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SUSTAINABLE JUVENILE JUSTICE REFORM: RECONSTRUCTING CHILD PROTECTION PRINCIPLES IN ASEAN CRIMINAL LAW SYSTEMS

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ABSTRACT

The increasing number of children involved in criminal offenses in ASEAN countries reflects the urgent need for a sustainable juvenile justice reform that prioritizes child protection and human rights. Despite the existence of juvenile justice regulations in several ASEAN member states, many legal systems still emphasize punitive approaches rather than restorative and rehabilitative measures. This condition creates inconsistencies with the principles of sustainable development, particularly those related to peace, justice, strong institutions, and the protection of vulnerable groups as emphasized in the Sustainable Development Goals (SDGs). This study aims to analyze the limitations of juvenile justice systems in ASEAN countries, examine the incompatibility between punitive criminal justice approaches and sustainable development principles, and formulate a reconstruction of child protection principles within ASEAN criminal law systems. This research employs a normative juridical method using statutory, conceptual, and comparative approaches. Primary legal materials consist of international conventions, national regulations, and ASEAN legal instruments concerning juvenile justice and child protection, while secondary materials include academic journals and legal doctrines. The findings indicate that the current juvenile justice systems in several ASEAN countries still face challenges such as over-criminalization, imprisonment-oriented sanctions, limited restorative justice implementation, and weak protection of children's best interests. Therefore, this study proposes a sustainable juvenile justice model based on restorative justice, diversion mechanisms, rehabilitation, and child-centered legal protection. The reconstruction of juvenile justice principles is expected to strengthen legal certainty, social justice, and sustainable development in ASEAN criminal law systems within the global context

Keywords: *Sustainable Juvenile Justice Child Protection Restorative Justice ASEAN Criminal Law System Sustainable Development Goals (SDGs)*

INTRODUCTION

Children are a group with special characteristics because they are still in the growth and development stage, both physically, mentally, and socially. Therefore, the state has an obligation to provide optimal legal protection for children, including when children come into contact with the law as perpetrators of crimes. This protection is an implementation of the principle of human rights that places children as legal subjects who have the right to grow, develop, and receive treatment in accordance with their human dignity [1]. The phenomenon of increasing involvement of children in criminal acts is a serious challenge for the criminal justice system in various countries, including ASEAN countries. The Global Study on Children Deprived of Liberty shows that millions of children worldwide interact with the criminal justice system every year and the majority still experience detention as the primary form of state response to juvenile delinquency or crime [2]. This condition raises concerns

