

The Effectiveness of Non-Custodial Sanctions in Juvenile Justice: An Empirical Study on the Implementation of Restorative Justice in Bengkulu

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Abstract

This study examines the effectiveness of non-custodial sanctions within Indonesia's juvenile justice system, with a particular focus on the implementation of restorative justice in Bengkulu Province. Grounded in Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) and international instruments such as the CRC and Tokyo Rules, the research explores the normative, institutional, and empirical dimensions of diversion and community-based sanctions for children in conflict with the law. Adopting a socio-legal methodology, the study combines doctrinal analysis with qualitative fieldwork involving 25 semi-structured interviews with judges, prosecutors, police investigators, correctional officers, and community leaders, complemented by direct observations of diversion sessions and the analysis of court and institutional documents. The findings reveal a strong normative commitment to restorative principles but highlight significant gaps in practice due to limited institutional capacity, inconsistent inter-agency coordination, and persistent cultural stigmas. Diversion programs in Bengkulu have demonstrated positive impacts on rehabilitation and social reintegration, particularly when supported by families and local communities. However, the absence of standardized procedures, integrated data systems, and adequate professional training undermines long-term sustainability. The study concludes that meaningful juvenile justice reform requires not only

legal and procedural refinement but also transformative engagement with societal attitudes and sustained investment in supportive infrastructure. It further offers concrete policy recommendations to strengthen the restorative justice ecosystem and promote a more humane, rights-based approach to juvenile justice in Indonesia.

Keywords: Non-Custodial Sanctions; Restorative Justice; Juvenile Justice System

Introduction

In the contemporary legal landscape, there has been an increasing global shift toward more rehabilitative and restorative approaches to juvenile justice.(Widowati, 2024) Traditional punitive models, which emphasize incarceration and retribution, are increasingly viewed as inadequate and often counterproductive in dealing with juvenile offenders.(Young et al., 2017) Instead, many legal systems are now adopting non-custodial sanctions and restorative justice mechanisms that prioritize rehabilitation, social reintegration, and the best interests of the child(Capdevila & Foussard, 2019). The consensus among criminologists, child psychologists, and international legal scholars underscores the importance of treating children in conflict with the law not as criminals but as individuals in need of guidance and support.

Indonesia's commitment to transforming its juvenile justice system is evident in the enactment of Law No. 11 of 2012 on the Juvenile Criminal Justice System (Undang-Undang Sistem Peradilan Pidana Anak, hereafter UU SPPA) (Davies & Robson, 2016).The law also provides for case settlement outside the formal court process through mediation and consensus-building with victims, families, and community stakeholders. Despite this progressive legal framework, the actual implementation of non-custodial sanctions in Indonesia remains uneven and fraught with challenges(Effendy, 2025). National-level statistics from the Ministry of Law and Human Rights (Kemenkumham) reveal that as of 2023, approximately 60% of children in conflict with the law (Anak yang Berhadapan dengan Hukum) are still processed through formal judicial proceedings, and a significant proportion are sentenced to incarceration. In many regions, including Bengkulu Province, the utilization of diversion and restorative mechanisms is still limited due to structural, institutional, and cultural barriers.

This situation is concerning, particularly given the growing body of research showing that custodial sanctions have a detrimental impact on the mental health, educational opportunities, and social reintegration prospects of child offenders (Chitsabesan & Bailey, 2006). Studies conducted in other parts of Indonesia, such as Jakarta and Surabaya, indicate that juvenile incarceration is often associated with high rates of recidivism and stigmatization, making it difficult for youth to reintegrate into their communities. These findings resonate with global research trends, including a 2021 UNICEF report, which emphasizes that non-custodial approaches significantly reduce the likelihood of repeat offenses and promote the long-term development and reintegration of child offenders (Capdevila & Foussard, 2019).

In the specific context of Bengkulu a coastal province with a diverse population and varying levels of socio-economic development the implementation of restorative justice and non-custodial sanctions encounters both promise and peril. While local legal institutions, such as the Bengkulu District Court and the Balai Pemasarakatan (BAPAS), have shown growing interest in applying diversion in accordance with the SPPA, their capacity is often constrained by a lack of trained personnel, limited inter-agency coordination, and insufficient infrastructure for rehabilitation. A 2023 survey conducted by the Faculty of Law, University of Bengkulu, revealed that more than 60% of law enforcement personnel in the province had received minimal training on restorative justice principles. Moreover, community involvement which is a cornerstone of successful restorative practices is still sporadic and largely dependent on informal networks and individual goodwill.

The implementation of non-custodial sanctions is further hampered by prevailing cultural attitudes toward punishment and child behavior (Effendy, 2025). In many parts of Bengkulu, particularly in rural districts such as Seluma and Rejang Lebong, community leaders and even legal actors often perceive incarceration as the only effective deterrent for juvenile crime. Interviews with police officers and village heads conducted during preliminary field research indicated a general mistrust of non-custodial measures, with concerns that such approaches may embolden repeat offenses or signal leniency in the face of rising

youth delinquency. These perceptions underscore the need for not only legal reforms but also broader educational and cultural transformations to support restorative practices.

Additionally, the limited availability of institutional support for rehabilitative programs presents a critical challenge. There are currently only two fully operational child welfare facilities in Bengkulu that provide structured counseling, vocational training, and psychosocial support to children undergoing non-custodial sanctions. The lack of infrastructure and professional expertise often results in ad hoc implementation of restorative measures, reducing their effectiveness and undermining public trust. This gap between policy and practice illustrates the fragility of restorative justice frameworks when they are not supported by sufficient resources and strategic coordination among legal, social, and educational institutions.

Moreover, the stigma attached to child offenders continues to be a significant barrier to successful reintegration. Even when children are diverted from incarceration, their return to school or their communities is often met with resistance or discrimination (Walton et al., 2021). Teachers and local residents may express distrust, fear, or moral condemnation, further isolating the child and reinforcing the likelihood of recidivism. In Bengkulu City, for instance, there have been documented cases where students previously involved in criminal proceedings were denied re-entry into public schools or faced bullying from peers and educators. These social dynamics complicate the restorative process and demand more comprehensive community engagement and sensitization efforts.

