibility and restitution to society
4. Educational Measures: Education and training programs as alternatives to punishment

The success of restorative justice implementation in the Netherlands is supported by strong infrastructure, including trained social workers, professional mediation facilitators, and integration with comprehensive youth care systems (Chester & Parker, 2017).

### 3.3 Institutional Structure and Stakeholder Roles

#### 3.3.1 Indonesia's Institutional Structure

Indonesia's juvenile criminal justice system involves various institutions and stakeholders:

- a. Juvenile Court Special juvenile courts that are part of District Courts, handling child cases with judges who have received special training. Trials are conducted in closed sessions to protect the identity and privacy of children (Gultom, 2014).
- b. Community Supervisor (Pembimbing Kemasyarakatan/PK) PK has crucial roles in the juvenile justice system, including conducting social research (litmas), accompanying children in judicial processes, and implementing guidance (Tatan, 2016).
- c. Professional Social Workers Assisting in diversion processes, providing accompaniment to children and families, and providing social welfare services (Tucker & Smith-Adcock, 2016).
- d. Special Child Development Institution (LPKA) Places for development of children sentenced to imprisonment, with development approaches different from adult correctional institutions (Saefudin, 2020).

Structural Challenges:

1. Limited Human Resources: Number of community supervisors and professional social workers disproportionate to number of cases
2. Weak Coordination: Coordination between institutions in the juvenile justice system not yet optimal
3. Limited Facilities: Available LPKA and LPAS still limited and not evenly distributed throughout Indonesia
4. Training Capacity: Special training for judges, prosecutors, police, and other officials handling child cases

not yet evenly distributed

### 3.3.2 Netherlands' Institutional Structure

The Dutch juvenile justice system has an integrated structure with child protection and social service systems:

- Juvenile Courts (Kinderrechter)** Special juvenile courts with judges who have specialization in child law and understand children's psychological development (Weijers, 2017).
- Child Protection Council (Raad voor de Kinderbescherming)** Independent institution responsible for advising courts on child protection, regulating child access post-parental divorce, and supervising criminal justice processes involving children (RSJ, 2023).
- Youth Care System** Integrated child welfare service system, regulated in the Child and Youth Act 2015, covering prevention, support, assistance, and care for children and parents (van der Laan et al., 2017).
- Juvenile Detention Centers** Special child detention facilities with normalization approaches, providing education, skills training, and rehabilitation programs (Clarke, 2015).
- Bureau Halt and Other Diversion Programs** Institutions running diversion programs with trained professionals and strict monitoring (Boendermaker, 1991).

**Structural Advantages:**

- System Integration:** Strong coordination between justice system, youth care, education, and social services
- Decentralization:** Since 2015, youth care responsibility decentralized to municipal level to increase responsiveness to local needs
- High Professionalism:** Trained and qualified human resources at all system levels
- Monitoring and Evaluation:** Comprehensive monitoring and evaluation systems to ensure service quality

### 3.4 Rehabilitation and Reintegration Programs

#### 3.4.1 Rehabilitation Programs in Indonesia

Rehabilitation programs for children in conflict with the law in Indonesia include:

- Development in LPKA** Development conducted in LPKA includes personality and independence development, formal and non-formal education, skills training, and social reintegration programs (Cahyaningtyas, 2015). However, implementation faces challenges related to limited facilities, human resources, and programs relevant to children's needs.
- Accompaniment Programs** Accompaniment by community supervisors and social workers during judicial processes and development periods (Nugroho, 2020). This program aims to ensure children's rights are fulfilled and provide psychosocial support.
- Diversion and Alternative Sentencing Programs** Including job training, character education, and community service as alternatives to formal punishment (Ernis, 2016).

#### Rehabilitation Challenges:

- Non-standardized Programs:** Variation of rehabilitation programs in various regions without clear standards
- Limited Facilities:** Limited education and training facilities in LPKA
- Social Stigma:** Children exiting the justice system face stigma hindering social reintegration
- Limited Follow-up:** Minimal follow-up programs and post-development monitoring

#### 3.4.2 Rehabilitation Programs in the Netherlands

Rehabilitation programs in the Netherlands are designed with comprehensive and individualization approaches:

- Educational Measures** Education and training programs adapted to children's needs and interests,

including formal education, vocational training, and life skills programs (Düinkel, 2016b). b. Therapeutic Interventions Psychological therapy, counseling, and behavioral intervention programs to address factors contributing to juvenile delinquency (Chester & Parker, 2017). c. Community-based Programs Community-based programs involving families, schools, and local communities in rehabilitation and reintegration processes (Loeber et al., 2013). d. Normalization Approach in Detention Child detention facilities designed with "normalization" approaches creating environments as similar as possible to normal life, including regular education, recreational activities, and family contact (Clarke, 2015). Program Success: 1. Low Recidivism Rate: Dutch rehabilitation programs show relatively low recidivism rates 2. Successful Reintegration: Majority of children through rehabilitation programs successfully reintegrate into society 3. Continuous Support: Follow-up programs and continuous support post-rehabilitation 4. Holistic Approach: Addressing not only criminal behavior but also underlying factors such as family problems, education, and mental health 3.5 Implementation Effectiveness and Challenges 3.5.1 Effectiveness of Indonesia's Juvenile Justice System Evaluation of UU SPPA implementation since 2012 shows varied results: Positive Achievements

## 4. Conclusion

4 Main Conclusions Based on comprehensive comparative analysis of juvenile justice systems in Indonesia and the Netherlands, this research produces several main conclusions: 1. Legal Framework: Both countries have comprehensive child protection legal frameworks based on the Convention on the Rights of the Child (CRC) with restorative justice approaches as main principles. Indonesia through Law Number 11 of 2012 on the Juvenile Criminal Justice System has conducted paradigmatic reform from retributive to restorative justice approach, while the Netherlands has a long tradition of juvenile justice since the early 20th century with a more mature and integrated system. 2. Diversion Implementation: Although both countries adopt diversion as main mechanisms, implementation shows significant differences. The Netherlands has more established and institutionalized diversion programs such as Bureau Halt with high success rates in diverting children from formal justice systems. Indonesia still faces challenges in consistent diversion implementation, with numbers of children entering formal justice systems still relatively high. 3. Institutional Structure: The Netherlands has strong systemic integration between juvenile justice system and youth care, education, and social services, creating comprehensive multi-disciplinary approaches. Indonesia still experiences coordination challenges between institutions and limited human resources and supporting facilities for juvenile justice system. 4. Rehabilitation Programs: Rehabilitation programs in the Netherlands are more standardized, individualized, and supported by adequate infrastructure with normalization approaches. Indonesia still faces challenges in providing effective and consistent



rehabilitation programs in various regions, with limited LPKA facilities and not yet optimal programs. 5. System Effectiveness: The Dutch juvenile justice system shows higher effectiveness based on indicators such as high diversion rates, decreased numbers of children in formal justice systems, low recidivism rates, and successful social reintegration. Indonesia has progressed since UU SPPA implementation but still faces various challenges in achieving optimal effectiveness. Policy Recommendations To improve effectiveness of Indonesia's juvenile justice system with learning from Dutch experience, this research recommends.

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