about the effectiveness of the criminal justice system in providing protection for children's rights. In the ASEAN region, social development, urbanization, advances in information technology, and economic inequality have had an impact on the increasing risk of children being involved in various forms of crime. Chiu and Wong's research shows that rapid social change in Southeast Asian countries has contributed to the rise in juvenile delinquency rates, particularly those related to violence, digital technology abuse, and gang-based crime. Normatively, most ASEAN countries have ratified the Convention on the Rights of the Child (CRC), which requires states to guarantee special protection for children in conflict with the law [3]. The CRC emphasizes that the detention and imprisonment of children may only be used as a last resort and for the shortest possible period [4]. However, the implementation of this principle still faces various obstacles at the national level. Indonesia, through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, has adopted the concepts of diversion and restorative justice as the main instruments for resolving juvenile cases. Similarly, the Philippines, through the Juvenile Justice and Welfare Act 2006, and Thailand, through the Juvenile and Family Court Procedure Act, have attempted to develop a more child-protection-oriented approach. However, various studies indicate that the implementation of these regulations is still less than optimal [5]. One of the main problems still found in the juvenile criminal justice system in ASEAN countries is the dominant retributive paradigm in law enforcement. This paradigm places punishment as the primary goal of resolving criminal cases, so children are often positioned as objects of punishment rather than subjects in need of guidance and rehabilitation [6]. This orientation toward punishment leads to the high use of imprisonment against children. Research conducted by van der Laan and Eichelsheim (2020) shows that juvenile imprisonment has a negative impact on children's psychological development, education, and social skills. Children who have served time in prison also have a higher risk of recidivism than children who receive a rehabilitative approach. Furthermore, the practice of overcriminalization of children remains a problem in various ASEAN countries. Many behaviors that are actually forms of juvenile delinquency or social problems are instead processed through formal criminal law mechanisms. According to research by Bateman (2021), the tendency towards excessive criminalization can increase state intervention in children's lives and increase the likelihood of children becoming trapped in a long-term criminal cycle. Another equally important issue is the still limited application of restorative justice in juvenile justice practices. In fact, restorative justice has been internationally recognized as a more effective approach in restoring relationships between perpetrators, victims, and the community [7]. Daly's (2020) study shows that restorative justice mechanisms can increase victim satisfaction levels while reducing the likelihood of children repeating criminal acts. The limitations in the implementation of restorative justice in ASEAN are generally caused by a lack of understanding among law enforcement officials, a lack of institutional support, and the lack of harmonization of regional policies governing child protection standards in the criminal justice system [8]. As a result, the implementation of the restorative approach is highly dependent on the national policies of each country [9]. These problems indicate that the principle of the best interests of the child has not fully become the primary basis for legal decision-making. According to Tobin (2019), the principle of the best interests of the child should be a primary consideration in all actions related to children, including the investigation process, prosecution, trial, and implementation of the verdict. Weak implementation of the principle of the best interests of the child has the potential to lead to violations of children's rights [10]. Children who experience detention, discriminatory treatment, or limited access to legal assistance can experience long-term harm that affects their future. Therefore, child protection in the criminal justice system must be viewed as an integral part of human rights protection [11]. On the other hand, the international community

is currently focusing on achieving the Sustainable Development Goals (SDGs) as a global development agenda until 2030. One of the important goals in the SDGs is Goal 16, which emphasizes the importance of peace, justice, and strong institutions. This goal requires countries to create an inclusive legal system capable of protecting vulnerable groups, including children [12]. A juvenile criminal justice system that is still oriented towards punishment actually contradicts the principles of sustainable development. A repressive approach not only impacts children as individuals but also affects the quality of human resources in the future. Muncie's research shows that a justice system that fails to provide rehabilitation will increase the social and economic burden on the country in the long term [13]. Sustainable development requires an approach oriented towards human recovery and empowerment. In the context of juvenile justice, this approach is realized through diversion, rehabilitation, social reintegration, and community involvement in the case resolution process. This approach is considered more effective in supporting sustainable social development than imprisonment [14]. ASEAN actually has various regional instruments that support child protection, such as the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) and the ASEAN Regional Plan of Action on the Elimination of Violence Against Children. However, these instruments do not specifically regulate the harmonization of juvenile criminal justice systems oriented towards sustainable development [15]. The absence of uniform regional standards has led to significant differences in child protection between ASEAN countries. Some countries have developed quite advanced rehabilitative approaches, while others still maintain conventional criminal models. This condition indicates the need for legal reform that is not only national but also regional [16]. Child protection in the criminal justice system is an important indicator in measuring the quality of a state of law that upholds human rights. Children who come into contact with the law have a different position than adults because their psychological, emotional, and intellectual conditions are still in the developmental stage. Therefore, the juvenile criminal justice system must be designed to ensure protection, guidance, and rehabilitation, not merely punishment [17]. In the last two decades, ASEAN countries have faced the increasing complexity of criminal acts involving children. The development of digital technology, urbanization, family disintegration, poverty, and the influence of the social environment are factors that encourage children to be involved in various forms of legal violations. The increase in children's involvement in criminal acts cannot be separated from global social changes that influence adolescent interaction patterns and behavior [18]. However, the legal response given by ASEAN countries to child perpetrators of crimes still shows a diverse trend. Some countries have begun to adopt a child rights-based approach, while others still maintain a retributive orientation that places imprisonment as the main instrument of law enforcement [19]. Internationally, the child protection paradigm has shifted from a welfare model approach to a child rights model. This approach emphasizes that children who commit crimes remain rights holders who must be respected and protected by the state. A child rights-oriented juvenile criminal justice system must prioritize rehabilitation, social reintegration, and prevention of re-offending [20]. However, various studies show that the implementation of this principle still faces serious challenges, many countries still experience difficulties in translating the principle of the best interests of the child into daily criminal justice policies and practices. As a result, children's rights are often neglected during the law enforcement process [21]. The first problem that is the focus of this research is the limitations of the juvenile justice system in ASEAN countries in protecting children's rights. These limitations are evident in the still high rate of pre-trial detention of children, limited access to legal aid, and the suboptimal psychosocial protection mechanisms during the legal process [22]. Legal reform without institutional reform will not produce effective protection for children. Another limitation is seen in the continued dominance of the