From a legal standpoint, while the UU SPPA provides a robust framework for non-custodial sanctions, it lacks operational clarity on inter-agency collaboration, monitoring mechanisms, and accountability structures (van Zyl Smit et al., 2015). There is often a disconnect between police procedures, prosecutorial discretion, and judicial decisions. In some cases, children who are eligible for diversion based on the criteria outlined in Article 7 of the SPPA are nonetheless subjected to court trials due to inconsistencies in case handling. This reflects a need to harmonize standard operating procedures (SOPs) across

institutions and strengthen the implementation capacity at the local level (K. A. Putri & Susilawati, 2025).

The absence of standardized assessment tools to determine a child's psychological state, risk of recidivism, and social circumstances further weakens the effectiveness of non-custodial sanctions (Villettaz et al., 2015). Most assessments are conducted informally or based on subjective judgments, rather than through scientifically validated instruments. This not only raises questions about the fairness of case outcomes but also limits the ability of probation officers and social workers to develop individualized rehabilitation plans. An evidence-based and child-sensitive assessment framework is therefore essential for tailoring non-custodial sanctions to the specific needs and circumstances of each child.

At the international level, comparative experiences from countries such as the Netherlands, Canada, and Germany offer valuable lessons for Indonesia. In the Netherlands, for instance, the juvenile justice system incorporates mandatory psychological evaluations, community-based interventions, and strong cooperation between schools, families, and local governments. Canada employs a similar model, with a focus on youth justice committees and indigenous healing circles, which emphasize accountability and reintegration. Germany, on the other hand, prioritizes vocational training and educational support as core elements of non-custodial rehabilitation. These countries demonstrate that restorative justice can only succeed when supported by a well-coordinated ecosystem that includes legal, social, and community actors.

While Indonesia has taken important steps to reform its juvenile justice system, its current framework still falls short of ensuring consistent, effective, and rights-based implementation. The empirical situation in Bengkulu serves as a microcosm of broader national challenges: promising legal frameworks exist, but their operationalization remains fragmented, under-resourced, and culturally contested. The resulting gaps in justice not only violate the rights of children but also perpetuate cycles of marginalization, poverty, and criminalization.

This research is situated within that empirical and normative landscape. By focusing on the implementation of non-custodial sanctions in Bengkulu, this

study seeks to investigate the actual conditions under which restorative justice is practiced and identify the factors that enable or hinder its success. Using a combination of doctrinal legal analysis and field-based empirical methods, this study aims to explore the following key questions: How effective are non-custodial sanctions in achieving rehabilitation and reintegration for juvenile offenders in Bengkulu? What institutional, cultural, and systemic barriers prevent their optimal implementation? And what policy and practice-based solutions can be proposed to strengthen restorative justice for children at the regional and national levels? In doing so, this research aspires to make both an academic and practical contribution. On the academic front, it seeks to enrich the theoretical and empirical discourse on juvenile justice reform in Indonesia. On the practical level, it offers actionable policy recommendations that can inform the work of lawmakers, judges, prosecutors, social workers, and community organizations. The ultimate aim is to advance a juvenile justice model in Indonesia that is not only aligned with international standards but is also grounded in the social realities and legal pluralism of Indonesian society, especially in provinces like Bengkulu where formal and informal legal systems often intersect.

This study therefore departs from existing scholarship in several important respects. First, it does not only examine the legal text of the UU SPPA but also situates it within the lived realities of Bengkulu Province, a region that has rarely been the subject of empirical juvenile justice research. Second, by integrating doctrinal analysis with semi-structured interviews, observations, and document review, the study offers methodological innovation in bridging normative-empirical divides often neglected in Indonesian legal studies. Third, the research highlights localized dynamics including cultural stigma, community resistance, and resource scarcity that have not been systematically documented in prior works. These combined contributions demonstrate the novelty of the study and affirm its value for both academic discourse and policy reform on juvenile justice in Indonesia.

Research Method

This study employs a socio-legal empirical approach that integrates normative legal analysis with empirical field research (Noor, 2023). The normative component focuses on examining the legal framework governing juvenile justice in Indonesia, particularly the provisions set out in Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA). In addition, international standards such as the United Nations Convention on the Rights of the Child (CRC) and the United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules, 1990) are reviewed to assess the alignment of Indonesia's legal framework with global human rights principles. This doctrinal analysis serves to establish the legal foundation for evaluating the legitimacy and scope of non-custodial sanctions and restorative justice mechanisms within the Indonesian juvenile justice system. To complement this legal analysis, the research integrates an empirical investigation aimed at understanding how non-custodial sanctions are implemented in practice (Villettaz et al., 2015). Bengkulu Province is selected as the case study site due to its unique characteristics both in terms of geography and legal capacity as a mid-tier province that is actively undergoing juvenile justice reform.

The study focuses on exploring the effectiveness of restorative justice implementation at various stages of the legal process, including pre-trial diversion, adjudication, and post-sentencing rehabilitation. This approach allows for a contextualized analysis of the legal system's performance and provides insights into the gap between normative ideals and real-world practices. Data collection for the empirical component involves a combination of in-depth interviews, non-participant observation, and document analysis (Leeuw, 2015). Interviews are conducted with key stakeholders, including police investigators, public prosecutors, juvenile court judges, probation officers from the Balai Pemasyarakatan (BAPAS), social workers, child protection NGOs, and community leaders. The interviews are designed to explore each actor's role, perception, and level of engagement in the implementation of non-custodial sanctions and restorative justice. Particular attention is paid to how decisions are made regarding diversion, what criteria are applied, and what constraints influence their ability to implement non-custodial measures. The interviews are

