

Diversion in Child Sexual Violence Cases: A Comparative Study of Indonesia and Norway

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Abstract

This study examines the implementation of diversion in child sexual violence cases in Southeast Sulawesi, Indonesia, and compares it with restorative justice practices in Norway. Despite the growing adoption of diversion under Law No. 11 of 2012 on the Juvenile Criminal Justice System, its application in sexual violence cases remains controversial and inconsistent. Using a qualitative approach based on interviews and document analysis, this study finds that diversion practices in Indonesia are constrained by victims' consent, socio-cultural factors, and limited institutional capacity. At the same time, Norway demonstrates a more structured, welfare-oriented restorative model. The study highlights the



need for clearer guidelines and stronger victim protection mechanisms to ensure a balanced approach to justice.

Keywords

Diversion, Restorative Justice, Child Sexual Violence, Indonesia, Norway.

Introduction

Children, as a particularly vulnerable group, require urgent protection from sexual violence. This violence stems from inadequate public safety, weak community engagement, insufficient official safeguards, and barriers such as poor funding, limited access to assistance, lack of sexual education, persisting patriarchal attitudes, reporting stigma, and minimal support services.¹ The phenomenon of children as perpetrators of sexual violence poses ethical and legal dilemmas in the juvenile criminal justice system in Indonesia. Children in conflict with the law (ABH) are in a period of psychological and social growth, so they need a different approach from the general justice system.²

One alternative approach to legal handling is *restorative justice* (RJ), which emphasizes the recovery of victims, the responsibility of perpetrators, and society's role in this process. However, its application in cases of sexual violence is still controversial because this type of crime has long-term psychological impacts on victims and has the potential to cause

¹ Murni Ratna Sari Alauddin, Maulid, and Indar Ismail Jamaluddin, "Local Government Policies and Participation of Religious Leaders Preventing Sexual Harassment After the Earthquake in Palu Central Sulawesi," *Al-MAIYYAH: Media Transformasi Gender Dalam Paradigma Sosial Keagamaan* 15, no. 1 (2022): 1–15; Veren Budiman et al., "Sosialisasi Pencegahan Kekerasan Seksual Pada Anak Di Pusat Pengembangan Anak ID-0319 Kabupaten Halmahera Utara," *Jurnal Abdidias* 5, no. 3 (2024): 139–46; Hendrik, Indar Ismail Jamaluddin, and Anis Ribcalia Septiana, "Sumberdaya Dalam Penanganan Anak Korban Kekerasan Seksual Pada Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Kabupaten Kolaka Sulawesi Tenggara," *Morality: Jurnal Ilmu Hukum* 10, no. 1 (2024): 31–47, <https://doi.org/10.52947/morality.v10i1.421>; Muhammad Tahir and Abunawas Abunawas, "Sosialisasi Dan Edukasi Pencegahan Tindak Kekerasan Seksual Di Lingkungan Sekolah," *Journal of Community Development* 4, no. 3 (2024): 316–21, <https://doi.org/10.47134/comdev.v4i3.192>.

² Evelin Nur Augusta, "Embracing Restorative Justice: A Path Towards Equitable Mediation in Criminal Cases," *Jurnal Hukum Progresif* 12, no. 1 (2024): 56–65, <https://doi.org/10.14710/jhp.12.1.56-65>.

impunity for perpetrators. On the other hand, RJ has a strategic urgency to realize a child-friendly justice system oriented towards coaching and education rather than just punishment.³

The handling of child criminal cases through the RJ approach is known as Diversion. Various studies show that Diversion functions as a child protection mechanism and helps reduce recidivism.⁴ However, other studies show that in cases of sexual violence, the implementation of Diversion has actually caused criticism because it has the potential to ignore justice and recovery of victims.

In general, previous studies can be classified into three tendencies. First, research that focuses on the normative and legal-formal aspects of Diversion in the juvenile criminal justice system. Second, research focuses on the protection of victims of sexual violence, including the issue of child exploitation and marriage. Third, a study that highlights RJ's effectiveness in reducing recidivism and improving social relations. However, the three approaches tend to run separately and have not been examined in an integrated manner, the relationship between the protection of child offenders and the fulfillment of victims' rights in a comprehensive analytical framework.

