

Modelling the Development of Child Prisoners Based on Justice

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Abstract

This study examines the importance of reconstructing the development model for child prisoners through justice-based diversion, focusing on how to better accommodate their right to quality education, as guaranteed by international resolutions, conventions, and Indonesia's 1945 Constitution. The research highlights the need for appropriate educational models that enable child prisoners to reintegrate into society as responsible, law-abiding citizens. Using a normative juridical approach, the study explores literature-based sources to propose a model incorporating formal and non-formal education to enhance the self-competence of child prisoners. The proposed educational model aims to equip children with skills and knowledge, ensuring they can reintegrate successfully into their families and communities after serving their sentences. By aligning educational approaches with the principles of justice, the model offers a pathway to reducing recidivism and improving the long-term prospects for child prisoners. The study emphasises the need for a comprehensive and child-centred development program that reflects the child's best interests and supports their rehabilitation.

1. Introduction

There is no universal consensus definition of children because the concept of childhood is a social construct.¹ It means that the demarcation of whether a specific

¹ Sydney Campbell dkk., “The Unspeakable Nature of Death & Dying During Childhood: A Silenced Phenomenon in Pediatric Care,” *OMEGA - Journal of Death and Dying* 89, no. 1 (1 Mei 2024): 88–107, <https://doi.org/10.1177/00302228211067034>.

class of group should be classified as a child depends on public opinion.² Various factors can influence this perspective, including culture, economy, history, morality, politics, religion, and science. This statement can be illustrated based on legal experience from Malaysia as a neighbouring country. In the Malaysian legal system, as a general rule, most legislations define a child as someone below eighteen.³ The age of eighteen is based on the historical reason that British colonisation influenced its written law.⁴ However, due to its status as a multi-ethnicity country which allows the implementation of various sets of personal laws among its citizens, there are exceptions regarding the age of consent,⁵ drinking age,⁶ driving age,⁷ and age of marriage for Muslims,⁸ non-Muslims, locals and natives,⁹ wherein the legal ages are much different. The inconsistency is not unique, as the Indonesian legal system faces similar circumstances when deciding its legal age.¹⁰

Therefore, the concept of childhood is transcended, making it multidisciplinary research.¹¹ It may be challenging to reach a consensus on the definition of a child, but what differentiates between an adult and a child is generally based on the person's level of competency. Based on society's expectations, adults can make decisions and face the consequences of their acts.¹² However, there is a limitation to this statement, as it should be confined depending on the highlighted context. For instance, a person who does not attain sufficient mental capacity is not classified as an adult, even when the person reaches puberty. A good example is a person who has an intellectual disability is often treated as a "child" in society in demeaning ways. It is usually ostracised as abnormal and incapable of entering into relationships with other human beings and making life decisions.¹³

Nevertheless, this view has not been widely covered from a legal perspective, as individuals who reach the age of majority are treated as adults regardless of their

² Ziba Vaghri dkk., ed., *Monitoring State Compliance with the UN Convention on the Rights of the Child: An Analysis of Attributes* (Switzerland: Springer Nature, 2022), pp. 407-412 <https://doi.org/10.1007/978-3-030-84647-3>.

³ Izmi Izdiharuddin dkk., "The Analysis of Child Sexual Grooming Offences in Malaysia," *CRELDA Journal* 7 (21 Agustus 2023): 85-98.

⁴ Noraida Harun dkk., "Minor's Capacity to Contract in Malaysia: Issues and Challenges," *International Journal of Academic Research in Business and Social Sciences* 8, no. 12 (14 Januari 2019): 1549-56, <https://doi.org/10.6007/IJARBS/v8-i12/5257>.

⁵ Section 375 (g) of the Penal Code.

⁶ Regulation 361 (4), Food Regulations 1985

⁷ Section 39 (1), (2) of the Road Transport Act 1987

⁸ Section 8 Islamic Family Law (Federal Territories) Act 1984 (only for Federal Territories as each states have their legislations and differ with regards to age of marriage)

⁹ Sections 3 (4), 10 of the Law Reform (Marriage And Divorce) Act 1976

¹⁰ Nur Azizah, "The Analysis Of Minimum Marriage Age Determination In Indonesia And Other Islamic Countries," *Jurnal Ilmiah Al-Syir'ah* 16, no. 2 (26 Desember 2018): 148-60, <https://doi.org/10.30984/jis.v16i2.664>.