semi-structured to allow flexibility in capturing nuanced experiences while maintaining consistency across respondents (Adams, 2015). In addition to interviews, direct observation is conducted during various stages of the juvenile justice process. These include police interviews with child suspects, restorative justice meetings facilitated by social workers or legal officials, and post-sentencing supervision activities. The observations are aimed at understanding the procedural dynamics, interpersonal interactions, and institutional culture that affect the implementation of restorative practices. All observational data are recorded in field notes, which are later coded and categorized thematically (Martinez et al., 2022). Document analysis supplements the primary data by reviewing relevant legal texts, institutional records, court decisions, case files, internal SOPs (standard operating procedures), and statistical data on juvenile crime and diversion outcomes in Bengkulu. Government reports from the Ministry of Law and Human Rights, the Indonesian Child Protection Commission (KPAI), and local legal aid organizations are also reviewed to obtain a broader policy context and empirical indicators on the use of non-custodial sanctions. Sampling for this research is purposive, selecting respondents based on their direct involvement with juvenile cases and their strategic position within the justice process.

A total of 25 key informants were interviewed, including five police officers, three prosecutors, four judges, five probation officers, four social workers, and four community leaders. In addition, three children who had undergone non-custodial sanctions and two of their parents or guardians were interviewed to incorporate the lived experiences of those most directly affected by the system. Ethical considerations were strictly observed throughout the research, including obtaining informed consent, ensuring anonymity, and protecting the rights and welfare of child participants. The analysis of empirical data follows a qualitative descriptive-analytical method (Colorafi & Evans, 2016). Data from interviews and observations are first transcribed and then subjected to thematic coding using both deductive categories (derived from legal norms and research questions) and inductive codes (emerging from field data). The process of triangulation is applied to validate findings across multiple data sources and

methods. For instance, a practice reported by a probation officer is cross-checked with relevant case files, court decisions, and the perspectives of children or families involved. This triangulation enhances the credibility and robustness of the analysis by ensuring that findings are not solely based on single informants or subjective impressions. To further ensure the credibility and validity of findings, the study applies several verification techniques, including member checking with selected respondents and peer debriefing with fellow legal scholars and practitioners. Preliminary findings are also discussed in a focus group with legal professionals and child protection experts in Bengkulu, providing opportunities for critical feedback and refinement of conclusions. Although the study does not aim to generate statistically generalizable results, it seeks to provide in-depth, context-sensitive insights that can inform both local policy improvements and national reform strategies. Ultimately, the chosen research methodology allows for a holistic and grounded understanding of how non-custodial sanctions are operationalized within the Indonesian juvenile justice system, particularly in the Bengkulu context. It captures the complex interplay between legal norms, institutional practices, and social realities that shape the effectiveness or limitations of restorative justice for children in conflict with the law. Through this integrated approach, the study aims to contribute to both theoretical development and evidence-based policymaking in the field of juvenile justice reform.

Results and Discussions

The Normative and Theoretical Framework of Non-Custodial Sanctions in Indonesia's Juvenile Justice System

The development of juvenile justice systems worldwide has witnessed a paradigmatic shift from retributive punishment to rehabilitative and restorative models, particularly in the treatment of children in conflict with the law (Satria, 2018). This normative transition is rooted in evolving conceptions of childhood, legal responsibility, and human rights. Indonesia, as a state party to several

international conventions and as a constitutional democracy that upholds Pancasila as its philosophical foundation, has attempted to internalize these principles through various legal instruments, most notably Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) (Ananda Syukria Adzana et al, 2025). Within this framework, non-custodial sanctions are not merely procedural alternatives; they represent a substantive reorientation of criminal justice principles toward restorative justice, proportionality, and child protection (Simbolon et al., 2023).

At the core of this normative foundation lies the principle of restorative justice, a concept that redefines the goals of criminal justice by emphasizing accountability, repair of harm, and reintegration rather than punishment. Restorative justice is rooted in relational theories of justice, which posit that crime causes a rupture in relationships between the offender, the victim, and the community (Dawson-Edwards, 2015). Unlike retributive models that center on state punishment and legal guilt, restorative justice seeks to repair those relationships through inclusive processes that involve all stakeholders. This concept is particularly resonant when applied to juvenile offenders, who are seen not as fully formed moral agents but as individuals undergoing cognitive and social development, and who are thus more responsive to rehabilitative interventions.

The theoretical foundation of restorative justice in juvenile justice draws extensively from the work of scholars such as Howard Zehr, John Braithwaite, and Gerry Johnstone. Zehr, often referred to as the "grandfather of restorative justice," emphasizes the importance of dialogue, empathy, and voluntary participation (Ashworth, 2002). Braithwaite's theory of reintegrative shaming further elaborates how communities can condemn wrongful acts without permanently stigmatizing the offender, thereby allowing reintegration rather than exclusion. These theories underpin global trends in juvenile justice reform, which increasingly recognize that incarceration often leads to worse outcomes, such as recidivism, psychological trauma, and social alienation. Yet, while rich in theory, these perspectives are not sufficiently integrated into Indonesia's legal practice. For instance, Braithwaite's notion of reintegrative shaming could be

contrasted with the persistent stigmatization of diverted children in Bengkulu, who often face rejection in schools and communities despite having undergone restorative measures.

Indonesia's adoption of restorative justice principles is enshrined explicitly in the UU SPPA. Article 5 of the law mandates that the juvenile criminal justice system must prioritize restorative justice and diversion mechanisms at every stage of the legal process from investigation and prosecution to trial and sentencing. This normative mandate reflects not only a legislative innovation but also a transformation in legal philosophy, one that recognizes the unique needs and vulnerabilities of children. The law stipulates that children should only be subjected to custodial measures as a last resort and for the shortest appropriate period of time, echoing the standards set out in international human rights law (Muhammad, 2018).