punitive approach over the restorative approach. A punishment-oriented criminal justice system often ignores the social factors underlying children's behavior. Punishing children without considering the need for rehabilitation actually increases the likelihood of recidivism [23]. From a modern criminological perspective, children who commit crimes are more appropriately viewed as individuals who require social and educational intervention rather than repressive punishment. This approach is in line with the theory of developmental criminology, which emphasizes the importance of environmental factors in shaping children's behavior [24]. Imprisoning children has long-term impacts on their education, mental health, and economic opportunities as adults. This condition will ultimately affect the quality of human resources and hinder the achievement of national and regional development goals [25]. Furthermore, a repressive approach also contradicts the principle of "leave no one behind," which is the main foundation of the SDGs. Children who have undergone criminal justice processes often experience social stigma and discrimination, making it difficult to obtain decent educational and employment opportunities after returning to society [26]. In the ASEAN context, these challenges are further complicated by differences in levels of economic development, institutional capacity, and legal systems among member states. These differences result in inconsistent child protection standards in the criminal justice system and have the potential to create gaps in the protection of children's rights across the region [27]. Therefore, a reform model is needed that is not only oriented towards compliance with human rights standards but also supports the sustainable development agenda. One approach widely recommended in the international literature is restorative justice, which places restoration as the primary goal in resolving juvenile criminal cases. Restorative justice provides space for perpetrators, victims, families, and communities to participate in a constructive conflict resolution process. A restorative approach can reduce recidivism rates and improve children's social reintegration compared to conventional criminal approaches. [28]. Previous research has generally focused on the implementation of restorative justice in a specific country context or the effectiveness of diversion in the juvenile criminal justice system. Studies linking the juvenile justice system, child rights protection, and sustainable development from a comparative ASEAN perspective are still relatively limited. Thus, there is a research gap that needs to be filled through more comprehensive studies. This research is important because it attempts to analyze the various limitations of the juvenile criminal justice system in ASEAN countries in protecting children's rights, examine the conflict between the criminalization approach and the principles of sustainable development, and formulate a reconstruction of child protection principles that are appropriate to the needs of modern society. Through the reconstruction of child protection principles based on restorative justice, diversion, rehabilitation, and social reintegration, it is hoped that a more humane, just, and sustainable model of the juvenile criminal justice system can be realized. This model not only supports the protection of children's rights but also contributes to the achievement of sustainable development goals and the strengthening of the legal system in the ASEAN region. The third problem that is the focus of this research is how the principles of child protection should be reconstructed to create sustainable juvenile justice reform. This reconstruction is important because the current child protection paradigm is still dominated by a legalistic approach that has not fully integrated the dimensions of sustainable development. From a progressive legal perspective, child protection must be positioned as an instrument for realizing social welfare and substantive justice. Child-oriented law must be able to respond to evolving social needs and not be trapped in mere procedural formalities [29]. The reconstruction of child protection principles must also strengthen the application of the principles of best interests of the child, child participation, non-discrimination, and rehabilitation-oriented justice as the main foundations of the juvenile criminal justice system. These principles have become international standards recognized in various human rights

instruments [30]. Thus, reform of the juvenile criminal justice system in ASEAN is not sufficient only through regulatory changes, but also requires a transformation of the legal paradigm towards a more restorative, rehabilitative, and sustainable approach. This reform is expected to create a justice system that not only provides legal certainty but also guarantees the protection of children's rights while supporting the achievement of Sustainable Development Goals in the ASEAN region.