¹¹ Susan Young, *Music in Early Childhood: Exploring the Theories, Philosophies and Practices*, 1 ed. (London: Routledge, 2023), <https://doi.org/10.4324/9781003331193>.

¹² Jennifer Hawkins, "Affect, Values and Problems Assessing Decision-Making Capacity," *The American Journal of Bioethics* 24, no. 8 (2 Agustus 2024): 71-82, <https://doi.org/10.1080/15265161.2023.2224273>.

¹³ Sophini Logeswaran dkk., "How Do People with Intellectual Disabilities Construct Their Social Identity? A Review," *Journal of Applied Research in Intellectual Disabilities* 32, no. 3 (Mei 2019): 533-42, <https://doi.org/10.1111/jar.12566>.

mental age. The Indian legal system can illustrate this principle in the case of Eera v State (Govt. of NCT of Delhi).¹⁴ The case involved a 38-year-old woman who had cerebral palsy and was a victim of rape. Her case was brought for trial under the Protection of Children from Sexual Offences Act 2012 (POCSO), legislation designed to address child sexual abuse. However, the Supreme Court ruled that the classification of a child under POCSO 2012 is determined by biological age instead of mental age, even though neuro-physicians and psychologists from the All India Institute of Medical Sciences in Delhi confirmed that the victim's mental age was equivalent to that of a six-year-old.¹⁵

The most common method to conceptualise the definition of the child is by setting up the legal age. This method is the most efficient way to gain uniformity and has been used since Roman Law.¹⁶ Globally, the way to achieve a consensus legal age is through establishing a treaty. Currently, the treaty that deals with the legal age of children is based on the Convention on the Rights of the Child (1989) ("CRC"). CRC 1998 is a consensus product among state members as it is the most signed treaty among United Nations treaties. It also serves as a benchmark among the international community to uphold children's rights.¹⁷ Indonesia is one of the member states in the CRC 1998, ratified on 5 September 1990.¹⁸

Article 1 of the CRC 1989 provides that "a child means every human being below the age of eighteen years unless under the law applicable to the child, a majority is attained earlier." Choosing 18 as a legal age is not exceptional, but it raises the question of why it is considered a gold standard for legal age. Studies show that the eighteen threshold has nothing to do with developing a person's physical or mental well-being as an eighteen-year-old still matures in brain development.¹⁹ It is a product of the Western world's evolving values and civilisation and has been embedded in most common law legal systems.²⁰

Historically, people who are classified as children have often been marginalised. They have been treated as their parent's property, their fundamental liberties have been restricted, and their personal view is disregarded mainly by society.²¹ At the same time, they have not been treated as a vulnerable group in society but have been exploited in various forms. Neither nations nor the international community has set

¹⁴ [2017] 3 MLJ (CRL) 452, IND SC.

¹⁵ *Ibid*

¹⁶ Vivian E. Hamilton, "Adulthood in law and culture," *Tul. L. Rev* 91 (2016): 55.

¹⁷ Izmi Izdiharuddin B Che Jamaludin Mahmud, Nadzriah Ahmad, dan Rafizah Abu H assan, "A Legal Analysis On The Financial Remedies For Victims Of Child Sexual Abuse Between Malaysia, International Framework And The United Kingdom," *Malayan Law Journal* 7, no. 46 (2022): 250-62, <https://doi.org/10.55573/JISED.07461526>.

¹⁸ Lucitania Rizky, Muhammad Ade Safri Salampessy, dan Isna Achdyana, "Effectiveness of The Convention on the Rights of the Child (CRC) Regime by UNICEF in Encouraging the Implementation of Child Protection in SoutheastAsian Countries," *JASSP* 2, no. 1 (30 Mei 2022): 12-20, <https://doi.org/10.23960/jassp.v2i1.50>.

¹⁹ Tirza A. Mullin, "Eighteen Is Not a Magic Number: Why the Eighth Amendment Requires Protection for Youth Aged Eighteen to Twenty-Five," *U. Mich. JL Reform* 53 (t.t.): 807.

²⁰ Laurence Steinberg dan Grace Icenogle, "Using Developmental Science to Distinguish Adolescents and Adults Under the Law," *Annual Review of Developmental Psychology* 1, no. 1 (24 Desember 2019): 21-40, <https://doi.org/10.1146/annurev-devpsych-121318-085105>.