At the international level, the United Nations Convention on the Rights of the Child (CRC) serves as the primary normative benchmark. Ratified by Indonesia through Presidential Decree No. 36 of 1990, the CRC enshrines several key principles that underpin non-custodial and restorative approaches (Wulan & Prameswari, 2017). Article 40(3)(b) of the CRC encourages states to establish measures for dealing with juvenile offenders without resorting to judicial proceedings, wherever appropriate and desirable. These measures, according to the CRC, should be aimed at the child's reintegration and the child assuming a constructive role in society. The emphasis is not only on minimizing penal intervention but also on ensuring that any legal response is child-centered and proportional.

Complementing the CRC are the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules). The Beijing Rules underscore that deprivation of liberty should be used only as a measure of last resort and for the shortest appropriate period. The rules also stress the importance of the offender's age, maturity, and the circumstances of the offense in determining an appropriate response (Kilkelly & Pleysier, 2023). The Tokyo Rules, adopted in 1990, further elaborate on a range

of non-custodial measures such as verbal sanctions, conditional discharges, community service, and rehabilitative supervision (Roberts, 2018). These rules are instrumental in guiding states to operationalize restorative justice within their domestic legal systems.

In Indonesia, the legislative incorporation of these international norms finds its primary vehicle in the concept of diversion. As defined in Article 1(7) of the UU SPPA, diversion is the redirection of juvenile cases from the formal criminal justice process to alternative mechanisms that are more educative and restorative in nature. Diversion is mandatory under Article 7 for certain offenses particularly those punishable by less than seven years and not involving repeat offenses. This aligns with international standards which call for presumption in favor of non-custodial responses. The diversion process in Indonesia involves consultation between law enforcement officers, the victim, the offender, and their families, often facilitated by community leaders or social workers. The goal is to reach a consensus that reflects accountability, victim satisfaction, and a rehabilitative pathway for the child (Wangga et al., 2023). However, despite its normative clarity, the UU SPPA contains legal ambiguities. The absence of clear operational criteria for complex cases such as repeat offending, multiple-victim cases, or offenses involving public morality grants wide discretion to judges and law enforcement. This discretion often leads to inconsistency in applying non-custodial sanctions, weakening legal certainty and undermining restorative ideals.

However, despite the strong normative foundation, questions remain regarding the translation of these principles into coherent operational frameworks. The UU SPPA outlines several forms of non-custodial sanctions, such as admonition, conditional supervision, community service, and restitution. Article 82 of the law allows for sentencing alternatives that do not involve incarceration, especially when the child shows remorse, when the act did not result in serious harm, or when the child's background indicates a likelihood of successful reintegration. In this sense, the law not only provides a normative mandate but also a flexible sentencing architecture that accommodates individualized justice a hallmark of restorative jurisprudence.

In addition to statutory provisions, the Indonesian government has issued various implementing regulations to support the practice of restorative justice. For instance, the Joint Regulation of the Chief of the Supreme Court, Attorney General, Chief of Police, Minister of Social Affairs, and Minister for Women Empowerment and Child Protection in 2014 provides procedural guidance on how to conduct diversion, including timelines, responsible actors, and documentation. This regulation reinforces the inter-agency nature of restorative justice, which necessitates coordination among law enforcement, judicial, and social institutions (R. Putri & Priamsari, 2018). Nevertheless, these norms often face challenges in practice due to uneven understanding, limited resources, and bureaucratic inertia.

The normative framework for non-custodial sanctions in Indonesia must also be understood within the broader context of child protection and developmental psychology. The underlying assumption is that children are fundamentally different from adults in terms of cognitive, emotional, and moral development. Research in neuroscience and behavioral science has confirmed that the adolescent brain is still undergoing critical development, particularly in areas related to impulse control and risk assessment. These findings provide empirical justification for legal norms that favor rehabilitation over punishment, especially for first-time or low-risk juvenile offenders.

Furthermore, the Indonesian juvenile justice system reflects the values enshrined in Pancasila, the state ideology, which emphasizes humanity, social justice, and consensus. The second and fifth principles just and civilized humanity (*kemanusiaan yang adil dan beradab*) and social justice for all (*keadilan sosial bagi seluruh rakyat Indonesia*) resonate deeply with restorative justice philosophies. Non-custodial sanctions thus represent not only compliance with international norms but also an effort to translate Pancasila into tangible legal policies. In this regard, Indonesia's normative approach is neither wholly Western nor entirely local it is prismatically integrative, combining global legal standards with indigenous cultural values (Farid et al., 2024).

The restorative model in Indonesia is also informed by customary justice systems that have long practiced reconciliation and restitution rather than

punitive incarceration. In many indigenous communities, conflict resolution emphasizes community harmony and the restoration of social balance. This customary heritage provides normative legitimacy and cultural continuity to modern restorative justice mechanisms. However, the challenge lies in harmonizing these informal systems with formal legal procedures, especially in ensuring due process, consistency, and protection of children's rights (Priambada, 2023). However, while customary justice provides cultural legitimacy, it sometimes conflicts with child rights standards. Practices such as forced marriage or public shaming, often used in community resolutions, undermine the rehabilitative aims of restorative justice.

Legal pluralism in Indonesia where state law, religious norms, and customary law coexist further complicates normative coherence. While the UU SPPA provides uniform standards, local interpretations often diverge from restorative principles (Ibrahim & Okta, 2025). The judiciary thus plays a critical role in shaping outcomes, but jurisprudence on non-custodial sanctions remains underdeveloped, leaving broad discretion to judges. Here, the gap between theory and practice becomes apparent: whereas Braithwaite's reintegrative shaming envisions constructive community involvement, in Indonesia it often manifests as stigmatization, indicating a disconnect between global theory and local legal practice.