In a theoretical framework, this research draws on the perspectives of John Rawls and R. A. Duff on justice. Although Rawls does not specifically address criminal law, the concept of *justice as fairness* provides a normative basis for assessing whether Diversion's policies ensure substantive justice for vulnerable parties, both perpetrators and victims. Meanwhile, Duff

³ Nuzul Qur'aini Mardiyah, "Implementation of Chemical Castration Punishment For Sexual Offender," *Jurnal Konstitusi* 14, no. 1 (2017): 213–33, <https://doi.org/10.31078/jk141110>; Nelvitia Purba et al., "Double Track System for Child Convictions for Sexual Violence In North Sumatera: Perspective of Restorative Justice," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (2024): 1216–38, <https://doi.org/10.22373/sjkh.v8i2.23000>; Elista Simanjuntak, "Restorative Justice Dalam Penyelesaian Kasus Kekerasan Seksual Anak: Suatu Kajian Pengambilan Keputusan Etis," *Integritas: Jurnal Teologi* 4, no. 2 (2022): 116–26, <https://doi.org/10.47628/ijt.v4i2.131>.

⁴ Bambang Tri Bawono and Muhammad Dias Saktiawan, "Law Enforcement against Perpetrators of Sexual Violence Crimes Committed by Children," *Research Horizon* 05, no. 02 (2025): 83–88, <https://doi.org/10.54518/rh.5.2.2025.83-88>; Muhammad Ridwan Lubis and Gomgom T P Siregar, "Implementation of Diversion in Case Resolution Children to Realize Protection Law against Children," *Journal of Contemporary Issues in Business and Government* 27, no. 2 (2021): 1001–6, <https://doi.org/10.47750/cibg.2021.27.02.119>; Sri Rahayu, "Diversi Sebagai Alternatif Penyelesaian Perkara Tindak Pidana Yang Dilakukan Anak Dalam Perspektif Sistem Peradilan Pidana Anak," *Jurnal Ilmu Hukum* 6, no. 1 (2015): 127–42.

offered a more specific perspective on criminal law by emphasizing the importance of moral accountability and the limits on the use of criminal sanctions. The combination of these two perspectives allows for a more balanced analysis between the protection of the child as a perpetrator and the fulfillment of the rights of victims within the framework of restorative justice.⁵

Kolaka and South Konawe Regencies are areas with high cases of violence against women and children in Southeast Sulawesi Province, Indonesia. In Kolaka Regency, sexual violence against children was reported in 7 out of 12 sub-districts. Meanwhile, in South Konawe Regency, in the period from 2023 to April 2024, there were 104 cases, with the majority of victims experiencing trauma.⁶ Data reported by the Ministry of Women's Empowerment and Child Protection indicate that between January 1 and August 2024, a total of 251 cases involving child marriage and sexual violence against women were recorded in Southeast Sulawesi, including 19 cases in South Konawe.⁷ The high number of these cases raises critical questions about the appropriateness of using the Diversion approach within the framework of restorative justice, especially when victims experience profound psychological impacts.

In this context, contextual and locally based approaches are important for examining how Diversion practices are carried out in the field, including the social, cultural, and institutional dynamics that influence diversion decisions. On the one hand, Diversion aims to protect children as perpetrators, but on the other hand, it faces criticism because it has the potential to ignore justice for victims.

⁵ John Rawls, *A Theory of Justice*, Revised ed (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 1999), <https://www.cita.or.id/wp-content/uploads/2016/06/John-Rawls-A-Theory-of-Justice-Belknap-Press-1999.pdf>; R A Duff et al., *The Boundaries of the Criminal Law* (Oxford: Oxford University Press, 2010).

⁶ Sitti Hadijah Pahrudin, Syamsul Alam, and Muhammad Basri, "Analisis Kompetensi Pegawai Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Kabupaten Kolaka Dalam Penanganan Kekerasan Anak Di Bawah Umur," *Publica: Jurnal Administrasi Pembangunan Dan Kebijakan Publik* 14, no. 1 (2023): 1–11; Anis Ribcalia Septiana et al., "Sosialisasi Pencegahan Kekerasan Seksual Pada Remaja Di SMK Negeri 4 Konawe Selatan," *Jurnal Cendekia Mengabdikan Berinovasi Dan Berkarya* 2, no. 3 (2024): 89–93, <https://doi.org/10.56630/jenaka.v2i3.682>.