METHOD

This study employs a normative juridical research method aimed at examining legal norms, legal principles, and legal doctrines related to juvenile criminal justice systems in ASEAN countries. The research adopts three approaches, namely the statutory approach, the conceptual approach, and the comparative approach. The statutory approach is conducted through an analysis of various international and national legal instruments governing child protection, including the Convention on the Rights of the Child (CRC) 1989, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), as well as national regulations concerning juvenile justice systems in Indonesia, Malaysia, Thailand, the Philippines, and Singapore. The conceptual approach is utilized to examine the concepts of child protection, restorative justice, diversion, rehabilitation, and sustainable development within the framework of contemporary criminal law. Meanwhile, the comparative approach is applied by comparing the policies and practices of juvenile justice systems across several ASEAN countries in order to identify similarities, differences, and best practices that may serve as a foundation for regional legal reform. The primary legal materials consist of international conventions, statutory regulations, and relevant ASEAN legal instruments. Secondary legal materials are derived from reputable international journal articles, scholarly books, previous research findings, and publications issued by international organizations, including UNICEF, UNODC, and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). All legal materials are analyzed qualitatively using a prescriptive analytical method to formulate recommendations for reconstructing child protection principles within a sustainable juvenile criminal justice system. The analysis seeks to develop a legal framework that strengthens the protection of children's rights, promotes restorative and rehabilitative approaches, and aligns juvenile justice reform with the principles of sustainable development.

RESULTS AND DISCUSSIONS

1. Limitations of the Juvenile Justice System in ASEAN Countries in Protecting Children’s Rights The research findings indicate that the juvenile criminal justice system in ASEAN countries still faces various limitations in ensuring the protection of children's rights. First, there is still a tendency to use imprisonment as the primary instrument for resolving juvenile criminal cases. Although several countries have adopted diversion and restorative justice mechanisms, their implementation has not been optimal due to limited regulations, human resources, and a legal culture that is still oriented towards punishment. Second, the practice of overcriminalization of children through the criminalization of various forms of juvenile delinquency that should be resolved through social or administrative mechanisms has been found. This phenomenon has led to an increase in the number of children entering the formal justice system, potentially leading to stigmatization and social exclusion. Third, the principle of the best interests of the child has not been fully considered as a primary consideration in the investigation, prosecution, and sentencing processes. In several