²¹ David S. Law dan Mila Versteeg, "The Evolution and Ideology of Global Constitutionalism," *California Law Review* 99, no. 5 (2011): 1163.

up specialised agencies to highlight this issue despite the prevalence of child abuse²² and exploitation of child labour,²³ especially among European countries in the nineteenth century.²⁴

Once part of the Dutch East Indies, Indonesia was much worse treated and not spared from European colonial exploitation. Extracting natural resources for colonial purposes and forcing labour is the primary policy of the Netherlands for the local population.²⁵ The colonial government even allowed children to become forced labour in the plantation.

Today, the archaic view has been changed. Even since the introduction of specialised human rights for children, the Declaration of the Rights of the Child in 1959, which later evolved into CRC 1989, prioritising child development is part of modern civilisation. Children have been treated as pillars of a nation, and various research studies have been conducted worldwide to determine the best practices for children to achieve their potential, including the ideal environment for children to develop their physical and mental wellness.²⁶ Thus, any form of disruption may hinder child development.²⁷

However, it raises one question: what does juvenile justice law and policy apply to Indonesian juvenile offenders/children in conflict with the law ("anak berkonflik dengan hukum / ABH") in dealing with child development, respectively? Since Indonesia is a state member of CRC 1989, Article 40 of the CRC 1989 applies to ABH. Article 40 (2) (ii) of CRC 1989 provides that ABH is entitled to a competent, independent, and impartial authority or judicial body in a fair hearing. To achieve this, Indonesia has compiled rules regarding juvenile justice through Law Number 3 of 1997 concerning Juvenile Court.

What is meant to protect and nurture ABH is so that the child can meet his long future and provide opportunities for the child so that through coaching, his identity will be obtained to become an independent, responsible, and valuable human being for himself, his family, society, nation, and country.

However, at the time of the execution of the rule, the child is positioned as an object, and actions against the child in a legal case tend to harm the child. In addition,

²² Jo Boyden, "Childhood and the policy makers: A comparative perspective on the globalization of childhood," dalam *Constructing and Reconstructing Childhood*, 3 ed. (Oxfordshire: Routledge, 2015), 35.

²³ Filippo Rossi, "Children of a Lesser God. The Legalized Exploitation of Child Labour as Revealed by the Liberal Era Judicial Record (Late 19th—Early 20th Century)," dalam *Family Law and Society in Europe from the Middle Ages to the Contemporary Era*, ed. oleh Maria Gigliola di Renzo Villata (Cham: Springer International Publishing, 2016), 283–312, https://doi.org/10.1007/978-3-319-42289-3_12.

²⁴ John Breuilly, *Labour and Liberalism in Nineteenth-Century Europe: Essays in Comparative History* (Manchester University Press, 1994).pp. 197

²⁵ Matthias van Rossum, "The Carceral Colony: Colonial Exploitation, Coercion, and Control in the Dutch East Indies, 1810s–1940s," *International Review of Social History* 63, no. S26 (Agustus 2018): 65–88, <https://doi.org/10.1017/S0020859018000226>.

²⁶ Komar Hidayat, Yunusrul Zen, dan Diding Rahmat, "Analisis Yuridis Terhadap Kebijakan Diversi Pemerintah Daerah Dalam Perlindungan Anak Di Kabupaten Kuningan," *UNIFIKASI: Jurnal Ilmu Hukum* 4, no. 2 (4 Desember 2017): 86, <https://doi.org/10.25134/unifikasi.v4i2.706>.

²⁷ Mahmul Siregar, Rosmalinda Marlina, dan Azmiati Zuliah, *Pedoman Praktis Melindungi Anak dengan Hukum Pada Situasi Emergensi dan Bencana Alam* (Medan: Pusat kajian dan Perlindungan Anak (PKPA), 2007).

the law can no longer be used as a reference for the community's legal needs and has not comprehensively provided special protection for children in conflict with the law.

Thus, it is essential to implement a paradigm shift in dealing with children in conflict with the law, among others, based on the roles and duties of the community, government, and other state institutions that are obliged to improve children's welfare and provide exceptional protection for the in-conflict children.