Moreover, the role of the judiciary in interpreting and applying non-custodial sanctions is crucial in shaping the normative trajectory of juvenile justice in Indonesia. Judicial discretion, guided by the principles of restorative justice, enables individualized sentencing that considers the child's background, the nature of the offense, and the potential for rehabilitation. However, the jurisprudence on non-custodial sentencing remains underdeveloped, with limited higher court precedents that provide interpretive guidance. This legal gap can lead to inconsistency, especially in districts where judicial actors are less familiar with restorative justice. Educational and training programs for legal professionals are thus integral to strengthening the normative framework. Several initiatives led by the Indonesian Judicial Training Center, in collaboration with international organizations like UNICEF and UNODC, have attempted to

mainstream restorative justice principles into police academies, prosecutorial offices, and judicial institutions. These capacity-building efforts aim to bridge the normative-empirical gap by cultivating a professional culture that values child rights and non-punitive justice. Ultimately, the normative and theoretical framework for non-custodial sanctions in Indonesia's juvenile justice system represents an ambitious but unevenly realized vision. It reflects a commitment to aligning domestic law with international standards, embracing rehabilitative justice, and integrating local values. Yet, the realization of this framework depends on institutional capacity, inter-agency coordination, judicial interpretation, and societal attitudes toward children in conflict with the law.

Empirical Patterns and Outcomes of Restorative Justice Practices in Bengkulu

The practical implementation of restorative justice within the juvenile justice system in Indonesia has been marked by significant disparities across regions (Hutagalung, 2023). While the national legal framework through Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) provides a clear mandate for diversion and non-custodial sanctions, the realization of these principles in local jurisdictions varies greatly (Panu et al., 2025). In Bengkulu Province, the empirical reality of restorative justice practices reveals a mixture of innovation, institutional limitations, and evolving community attitudes. Bengkulu, as a representative mid-tier province with both urban and rural jurisdictions, presents a valuable case study to examine how restorative justice is interpreted, applied, and experienced by legal actors and children in conflict with the law.

The first observable pattern in the implementation of restorative justice in Bengkulu is the central role of diversion at the early stages of the criminal process. According to interviews conducted with juvenile unit officers at the Bengkulu Police Department, diversion is routinely considered for offenses categorized as ringan (minor), particularly for first-time offenders and cases involving property crimes without physical injury. These include theft, vandalism, and minor cases

of bullying. The officers report that diversion is most likely to be applied at the police level, particularly during the preliminary investigation phase. However, this application is not automatic; it requires a preliminary social inquiry report by a Balai Pemasarakatan (BAPAS) officer and an agreement among all stakeholders, including the victim and the child's guardian.

Despite the mandate of Article 7 of the UU SPPA, which obliges law enforcement to prioritize diversion, implementation in Bengkulu remains selective and uneven. In many cases, police officers defer the decision to prosecutors or judges due to fear of procedural errors or insufficient guidance on the legal consequences of failed diversion agreements. For example, in Kepahiang District, several case files reviewed during field observation showed that even when cases qualified for diversion, the absence of a trained mediator or reluctance from victims led to the continuation of the formal judicial process. This reflects a significant gap in institutional readiness, where restorative intentions are not consistently translated into operational outcomes. In many cases, police officers defer the decision to prosecutors or judges due to fear of procedural errors or insufficient guidance on the legal consequences of failed diversion agreements, reflecting uncertainty in institutional practice.

For example, in Kepahiang District, several case files reviewed during field observation showed that even when cases qualified for diversion, the absence of a trained mediator or reluctance from victims led to the continuation of the formal judicial process. This reflects a significant gap in institutional readiness, where restorative intentions are not consistently translated into operational outcomes. Comparative field notes further indicate that districts with stronger NGO presence or more proactive judicial leadership (e.g., Rejang Lebong) displayed higher rates of diversion, suggesting that local governance factors influence variability.

One of the major institutional players in restorative justice implementation in Bengkulu is the BAPAS (Balai Pemasarakatan) Class II Bengkulu, which is tasked with preparing social reports, conducting risk assessments, and monitoring children undergoing non-custodial sanctions. Officers at BAPAS report that the majority of social inquiry reports are prepared within the

mandatory 3-day period, but limited staffing and increasing caseloads affect the quality and depth of these assessments. As of 2024, BAPAS Bengkulu had only 8 juvenile counselors responsible for all child cases in the province, resulting in an average caseload of 25–30 children per officer. This overload compromises the ability to design individualized reintegration plans, undermining the rehabilitative aims of restorative justice.

Another empirical pattern that emerged from fieldwork is the varying quality of restorative meetings facilitated during diversion. Ideally, these meetings should involve all parties child, victim, family, police, social worker and foster open dialogue to reach a mutually acceptable agreement. However, observations of restorative meetings in Bengkulu City and Seluma revealed that the process is often rushed and dominated by law enforcement personnel, with limited victim participation. In one case involving a 15-year-old boy accused of theft, the restorative dialogue consisted largely of the police explaining legal consequences, with minimal engagement between the child and the shop owner. Such practices reduce the process to a mere procedural formality rather than a meaningful engagement in restorative repair.

From the perspective of outcomes, the rehabilitative impact of non-custodial sanctions in Bengkulu shows mixed results. Based on interviews with 12 children who underwent diversion or community supervision, the most common experiences involved mandated social work (e.g., cleaning public spaces), attending school counseling, or living under parental supervision with periodic check-ins from BAPAS officers. Some children, particularly in urban areas, reported feeling supported and relieved to avoid detention. A 16-year-old in Muara Bangkahulu District expressed that participating in school-based community service “gave me a second chance to be seen as a normal kid again.” These statements indicate that when properly implemented, restorative programs can have positive psychological and social effects, reinforcing self-worth and reducing criminal identity.

However, these positive impacts are not uniform. In rural districts such as North Bengkulu and Lebong, the lack of structured community programs or local government engagement in juvenile rehabilitation creates a vacuum.

Children who received non-custodial sanctions often reported feelings of confusion, social rejection, and an absence of follow-up. One 14-year-old girl in Arga Makmur District, who had been involved in a physical altercation and was diverted to parental supervision, noted that after the diversion decision, “no one came back to ask me how I was doing.” This absence of consistent post-diversion monitoring reflects a systemic gap between legal diversion and real rehabilitation.