⁷ St Fatmawati L, "Faktor Penyebab Terjadinya Kekerasan Seksual Terhadap Anak Di Wilayah Hukum Polres Konawe Selatan," *Almufi Jurnal Sosial Dan Humaniora* 1, no. 3 (2024): 410–16, <https://doi.org/10.63821/ash.v1i3.402>.

Most previous research has focused on normative aspects, protection from sexual exploitation, child marriage, legal aid, or the juvenile criminal justice system in general.⁸ These studies have not specifically examined the diversion of child sexual violence cases through a comparative empirical approach between Indonesia and Norway, so this study also fills this gap.

The research gap is explicitly emphasized in three main aspects. First, there has been no study that specifically examines the tension between the protection of child offenders and the fulfillment of victims' rights in cases of sexual violence. Second, there are still a few empirical studies that analyze the implementation of Diversion in the local context, taking into account social, cultural, and institutional factors in depth. Third, there is no comparative empirical approach that connects the practice of Diversion in Indonesia with Norway as a critical reflection. Thus, this research not only focuses on the administrative or procedural aspects of Diversion but also explicitly includes the dimension of justice for victims, an aspect often neglected in restorative justice practices. Comparisons with Norway are used as a reflective analytical tool to enrich understanding, not to shift the main focus of the research, which remains grounded in local contexts. This study offers three novelties: (1) empirical evidence from non-urban

⁸ Rifdah Alifiyah and Isa Anshori, "Legal Protection for Children in Cases of Domestic Violence in the Indonesian Households," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (2023): 348–61, <https://doi.org/10.22373/ujhk.v6i2.19153>; Mariani Amberi, "Efforts to Prevent Child Marriage Based on Philosophy of Islamic Law and Indonesian Positive Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 239–60, <https://doi.org/10.22373/sjhk.v7i1.12404>; Nurini Aprilianda, Mufatikhatul Farikhah, and Liza Agnesta Krisna, "Critical Review Selecting a Proper Law to Resolve Sexual Violence Against Children in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 954–74, <https://doi.org/10.22373/sjhk.v6i2.9050>; Satria Juanda, Burhanuddin Abdul Gani, and Syarifah Rahmatillah, "The P2TP2A's Effort to Cope with the Intensification of Sexual Abuse of Children in Perspective of the Islamic Family Law (A Case Study at the City of Banda Aceh)," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 1 (2023): 115–30, <https://doi.org/10.31078/jk14110>; Citra Dewi Keumala, Rizanizarli, and Syarifuddin Hasyim, "Testimonium De Auditu in the Case Rape of Children's," *Syariah: Jurnal Hukum Dan Pemikiran* 22, no. 2 (2022): 151–61, <https://doi.org/10.18592/sjhp.v22i2.4953>; Ermanita Permatasari et al., "Perlindungan Terhadap Anak Korban Eksploitasi Seksual Dalam Perspektif Yuridis-Normatif Dan Psikologis (Studi Kasus Wilayah Hukum Polres Lampung Timur)," *Al-Adalah* 13, no. 2 (2016): 215–26, <https://doi.org/10.24042/adalah.v13i2.1860>; Abdul Rahman, Zainal Amin Ayub, and Ratnawati, "Legal Framework for Protecting Children from Commercial Sexual Exploitation," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 8, no. 1 (2025): 87–110, <https://doi.org/10.24090/volksgeist.v8i1.13156>; Endrianto Bayu Setiawan et al., "The Indonesian Criminal Law System's Progression in Sexual Assaults Regulation," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5, no. 2 (2022): 161–77, <https://doi.org/10.24090/volksgeist.v5i2.6690>.

Indonesia, (2) a multi-stakeholder perspective, and (3) comparative analysis with Scandinavian restorative justice.

Based on this, the problem of this research is formulated in two main questions: (1) What is the understanding and practice of the apparatus in the application of Diversion in cases of sexual violence by children in the Kolaka Police and South Konawe Police, Southeast Sulawesi, Indonesia, and its comparison with the practice in Norway? (2) What are the supporting and inhibiting factors for the implementation of Diversion in efforts to protect perpetrators' and victims' rights in Kolaka and South Konawe, Southeast Sulawesi, Indonesia, and their comparison with those in Norway?