The Indonesian Government has passed Law No. 11 of 2012 concerning the Juvenile Justice System. This law has protected children who have experienced legal action from the initial handling process to the execution of the sentence. Law No. 11 of 2012 replaces Law No. 3 of 2007 concerning Juvenile Court. Law No. 3 of 2007 is considered weak because it does not fully guarantee protection for children dealing with the law.

The general explanation of Law No. 11 of 2012 concerning the Juvenile Justice System states, "Restorative Justice and Diversion are the most important differentiating parts between Law No. 11 of 2012 and Law No. 3 of 2007. Diversion is a transfer in resolving child cases from the criminal justice process to a process outside the criminal justice system. Restorative justice is a diversion process, where all parties involved in a particular crime simultaneously solve problems and make it a must to make things better by involving victims, children, and the community in finding solutions to fix, reconcile, and reassure, not based on retaliation". In addition, following the enactment of Law No. 35 of 2014 concerning child protection, various kinds of children's rights were accommodated, and each person in charge of children must be protected.

Based on Law No. 12 of 1995 concerning Corrections states that children who are guilty of fostering are placed in Child Correctional Institutions, in which the status of each child is separated. This law implies that children in correctional institutions are young criminals, state children, and civilian children. Therefore, the Child Special Guidance Institute strives to develop prisoners and correctional students.²⁸

Several judicial institutions have chosen the alternative of imposing criminal sanctions as a way to handle and resolve cases of children who commit crimes after going through the judicial process. With the enactment of Law Number 12 of 1995 concerning Corrections and Law Number 11 of 2012 concerning the Juvenile Criminal Court System, it is hoped that better guarantees can be given in making fairer and wiser decisions for children who commit crimes. In this law, children as young perpetrators should be separated from adult convicts in correctional institutions.

Article 14 Paragraph 1 of Law Number 12 of 1995 concerning Corrections and Government Regulation Number 32 of 1999 concerning Procedures for the Implementation of the Rights of Correctional Inmates outlines regulations regarding prisoners who have rights to worship, physical and spiritual care, health service,

²⁸ Rayendra Rosa Prawirawijaya dan Nandang Sambas, "Pembinaan Terhadap Anak yang Berhadapan dengan Hukum di Lembaga Pembinaan Khusus Anak Tangerang Berdasarkan Tujuan Perlindungan Anak Menurut Undang-Undang Nomor 12 Tahun 1995 Tentang Lembaga Pemasyarakatan dan Undang-Undang Nomor 11 Tahun 2012 Sistem Peradilan Pidana Anak," dalam *Prosiding Ilmu Hukum*, vol. 2 (Bandung: Universitas Islam Bandung, 2016), 844–50.

education, and teaching. These regulations also set forth protection and guarantee of other appropriate rights for prisoners. In other words, those currently serving their sentence will not lose their citizenship and human rights. Prisoners are prepared to socialise healthily with the community through the Correctional System to interact better as free and responsible members of society.

The juvenile justice system operates distinctly from the adult justice system, with specialised measures in place at every stage—from police investigations and prosecutions to court proceedings and correctional facilities designed to rehabilitate young offenders. Supporting children involved in criminal activities requires tailored approaches handled by trained professionals who are equipped to address the needs of at-risk and neglected children, ensuring proper care and rehabilitation.

Imprisonment is considered a last resort for juvenile offenders under the Juvenile Justice System Law. This law mandates law enforcement officers at every stage—investigation, prosecution, and court proceedings—to prioritise an approach known as "diversion." Diversion involves resolving children's cases through alternatives outside the traditional criminal justice process. Article 7, Paragraph (1), highlights this principle, stating: "At the level of investigation, prosecution, and examination of children's cases in district courts, diversion must be sought between criminal and civil law".

This study differs from previous research since it focuses on a unique perspective. A final report written by Nurini Aprilianda entitled *Legal Studies on Child Development-Based Education Models in the Correctional System* explored an education-based coaching model for juvenile inmates. Another relevant study conducted by Hamja examined the Community-Based Prisoners Guidance Model, published in *Jurnal Mimbar Hukum* (Volume 27 Number 3, 2015). This study focused on the model for fostering prisoners through a social integration approach, where prisoners are not confined to a correctional facility but remain active within their communities under specific conditions. These individuals participate in community activities and are required to report at designated sessions.