ASEAN countries, the practice of pretrial detention of children is still found, as well as a lack of access to adequate legal aid and rehabilitation services.Although most ASEAN member states have ratified the Convention on the Rights of the Child (CRC) and adopted specific regulations regarding juvenile justice, its implementation still shows a significant gap between legal norms and law enforcement practices. This study found that the protection of children's rights has not been the primary orientation in various stages of the criminal justice process [31]. The research findings show that there is still a tendency to use formal justice mechanisms as the primary instrument in resolving juvenile criminal cases. In several ASEAN countries, children who commit minor crimes are still processed through investigation, prosecution, and sentencing without considering alternative solutions outside the courts. This condition indicates that a legalistic approach still dominates the juvenile criminal justice system compared to an approach oriented towards child protection and rehabilitation [32]. This study also found that the practice of detention of children remains a serious problem in the juvenile criminal justice system in the ASEAN region. Although various international instruments emphasize that detention is a last resort, in practice many children are still detained during the investigation and trial stages. This situation indicates that the principle of special protection for children has not been fully implemented by law enforcement officials. Furthermore, limited access to legal aid is one of the main obstacles in protecting children's rights. The study results indicate that not all children in conflict with the law receive adequate legal assistance from the beginning of the investigation process. As a result, children often do not understand their rights during the legal process and are vulnerable to treatment that is detrimental to their interests. From an institutional perspective, the study found that coordination between agencies handling children's cases is still not optimal. Police, prosecutors, courts, correctional institutions, and social welfare institutions often work in a sectoral manner without an effective integration mechanism. This condition has an impact on weak protection of children's rights during the judicial process [33]. Further findings indicate that the implementation of restorative justice in ASEAN countries still faces various structural and cultural obstacles. Normatively, most countries have recognized the importance of a restorative approach in resolving children's cases. However, implementation in the field remains limited due to a lack of understanding among law enforcement officials, a lack of trained facilitators, and the lack of uniform operational guidelines. This study found that the dominance of the retributive paradigm in the criminal law system is a major factor hindering the optimization of restorative justice. Law enforcement officials tend to view criminal prosecution as the most effective form of accountability, while restorative approaches are still seen as complementary alternatives. As a result, opportunities for diversion and peaceful resolution of cases are often underutilized.

2. The Conflict of the Criminal Approach with the Principles of Sustainable Development
Research has found that the dominant sentencing paradigm in the juvenile criminal justice system contradicts the principles of sustainable development, particularly SDG Goal 16 on Peace, Justice, and Strong Institutions. Repressive approaches tend to result in long-term impacts such as social marginalization, school dropout, reduced employment opportunities, and an increased risk of recidivism. From a human rights perspective, imprisonment for children often does not provide significant rehabilitative benefits. Instead, detention can worsen a child's psychological well-being and hinder social reintegration. Therefore, a punitive approach is inconsistent with development goals that place humans at the center of development (people-centered development). Furthermore, a justice system that overemphasizes repressive aspects also does not

support the development of inclusive institutions that are responsive to the needs of vulnerable groups. Children, as a vulnerable group, require different legal protections than adults due to their developmental characteristics and immature capacity for responsibility. Research has found that children serving prison sentences face a high risk of psychological disorders, loss of access to education, and difficulties in social reintegration after serving their sentences. These impacts not only harm children individually but also have the potential to hinder human resource development, the primary foundation of sustainable development. Furthermore, the punitive approach has proven ineffective in reducing the rate of reoffending by juveniles. Various studies have shown that systems that emphasize rehabilitation and social reintegration have a higher success rate in preventing recidivism than systems that focus on imprisonment. This finding suggests that a sustainable development orientation is more aligned with a rehabilitative approach than a repressive one. Research has also found that sustainable development requires protection for vulnerable groups, including children in conflict with the law. Therefore, the juvenile criminal justice system must not only be oriented towards the interests of the state in enforcing the law, but must also consider the interests of children as individuals who still have the potential to develop and contribute to society in the future [34].