With this formulation, the research not only focuses on the administrative or procedural aspects of Diversion but also explicitly includes a dimension of justice for victims that has often been neglected in restorative justice practices. Comparisons with Norway are used as a reflective analytical tool to enrich understanding, not to shift the main focus of the research, which remains grounded in local contexts. Within this framework, this study also comprehensively examines the supporting and inhibiting factors influencing the implementation of Diversion in Kolaka and South Konawe, and reflects critically on them in relation to practices in Norway.

The findings of this study are anticipated to provide practical input for policymakers, law enforcement agencies, and child protection bodies by promoting a more equitable, context-sensitive, and recovery-focused approach in addressing children in conflict with the law.

Method

This study uses a qualitative approach with a case study design to analyze in depth the practice of the application of Diversion as part of the *restorative justice* (RJ) approach in handling cases of sexual violence by children in two jurisdictions, namely the Kolaka Resort Police and the South Konawe Resort Police, Southeast Sulawesi Province, Indonesia, as well as a comparative reflection on similar practices in Norway. This approach is not only descriptive but also analytical, emphasizing the

dynamics of policy implementation, stakeholder interaction, and the social and institutional contexts that influence Diversion practices at the local level. The research site was chosen based on three primary considerations: (1) the significant prevalence of child sexual violence cases in the area; (2) the practice of implementing Diversion in handling children's cases; and (3) the affordability of access to key actors involved in the law enforcement and child assistance process. Meanwhile, Norway was chosen not as a normative model but as a *reflective comparison* to enrich the analysis of the limitations and possible avenues for strengthening locally based practices.

Data were gathered between June and August 2025 through four primary methods: (a) comprehensive interviews; (b) focused observation; (c) analysis of relevant documents; and (d) review of existing literature. Interviews were conducted with 8 informants, consisting of law enforcement officers at the Women and Children Protection Unit (PPA) of the Criminal Investigation Unit of the Kolaka Police and the South Konawe Police, as well as community supervisors at the Correctional Center Post (Bapas) in Kolaka who had direct involvement in the implementation of the Diversion. Observations are limited on the service process and coordination between institutions to understand formal procedures and informal practices in the field. The document study includes case handling reports, related regulations, and institutional documents. In contrast, the literature review focuses on reputable scientific articles that discuss the practice of Diversion and RJ in Scandinavian countries, particularly Norway.

The selection of informants is carried out purposively, based on relevance, experience, and direct involvement in Diversion implementation.⁹ Taking into account the ethical principles of research and child protection, victims and child perpetrators are not interviewed directly. Information about their experiences was obtained indirectly from law enforcement officials and community advisors who handled their cases.

The data were analyzed using the interactive framework developed by Miles, Huberman, and Saldana (2014), which involves data

⁹ Michael Quinn Patton, *Qualitative Research and Evaluation Methods: Integrating Theory and Practice*, 4th ed. (SAGE Publications, 2015).

condensation, data display, and the processes of drawing and verifying conclusions. In the data condensation stage, the researcher identified and categorized the main themes, including the understanding of the apparatus, the diversion procedure, and the supporting and inhibiting factors of implementation. The data presentation stage involves preparing a matrix and a thematic narrative to facilitate the identification of patterns and comparisons across locations. The final stage involves drawing conclusions iteratively and verifying them through data validation techniques.¹⁰ Data credibility was ensured through source and method triangulation, as well as member checking with key informants to confirm the accuracy and consistency of the researcher's interpretations.

This research has several limitations. First, the absence of direct interviews with victims and child perpetrators limits the exploration of their subjective experiences in depth. Second, the limited number of informants (8 people) makes the findings difficult to generalize widely, but it still provides depth to the contextual analysis. Third, using literature studies as a basis for comparison with Norway does not fully capture the complexity of empirical practice in the country. Nevertheless, this study still makes an analytical contribution in understanding how Diversion practices are carried out in local contexts, as well as uncovering the tension between the protection of child offenders and the fulfillment of victims' rights within the framework of restorative justice.