A 2015 study by Hafrida, Monita, and Siregar, published in the *Journal of Educational Publications* (Volume V Number 3), explored the development of juvenile offenders in the Sei Bulu Muara Bulian Juvenile Correctional Institution. The research focused on resolving criminal cases involving minors without imprisonment (diversion), as outlined in Law No. 11 of 2012 concerning the Judicial System of Juvenile Crime. The study primarily examined the general development and rehabilitation patterns for child offenders, highlighting an approach where children are returned to their parents under the condition of regular reporting. This approach aims to ensure that the rights of juvenile offenders are respected while providing a supportive environment for their growth. According to the authors, children involved in legal troubles are better off with their families, as correctional facilities—whether for juveniles or adults—can foster feelings of insecurity and expose them to negative influences from older inmates.

Referring to previous research, the difference with the study that the author proposes is more likely to adopt the good value side of the pattern that has been described previously and is applied in the development of child prisoners. In addition, this study develops new constructions related to the pattern of coaching

in the form of education and training skills and coaching in prisons. Therefore, the combination model pattern described in this study is believed to accommodate the values of justice for children, especially regarding the fulfilment of children's rights. A novelty in this study is the introduction of the term coaching, which has a formal and informal approach to child prisoners.

2. Method

The research employs a normative legal research method, which views law as a building system of norms. The doctrinal legal research method incorporates two approaches. The first is the statutory approach, which examines laws and regulations that follow the problem studied. The second is an analytical approach, aiming to discuss other research following the problem.

The research method relies on normative juridical analysis by collecting secondary data, including primary, secondary, and tertiary legal materials. The primary legal materials consist of criminal law books, particularly those addressing juvenile offender rehabilitation, as well as applicable laws and regulations. The secondary legal materials include journals, dictionaries, scientific works, and previous studies, while tertiary materials are from the Internet.

Statutory and conceptual approaches are used in this research.²⁹ Once the data was collected and categorised, it was processed using an analytical-prescriptive method. This approach aims to provide a clear understanding and formulate conclusions based on existing facts and circumstances.

3. Analysis or Discussion

3.1. On Guiding Prisoners Through Diversion of Children with Values of Justice

The goal of restorative justice is to carry out the concept of diversion in juvenile criminal courts. The virtues of restorative justice are healing, moral learning, participation, community attention, forgiveness, responsibility and making changes, all of which guide the restoration process from a restorative justice perspective.³⁰

The same is true of the concept of diversion, established with the aim to:

1. achieve peace between victims and children;
2. resolve child cases outside the court process;
3. avoid children from the process of deprivation of liberty;
4. encourage children to participate; and
5. instil a sense of responsibility in children.³¹

Bagir Manan highlights the potential of restorative justice to enhance the legal system, while Zainudin, as cited by *Hukum Online*, offers a more detailed

²⁹ Irwansyah Irwansyah, "Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel," *Yogyakarta: Mirra Buana Media* 8 (2020).

³⁰ Steve Kirkwood, "A practice framework for restorative justice," *Aggression and Violent Behavior, Practice Frameworks in the Criminal Justice System*, 63 (1 Maret 2022): 101688, <https://doi.org/10.1016/j.avb.2021.101688>.

³¹ I Nyoman Dipa Rudiana dan I Ketut Rai Setiabudhi, "Reconstruction of the Diversion Concept in a Child Criminal Jurisdiction System Based on Dignified Justice," *PRIZREN SOCIAL SCIENCE JOURNAL* 5, no. 1 (29 April 2021): 104–12, <https://doi.org/10.32936/pssj.v5i1.210>.

perspective. He suggests that diversion should apply to offences such as violations, minor crimes, victimless crimes, or offences resulting in losses that do not exceed the local or provincial minimum wage. In addition, it should be limited to cases where the maximum sentence is less than seven years of imprisonment and where the offender is under 21.

Legal protection for children is carried out to protect all children's freedoms and human rights. This protection extends to ensuring that their interests align with their welfare, especially for children in conflict with the law (ABH). It is a shared responsibility among law enforcement officers to protect not only children who are offenders but also those who are victims or witnesses.