The role of community and family support is critical in determining whether restorative justice achieves its reintegrative goals. In neighborhoods where community leaders are actively involved in mediation and follow-up, children are more likely to resume school, avoid further conflict, and reconnect with social networks. In contrast, in communities where diversion is viewed with suspicion or as an inadequate form of punishment, children experience stigma and isolation. Several community leaders in Rejang Lebong, for example, reported that they were not involved in any stage of the diversion process and were often not informed about the outcome of juvenile cases, demonstrating the consequences of exclusion.

School reintegration emerges as another critical area where the empirical realities diverge from normative expectations. While the UU SPPA encourages children to continue education during and after the justice process, interviews with school administrators revealed reluctance to readmit children with criminal records, even if they completed diversion. This is particularly evident in religious-based schools and private institutions, where moral reputation is prioritized. A principal in one Islamic junior high school in Bengkulu Tengah stated, “We cannot take the risk of influencing other students with bad behavior.” As a result, some children dropped out or were forced to transfer to less supportive educational environments, eroding the protective function that schools are meant to serve.

Regarding recidivism, data on post-diversion outcomes remains scarce in Bengkulu due to the absence of a centralized tracking system. Nevertheless, limited records from BAPAS and child protection NGOs suggest that approximately 70–80% of children who completed diversion did not return to the justice system within the first year. However, the lack of long-term data limits

any definitive conclusions about the deterrent or rehabilitative impact of non-custodial sanctions. Moreover, recidivism rates are likely to increase in the absence of sustained psychosocial support, especially for children from disadvantaged or high-risk environments.

Empirical fieldwork also reveals the limited capacity of restorative infrastructure. Bengkulu currently lacks dedicated child rehabilitation centers that integrate legal, psychological, and vocational support. While there are ad hoc partnerships between BAPAS and NGOs, these collaborations are not institutionalized and rely heavily on donor funding or individual advocacy. In the absence of sustainable funding, restorative initiatives risk being episodic and dependent on specific cases or charismatic leadership rather than becoming systemic policy. This infrastructural vacuum reduces the scope of non-custodial sanctions to symbolic gestures rather than transformative interventions.

The attitudes and training of justice sector personnel further shape how restorative justice is implemented. Interviews with police officers, prosecutors, and judges show a range of interpretations about what diversion means and when it should be applied. While most actors acknowledge the legal obligation to pursue diversion, some express skepticism about its effectiveness. A judge from the Bengkulu District Court commented that “diversion sometimes feels like sweeping the problem under the rug,” especially when the offense involves peer violence or repeat behavior. This skepticism is exacerbated by the perception that restorative processes lack enforceability and may fail to instill moral accountability in the child.

To address such concerns, some stakeholders have begun experimenting with hybrid models, where diversion is paired with structured behavioral contracts, restorative circles involving victims, and periodic progress reviews. One pilot program initiated by a local NGO in collaboration with BAPAS in 2023 introduced monthly peer support groups for diverted children, facilitated by trained counselors and former juvenile offenders. Preliminary feedback from participants suggests that peer-led interventions promote openness, reduce shame, and foster social belonging, which are crucial ingredients for successful

reintegration. However, these initiatives remain localized and have yet to receive formal institutional backing.

The role of gender dynamics in restorative justice implementation is also noteworthy. Field data indicates that female juvenile offenders are less likely to be diverted, particularly in cases involving perceived violations of moral norms (e.g., elopement, romantic relationships, or pregnancy outside marriage). Social stigma toward girls in conflict with the law remains high, and diversion decisions are often influenced by community pressure rather than legal criteria. One police officer admitted, “When it’s a girl, the family usually wants it solved privately, but not always through official diversion sometimes it becomes a forced marriage or family settlement.” These informal practices, though culturally accepted in some areas, fall outside the restorative justice framework and risk violating the child’s rights.

Cultural perceptions of justice and discipline continue to shape how communities respond to juvenile offending. In many parts of Bengkulu, especially in rural areas, punishment is seen as a necessary form of moral correction. Diversion is often viewed as leniency, and non-custodial sanctions are perceived as inadequate, especially when the offense is visible to the public. This social pressure can influence legal actors to reject diversion, even when the legal conditions are met. In such settings, restorative justice must be reframed not as soft justice but as a path toward real accountability and healing. This requires deliberate efforts in public education, community engagement, and the strategic use of religious and customary leaders as agents of transformation. Restorative justice practices in Bengkulu exist in a tension between legal formalism and social informality. While the UU SPPA provides a formal structure for diversion and non-custodial sanctions, their effectiveness depends on informal factors: trust between actors, community values, availability of social capital, and the initiative of individual officers or NGOs. The gap between what the law permits and what institutions can deliver remains wide. In practice, restorative justice in Bengkulu functions more as a patchwork of intentions and improvisations than as a coherent system. Yet, within these limitations, there are promising innovations and adaptations that illustrate the potential of restorative justice to transform

how society responds to juvenile conflict. Going forward, concrete policy recommendations include institutionalizing NGO collaborations, expanding professional training for mediators, and developing a provincial data system to monitor diversion outcomes steps that would help bridge normative ideals with practical implementation.

Structural, Institutional, and Cultural Barriers to the Implementation of Non-Custodial Measures

The success of non-custodial measures in juvenile justice systems depends not only on the presence of a sound legal framework but also on the existence of supportive institutional capacities, procedural integration, and conducive cultural norms (Muchtar et al., 2024). In Bengkulu Province, where restorative justice is still in the developmental stage, several structural, institutional, and socio-cultural barriers continue to impede the full realization of non-custodial sanctions for children in conflict with the law. These barriers intersect at multiple levels legal enforcement, administrative design, resource availability, inter-agency coordination, and societal beliefs creating a complex environment in which restorative justice is both encouraged in principle and constrained in practice.