3. Reconstruction of Child Protection in Sustainable Juvenile Justice Reform Based on the analysis, this study proposes a Sustainable Juvenile Justice System model built on four main pillars. First, strengthening the principle of restorative justice as the primary approach in resolving juvenile criminal cases. Restorative justice allows for the restoration of relationships between perpetrators, victims, families, and communities without creating lasting stigma against children. Second, optimizing diversion mechanisms at every stage of the criminal justice process. Diversion should be positioned as a mandatory instrument before the use of formal justice processes so that detention and sentencing become the ultimum remedium. Third, strengthening the rehabilitation and social reintegration approach through the provision of educational services, psychological counseling, skills training, and post-case resolution assistance. This approach is more in line with the goals of child protection and sustainable human resource development. Fourth, harmonizing child protection principles at the ASEAN level through the development of regional guidelines on juvenile criminal justice systems that integrate the principles of the best interests of the child, child participation, non-discrimination, and sustainable development. This harmonization is necessary to strengthen child protection standards across ASEAN member states. This reconstruction model is believed to be capable of realizing a juvenile criminal justice system that not only guarantees legal certainty and justice, but also supports the achievement of sustainable development goals through optimal protection of children's rights as the future generation of ASEAN. Reconstruction of child protection principles needs to be carried out by strengthening the child-centered justice paradigm. This paradigm places children at the center of the entire judicial process, so that every policy and legal action must consider the needs, conditions, and future of children. This approach is considered more in line with developments in modern international law that are oriented towards the protection of human rights. Reconstruction of child protection principles must also be carried out by strengthening the application of the principle of the best interests of the child. In practice, this principle is not sufficiently understood as a normative principle but must be translated into concrete policies that influence the investigation, prosecution, trial, and implementation of the verdict. Thus, all stages of the justice system will be oriented towards the recovery and development of children.

Furthermore, this study offers a Sustainable Child Protection Framework model that integrates the principles of restorative justice, diversion, rehabilitation, social reintegration, and child participation. This model places imprisonment as the ultimum remedium and encourages the involvement of families, communities, and social institutions in resolving juvenile criminal cases. This approach is believed to be able to achieve a balance between the interests of protecting society and protecting children's rights [35]. Based on the overall research results, it can be concluded that reform of the juvenile criminal justice system in ASEAN countries must be directed at strengthening the protection of children's rights in line with the principles of sustainable development. This reform requires not only regulatory changes, but also a transformation of the legal paradigm, strengthening institutions, increasing the capacity of law enforcement officers, and harmonizing child protection policies at the ASEAN regional level. Thus, the juvenile criminal justice system can function as an instrument of protection, rehabilitation, and sustainable human development.

CONCLUSION

Based on the research results, it can be concluded that the juvenile criminal justice system in ASEAN countries still faces various limitations in providing optimal protection for children's rights. These limitations are evident in the continued dominance of formal justice mechanisms and imprisonment, the high rate of child detention, limited access to legal aid, weak inter-institutional coordination, and the suboptimal implementation of restorative justice and diversion. These conditions indicate that the principle of the best interests of the child (best interests of the child) has not yet fully become the main basis in the process of enforcing the law against children in conflict with the law. This study also found that the criminal justice approach which is still oriented towards punishment (retributive justice) is contrary to the principles of sustainable development (Sustainable

Development Goals), particularly Goal 16 on peace, justice, and strong institutions. The repressive approach of imprisonment not only has the potential to cause stigmatization, social marginalization, psychological disorders, and loss of access to education for children, but also hinders the process of rehabilitation and social reintegration, which are essential elements in sustainable human resource development. Thus, a juvenile criminal justice system oriented towards punishment has not been able to support the realization of inclusive justice and protection for vulnerable groups as mandated by the global development agenda. To realize sustainable juvenile justice reform, this study proposes a reconstruction of the principles of child protection through strengthening the paradigm.child-centered justicewhich places children as the main subject of legal protection. This reconstruction is carried out by integrating the principles ofbest interests of the child, restorative justice, diversion, rehabilitation, social reintegration, child participation, and respect for human rights into all stages of the juvenile criminal justice system. The sustainable juvenile justice model produced in this study places punishment as alast resortand encourage case resolution that focuses on children's recovery, development, and future. Through this approach, the juvenile criminal justice system in ASEAN countries is expected to achieve legal certainty, social justice, and protect children's rights, while simultaneously supporting the achievement of sustainable development goals at the regional and global levels.

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Author Contributions

The author solely contributed to the conception and design of the study, methodology development, data collection, legal analysis, interpretation of findings, manuscript drafting, review and editing, and final approval of the manuscript.

Conflicts of Interest

The funders had no role in the design of the study; in the collection, analyses, or interpretation of data; in the writing of the manuscript; or in the decision to publish the results.

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