When Law Number 11 of 2012 was enacted concerning the Judicial System of Juvenile Crime, Indonesia firmly formulated a restorative justice-based diversion. Diversion and restorative justice are the most basic conditions that distinguish Law No. 11 of 2012 from Law No. 3 of 1997 concerning the Marlina Juvenile Court, stating, in its delivery, "Diversion intends to stop the satanic circle of stigmatisation, violence, humiliation, and social ties between perpetrators. Diversion is also likely to be avoided before the "school of crime" occurs, the risk of recidivism is parsed, the increasingly expensive legal costs are avoided, and the integration of perpetrators is assisted."

Furthermore, Marlina also conveyed that the purpose of diversion was to bring children out of the adult court process so that adults would not treat children poorly. Diversion seeks to make persuasive actions or non-penal actions, provide opportunities for perpetrators to correct their mistakes and be responsible and honest for errors and keep children away from arrests using violence and coercion.

According to the Law concerning the Judicial System of Juvenile Crime (henceforth referred to as UU SPPA), diversion is a transfer in resolving child crimes from the criminal justice stage to a process outside of criminal justice, which aims to:

- a. achieve peace between victims and children;
- b. settle cases of children outside the judicial process;
- c. avoid children from the struggle for Independence;
- d. motivate the community to participate, and
- e. instil a sense of responsibility in the child.

Restorative justice is the settlement of criminal cases by involving the perpetrators, victims, families of victims and perpetrators, and other related parties by jointly resolving them fairly and restoring the situation to its original state, emphasising healing over retaliation. Incorporating local wisdom is deemed effective in resolving the case.

According to the Supreme Court Regulation (PERMA) 4 of 2014, diversion deliberations are negotiations between parties that include the child and his/her parents/guardians, the victim and/or his/her parents/guardians, Community Advisors, Professional Social Workers, representatives and other parties to achieve restorative justice. Meanwhile, the facilitator is a judge chosen by the court's chief justice to deal with the cases of the children involved. Diversion serves as an alternative to the lengthy and rigid procedures often associated with resolving such cases. It incorporates mediation, dialogue, and deliberation to achieve restorative justice.

Several streams of punishment are contained in the criminal law reference. The first is on the theory of retributivism, which is the basis of the flow of punishment with the aim of retaliation. The punishment is suitable for the perpetrator of the crime. Utilitarianism is the second school that looks at the benefits of punishment itself. In terms of punishment, it is mandatory to pay attention to the impact on society in a complex manner, not just as retaliation. Guided by the theory of relative goals, this perspective seeks to rehabilitate offenders, foster their personal development, and promote social harmony and order.³²

The second approach is contained in Law Number 11 of 2012 concerning Indonesia's Judicial System of Juvenile Crime, which introduces the concepts of restorative justice and diversion. These two concepts mark a significant departure from earlier Juvenile Court Law Number 3 of 1997. The Juvenile Court Law only repeats the rules in the Criminal Procedure Code and is still trying to strengthen the principle of retribution or retaliation. Meanwhile, UU SPPA, with its general provisions, tends to refer to the flow of punishment based on the purpose of benefit and the involvement of community elements to renew the social structure treated with criminal events.

From the perspective of international legal instruments, as well as Indonesia's foundational principles in *Pancasila* and the 1945 Constitution, the protection of children in conflict with the law (ABH) is addressed in UU SPPA. This law shifts from a retributive justice model to a restorative justice approach. The implementation of diversion allows for alternatives to the conventional criminal justice process. This approach helps ABH avoid the negative effects of formal sentencing while promoting solutions that prioritise the well-being and future of the child, the victim, and society as a whole.

Diversion serves to keep children out of the formal criminal justice system. This model requires law enforcement officers at every stage to prioritise resolving cases outside traditional legal procedures. Additionally, the community can play a role by facilitating reconciliation between the victim and the offender. According to Harkristuti Harkrisnowo, the purpose of diversion is to prevent children from becoming entangled in the juvenile justice process. Importantly, diversion can only proceed with the consent of the victim and their family, as well as the agreement of the offender and their family.³³

Referring to the research results developed by the National Legal Development Agency (BPHN), the Directorate General of Corrections has carried out coaching to educate children. However, its implementation has encountered various obstacles, highlighting the need to explore alternative models for child-friendly education-based coaching.³⁴

³² Lawrence M. Friedman, *Sistem Hukum : Perspektif Ilmu Sosial*, trans. oleh M. Khozim (Bandung: Nusamedia, 2019). Pg. 2

³³ Hafrida Hafrida, Yulia Monita, dan Elisabeth Siregar, "Pembinaan Narapidana Anak Di Lembaga Pemasyarakatan Anak Sei. Bulu Muara Bulian," *Publikasi Pendidikan* 5, no. 3 (1 September 2015): 198–213, <https://doi.org/10.26858/publikan.v5i3.1613>.