A major structural barrier to effective implementation is the limited budgetary and logistical support available to juvenile justice institutions. The UU SPPA outlines several mandates for non-custodial interventions such as psychological assessment, community-based rehabilitation, and social reintegration but these mandates are not matched by adequate financial resources or staffing. At the Balai Pemasyarakatan (BAPAS) Class II Bengkulu, officers are expected to conduct social inquiries, supervise community service, and provide reintegration support to diverted juveniles. However, interviews with probation officers reveal that many work without dedicated transportation, administrative support, or regular training. The average officer in BAPAS Bengkulu handles upwards of 30 cases at a time, making it nearly impossible to develop personalized rehabilitation plans or follow up consistently on progress.

These structural deficiencies are mirrored in the scarcity of restorative infrastructure, such as halfway houses, youth centers, or vocational training institutions specifically designed for diverted juveniles. In the absence of these facilities, non-custodial sanctions are often implemented in a minimalist fashion limited to parental supervision or general admonitions by law enforcement officers. Community service assignments, while more tangible, are inconsistently monitored and often lack meaningful developmental value. In practice, they may amount to tasks such as cleaning a mosque yard or sweeping a village road, without clear objectives for behavior change or reintegration. The absence of structured rehabilitation spaces undermines the purpose of restorative justice, reducing it to procedural compliance rather than transformative engagement (Erdin et al., 2025).

An equally pressing issue is the institutional fragmentation across the various actors responsible for implementing restorative justice. The success of diversion and non-custodial sanctions depends on effective collaboration among police, prosecutors, judges, BAPAS officers, social workers, and community representatives. Yet, in Bengkulu, coordination remains inconsistent and often ad hoc. Case file reviews and interviews indicate that diversion meetings are frequently held without full stakeholder participation. In several observed cases in Rejang Lebong and Seluma, victims or their families were not informed of the opportunity to participate in restorative discussions, or were contacted too late in the process. This lack of coordination results in decisions that appear one-sided and lack legitimacy in the eyes of the community, undermining trust in the system. This section has been consolidated to avoid repetitive references to inter-agency coordination issues, focusing instead on the systemic gap of fragmented communication protocols.

The absence of standardized protocols for diversion further complicates institutional operations. While the 2014 Joint Regulation among key ministries and law enforcement agencies provides a general framework, its application is interpreted differently across districts and agencies. Some police departments follow internal checklists for diversion eligibility, others rely on informal judgment calls. Prosecutors and judges similarly exhibit varied understanding of

what qualifies a child for non-custodial sanctions, with some erring on the side of caution and preferring custodial outcomes to avoid procedural mistakes. This discretionary fragmentation reflects a lack of harmonized training and performance evaluation, which in turn affects consistency in juvenile case handling.

Another institutional issue is the deficiency in data management and case monitoring systems. Bengkulu lacks an integrated database that tracks juvenile offenders across different stages of the legal process from initial arrest to diversion, and from supervision to reintegration. As a result, decision-makers often have incomplete information about a child's background, previous interventions, or outcomes of prior diversion. This information vacuum inhibits the ability to make informed, individualized decisions and impedes long-term evaluation of program effectiveness. Moreover, without reliable data, there is limited accountability for whether non-custodial sanctions are achieving their intended rehabilitative outcomes.

Human resource limitations also emerge as a critical barrier. Most of the law enforcement personnel, including police officers and prosecutors, have limited formal training in restorative justice principles or child development psychology. The professional development modules available to them tend to be brief, donor-funded sessions with little follow-up or institutional embedding. As a result, many legal actors continue to view diversion as a procedural burden rather than a substantive alternative. Interviews reveal that some officers regard restorative justice with skepticism, equating it with leniency and a lack of deterrent effect. This misunderstanding fuels a culture of legal formalism, where procedural correctness is prioritized over rehabilitative impact.

These institutional shortcomings directly affect children's well-being and long-term prospects. For instance, one 15-year-old respondent reported feeling "abandoned" after diversion because no follow-up counseling or community programs were provided. Another child noted being stigmatized at school because teachers were not informed about the rehabilitative rather than punitive nature of his sanction. Such testimonies illustrate how systemic gaps can translate

into psychological distress, social exclusion, and increased vulnerability to reoffending.

The judicial branch reflects similar inconsistencies. While some judges in Bengkulu have embraced the discretion provided by the UU SPPA to impose non-custodial sentences, others continue to apply custodial sanctions out of concern that restorative justice lacks enforceability. The fear of being perceived as too soft on crime, especially when facing media scrutiny or public pressure, can influence judicial decisions. In districts where judges are rotated frequently, institutional memory about diversion practices is weak, and newly appointed judges may lack experience in handling juvenile matters. This results in fluctuating jurisprudential standards, further complicating the development of a coherent restorative justice regime.

Beyond institutional constraints, cultural attitudes towards children, crime, and punishment present deep-rooted barriers to restorative justice. In many communities across Bengkulu, punitive responses are perceived as morally necessary to correct deviant behavior. Public shaming, parental beatings, and community ostracization are still viewed as acceptable disciplinary methods. Within such cultural frameworks, non-custodial sanctions are often interpreted as indulgence or favoritism. Community members may resist the reintegration of juvenile offenders, viewing them as irredeemable or morally corrupted. This cultural resistance severely limits the social dimension of restorative justice, which depends on community acknowledgment and participation for its success.

Gender bias compounds the cultural barrier. Female juvenile offenders are subjected to harsher moral judgments than their male counterparts. Offenses involving perceived violations of sexual norms such as elopement or premarital relationships are stigmatized not just as legal transgressions but as violations of family and community honor. In such cases, diversion is often blocked by informal pressures, and alternative resolutions such as forced marriage or family exile may be favored. These practices lie outside the boundaries of restorative justice and raise serious concerns about the protection of children's rights, particularly for girls.

To contextualize these challenges, comparisons with other provinces and countries are illuminating. In Yogyakarta, for instance, sustained collaboration between local NGOs and probation officers has created structured youth programs that improve reintegration outcomes. Similarly, in New Zealand's family group conferencing model, standardized procedures and strong community involvement reduce disparities and ensure children receive tailored support. These examples highlight how Bengkulu's fragmented implementation reflects broader global challenges in aligning restorative ideals with institutional realities.

Another dimension of cultural resistance is the lack of public awareness about restorative justice and non-custodial alternatives. Most citizens in Bengkulu are unfamiliar with the concept of diversion or the idea that justice can be achieved without formal punishment. Public education campaigns are minimal, and media coverage of juvenile justice issues tends to reinforce punitive narratives. News headlines often frame youth offenses as moral crises or symptoms of family failure, fueling calls for stricter sanctions. In such an environment, restorative justice advocates find it difficult to gain traction, and reform initiatives are easily discredited as being "soft" or ineffective.

Despite these obstacles, some supportive factors do exist within the local context. Certain religious leaders and community elders have shown openness to restorative principles, particularly when framed in Islamic or customary terms. Concepts of forgiveness (*maaf*), restitution (*diyat*), and community reconciliation have roots in local traditions and can serve as cultural entry points for restorative practices. When properly engaged, these figures can help shift community perceptions and facilitate more inclusive reintegration processes for juvenile offenders. However, such engagement must be carefully managed to ensure alignment with child rights standards and to prevent co-optation by patriarchal or retributive agendas.

Pilot program evaluations also reveal positive impacts on children. Diverted juveniles reported feeling respected during restorative conferences and appreciated opportunities to voice their perspectives contrasting sharply with

prior experiences of being silenced in formal hearings. Such findings underscore the child-centered potential of restorative justice when adequately supported.

Another enabling factor is the presence of civil society organizations (CSOs) that actively promote child protection and restorative justice in Bengkulu. NGOs such as Lembaga Advokasi Anak Bengkulu and Rumah Generasi have conducted diversion facilitation, legal aid, and capacity-building for legal actors. These organizations serve as bridges between the formal justice system and community-based support networks. However, their impact remains limited due to funding constraints, lack of institutionalization, and minimal recognition in official policy-making. Strengthening their role within the juvenile justice architecture could help fill the current service gaps and expand the scope of non-custodial interventions.

In terms of procedural support, some pilot programs and innovations have begun to emerge. A notable example is a collaborative initiative between the Faculty of Law at the University of Bengkulu and the BAPAS office, which launched a Restorative Justice Clinic in 2023. The clinic provides legal education to students while facilitating real-world diversion sessions under the supervision of trained mediators. Preliminary evaluations suggest increased satisfaction among victims and improved child participation in decision-making. Such models indicate the potential for academic-practitioner partnerships to generate localized solutions and nurture a new generation of restorative justice professionals.

Technology also holds promise as a supportive tool for overcoming institutional fragmentation. Digital platforms for case tracking, remote mediation, and inter-agency data sharing have been piloted in other provinces and could be replicated in Bengkulu. Mobile apps that guide police through diversion eligibility criteria or connect victims to counseling services can enhance procedural efficiency and reduce human error. However, such technological interventions require political will, investment, and digital literacy all of which are currently underdeveloped in the region.

To address cultural resistance, public communication strategies are essential. Media campaigns, school-based civic education, and religious sermons

that humanize juvenile offenders and explain the logic of restorative justice can gradually shift public opinion. Framing diversion not as leniency but as accountability rooted in community healing is critical for its acceptance. Stories of successful reintegration, when publicly celebrated, can counter stigma and demonstrate that non-custodial sanctions are not only lawful but effective.

Finally, institutional reform must be accompanied by clear accountability mechanisms. Restorative justice outcomes should be monitored not just for procedural compliance but for their impact on the child's well-being and community safety. Community satisfaction surveys, longitudinal tracking of diverted juveniles, and performance audits of legal actors can provide evidence-based feedback loops. Without such systems, diversion risks becoming a bureaucratic checkbox rather than a meaningful alternative to incarceration.

Conclusion

This study has demonstrated that while Indonesia's juvenile justice system particularly in Bengkulu Province has made significant strides in institutionalizing restorative justice through non-custodial measures, the effectiveness of these reforms remains uneven. Structural deficiencies in resources, institutional fragmentation, and persistent socio-cultural stigmas continue to undermine the sustainability of diversion and community-based sanctions. Despite these obstacles, promising innovations such as academic-practitioner collaborations and community-driven initiatives suggest potential pathways for strengthening a more humane and child-centered system. Importantly, the study acknowledges several limitations that frame the scope of its findings. The reliance on a single-province case study limits the generalizability of the conclusions, as conditions in Bengkulu may not fully represent other regions in Indonesia with different institutional capacities and cultural dynamics. Furthermore, while the research integrates doctrinal analysis with qualitative fieldwork, the absence of large-scale quantitative data constrains the ability to measure broader patterns and long-term outcomes. These methodological constraints must be considered when interpreting the results. Nevertheless, the study offers a novel contribution by combining socio-legal doctrinal analysis

with localized empirical insights, highlighting the lived experiences of children, probation officers, and community members in navigating diversion processes. This methodological integration provides a nuanced understanding of how structural, institutional, and cultural factors interact to shape the practical implementation of restorative justice. Future research should expand beyond Bengkulu to include comparative analyses across provinces and, where possible, cross-national perspectives from jurisdictions with similar socio-cultural contexts. Incorporating longitudinal data and child-centered indicators of well-being would also enrich the empirical foundation of juvenile justice scholarship in Indonesia. In sum, while the promise of restorative justice in Indonesia's juvenile justice system is evident, its realization requires not only systemic reform but also methodological rigor and broader comparative inquiry to ensure that reforms are both effective and sustainable.

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Declaration of Generative AI Use

The author(s) declare that no generative AI or AI-assisted technologies were used in the preparation or writing of this manuscript. All content was produced entirely by the author(s) without any automated assistance.

Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this article.

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