³⁴ Nurini Aprilianda, "Laporan Akhir Pengkajian Hukum tentang Model Pembinaan Anak berbasis Pendidikan Layak Anak dalam Sistem Pemasyarakatan" (Jakarta: Pusat Penelitian dan Pengembangan Sistem Hukum Nasional Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia RI, 2014).

The 2014 study by the BPHN Research Team highlights the importance of a flexible, personalised approach to handling children in conflict with the law. This approach considers various legal, social, cultural, economic, and psychological factors. Individual guidance is essential in certain stages, such as during assessments. However, when it comes to education, a group-based approach can be adopted without overlooking the conditions of the child.³⁵

Hamja, in his writing, said, "Based on the reality in prisons, it is necessary to form an open prison (Open Camp) in the form of perfecting the correctional system that closed prisons have carried out".³⁶ This approach aligns with the philosophy of correctional reform, moving away from the principles of retribution, deterrence through suffering, and resocialisation. Instead, it emphasises that punishment should not be about inflicting pain as revenge or creating fear to prevent future crimes. Nor should it label offenders as individuals with minimal social ties. Correctional philosophy aligns with the concept of social reintegration, viewing crime as a disruption in the relationship between the offender and the community. The ultimate goal is to resolve this conflict and reintegrate the offender into society.

Furthermore, concerning children and their rights in correctional institutions, it is also obligatory to accommodate them as a form of state concern for the survival of children's rights. Among these rights, education holds a central role. UU SPPA stipulates that education can be obtained for every child in the criminal justice process. In addition, LPKA are obliged to provide education, skills training, coaching, and fulfilment of other rights following the provisions of laws and regulations. Correctional Centre as the supervisor of this education and coaching programme.

Children in LPKA have the right to obtain guidance, supervision, mentoring, education, and training, as well as other rights following the provisions of the legislation. LPKA and other appropriate rights based on the requirements of laws and regulations must administer education, skills training, coaching, and fulfilment while correctional facilities ("Bapas") supervise this education and coaching programme.

3.2. Modelling Child Convict Guidance Reflecting Justice for the Child Himself

When a child commits a crime that results in prison sentencing, it is essential to understand the factors triggering the child to offend. The primary principle guiding correctional facilities is outlined in Article 1, Paragraph (2) of Law Number 12 of 1995 concerning Corrections. This law emphasises that the correctional system aims to rehabilitate inmates into well-rounded individuals who acknowledge their mistakes, work on self-improvement, and refrain from reoffending. The goal is to prepare them for reintegration into society, enabling them to contribute positively to development and live responsibly as good citizens.

The principle of "no imprisonment for children" aligns with the Convention on the Rights of the Child, which opposes incarcerating minors. If rehabilitation becomes necessary, the approach must differ significantly from how adults are

³⁵ *Ibid*

³⁶ Fakultas Hukum Universitas Wiralodra Indramayu dan Hamja Hamja, "Community Based Corrections Sebagai Alternatif Model Pembinaan Narapidana Di Masa Mendatang," *Arena Hukum* 12, no. 3 (23 Desember 2019): 482–99, <https://doi.org/10.21776/ub.arenahukum.2019.01203.5>.

treated in correctional institutions.³⁷ When a verdict is determined and violates the rule of law, the remedy for a child's delinquency must be implemented in an appropriate environment to ensure the child feels comfortable and no longer imprisoned. Juvenile correctional facilities should foster positive values that support their integration into society. The ultimate goal is to help them adhere to legal norms and avoid future violations.

Correctional guidance should focus on fostering personal growth, rebuilding self-esteem and developing the skills necessary for independent living. This approach benefits individuals and equips them to contribute meaningfully to society. Effective rehabilitation programmes should emphasise accountability while ensuring the necessary resources, facilities, and infrastructure are in place to support their success.

As the cornerstone of rehabilitation, correctional institutions play a vital role in ensuring that sentencing objectives are achieved through education, rehabilitation, and reintegration. To fulfil this responsibility, appointed officers must uphold principles of fairness and balance, with particular attention to safeguarding the rights of children and adults in their care.

The author took the initiative to construct a competency and community-based coaching model for fostering child prisoners based on the importance of finding the renewal model. The competency-based model of coaching and mentoring prisoners is an abstraction of the process and substance of coaching and direction in the form of a cognitive description of the implementation model of coaching and mentoring made based on competency standards that ex-convicts must possess. This coaching model can be implemented, with one providing formal and non-formal education for child prisoners being rehabilitated.

It is necessary to understand that every child has various competencies and expertise. This competency development can be carried out during the sentencing process in a correctional institution. Correctional institutions can improve direction towards inmates, especially children who are punished as a result of the crimes they have committed. Guidance for children is important to be carried out on an ongoing basis so that they can still carry out activities according to what children do in normal life.

The penitentiary, with its self-help, can seek the development of coaching patterns and programmes that can encourage children's creativity, which can impact problems from legal issues. With high creativity, children are expected not to feel like they are in prison because various activities that keep them busy can improve their skills and knowledge and form good mentality, attitude, and behaviour so that when undergoing coaching, they feel like living in a real society.

Therefore, it is essential to hold training and assistance in learning technology for teachers at LPKA. With these activities, it is hoped that there will be an increase in the learning competence of the teachers at the LPKA so that when it is their turn, they can continue their knowledge to improve the quality of education for child prisoners in the LPKA.

³⁷ Hamja Hamja, Sulistiani Andan Dewi, dan Eri Eka Sukarini, "Efektivitas Pembinaan Mental Dan Deradikalisasi Narapidana Teroris Di Lembaga Pemasarakatan Kelas Iii Gunung Sindur Bogor," *Masalah-Masalah Hukum* 50, no. 4 (30 Oktober 2021): 460–72, <https://doi.org/10.14710/mmh.50.4.2021.460-472>.

Halwey further stated in his writings that:

"Education can help instil feelings in prisoners that they are still part of the community and remind them that they will remain part of society after they are released..... Support prisoners in seeking knowledge, skills and competencies from important stepping stones on their journey towards rehabilitation and reintegration into society..... In general, there is evidence that education and training assist in developing social capital."³⁸

Therefore, the government's policy stated in the 2015 Government Work Plan is appropriate, which stipulates, "The challenge for the future in the field of education is to improve access and quality of services for child survival and development, including access for children with special conditions (including in-depth of child prisoners—pen.) to the services needed (education services)."³⁹

However, the success of this method depends on the quality of the teacher or tutor appointed. Of course, this can be done by holding exceptional learning and training for prospective tutors or teachers who will then accompany the children as prisoners in learning to increase their competence. Furthermore, the role of the community and family is also needed in this regard. Because it is related to the development of children's competencies, families and communities are more familiar with the children's skills and abilities so that the correctional institution can provide licencing facilities for family members and specific communities to participate in teaching and assisting children during the implementation of education as intended.

4. Conclusion

The problem of child prisoners remains a significant challenge for the state, especially in terms of protection and fulfilment of their rights. The context of limited facilities and infrastructure of special prisons for children is also a problem in itself, so there is a tendency for child prisoners to be included together with adult prisoners. In this case, a remarkable model reconstruction is needed for the child so that his rights, especially in education, are still fulfilled. The model offered is formal and non-formal education for children related to increasing self-competence, where children can return to their families and communities with the skills they have when they have finished serving their sentences in the future. Regarding the quality and human resource constraints of teachers or tutors appointed as coaches, this can be overcome in two ways: training for existing human resources and recruitment of prospective teachers/exceptional tutors who will later carry out the task of guiding children to hone their skills so that they are ready and be able to be independent after serving their sentence.

³⁸ Jo Hawley, Iona Murphy, dan Manuel Souto-Otero, "Prison Education And Training In Europe : Current State-Of-Play And Challenges" (European Commission, 2013).

³⁹ Sarah K. G. Jensen dkk., "Enhancing the child survival agenda to promote, protect, and support early child development," *Seminars in Perinatology*, Global Perinatal Medicine, 39, no. 5 (1 Agustus 2015): 373–86, <https://doi.org/10.1053/j.semperi.2015.06.002>.

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