Result and Discussion

As one of the *Restorative Justice* (RJ) approaches, Diversion is a legal effort in the juvenile criminal justice system to protect the rights of children who are vulnerable to crime, with child perpetrators. Diversion is seen as more in accordance with the principle of the best interests of children in the midst of formal judicial processes that often cause trauma, stigma, and hinder children's development. This article will outline the application of Diversion in the Handling of Sexual Violence by Children in the Kolaka and South Konawe Police Stations, Southeast Sulawesi, Indonesia, and

¹⁰ Matthew B. Miles, A. Michael Huberman, and Johnny Saldana, *Qualitative Data Analysis: A Methods Sourcebook*, ed. Helen Salmon et al., 3rd ed. (California: Sage Publication, 2014).

compare it with the practice of criminal punishment of children in Norway.

A. Understanding of the Apparatus in Indonesia and its Comparison with Norway

Understanding the apparatus for implementing the Sexual Violence by Children Diversion in Southeast Sulawesi, Indonesia, can be seen in the explanations from the Kolaka and South Konawe Police, the Women's Protection Unit of the Criminal Investigation Unit, and community supervisors.

KM, who was serving as the acting Head of Unit 4 at the Kolaka Police Criminal Investigation Unit, stated that in 2023, the Kolaka Police received 42 reports of violence involving women and children. The number of child perpetrators reaches 5-10 cases per year. According to KM, Diversion is the implementation of RJ with material and formal requirements regulated in Indonesian Police Regulation Number 8 of 2021. In legal cases involving child offenders, Law Number 11 of 2012 on the Juvenile Criminal Justice System applies, with a diversion mechanism for perpetrators facing a threat of punishment of less than 7 years. According to him, the RJ and Diversion procedures began with the agreement of both parties (perpetrator and victim).

Furthermore, a study was held to assess the conditions of its implementation. If the conditions are met, the case can be dismissed in the public interest without proceeding to court. For Diversion, the minutes of the agreement are submitted to the court for determination. Quote from KM's statement:

"For the child offender, there is also a separate law in the Juvenile Criminal Justice System, Number 11 of 2012. That regulates children who conflict with the law. So, if he is the perpetrator, the criminal act is punishable by 7 years; the process of diverting his name is underway. So, Diversion is the same as *Restorative Justice*: a settlement outside the court channels. So, we met both parties. Once the two parties reach an agreement, we announce the event. Then we forwarded the minutes to the court for a determination. ... So, if you are under

7 years old, use Diversion if we do *Restorative Justice* for more than 7 years, as long as we meet the material and formal requirements stipulated in Perpol on Restorative Justice, Perpol 8 of 2021.”¹¹

The principle of RJ is to meet victims' needs. Compensation may be provided in the form of a financial payment, material goods, or other mutually agreed forms. Additionally, there is almost always some form of compensation in an RJ agreement. However, this approach can only be applied if the victim is satisfied with the fulfillment of their rights. KM said the PPA Criminal Investigation Unit of the Kolaka Police has an internal Standard Operating Procedure (SOP) related to the implementation of RJ and Diversion.

Meanwhile, the PPA Unit of the South Konawe Police Satreskrim recorded 12 cases of sexual violence against children in the 2015-2019 period. In the context of this study, law enforcement officials' understanding of child sexual violence cases is not only reflected in the interpretation of the rule of law, but also in the way they construct the causes of the crime. Based on interviews with the Head of Criminal Investigation of the South Konawe Police, the South Konawe Police PPA Satreskrim Office, the South Konawe Police Pidum Satreskrim Office, and the detainees of the Police Headquarters, the main factors that encourage the occurrence of child sexual violence include internal factors and external conditions. Internal factors include weak family supervision, the influence of promiscuity, uncontrolled sexual urges, and easy access to pornographic content through technology. In addition, the consumption of alcoholic beverages and the existence of opportunities in certain situations are also seen as increasing the risk of crime.

On the other hand, external factors include weak social control from the family, society, and the surrounding environment. Nevertheless, some perceptions of law enforcement still reflect a victim-blaming narrative, which points to the need for gender-sensitive training. This perspective shows that understanding of the apparatus is not completely neutral but is influenced by certain social and cultural values, which, in turn, can shape

¹¹ Interview Thursday, July 10, 2025

case-handling practices, including the implementation of Diversion. The explanation is as follows:

"According to the results of the interview with the perpetrator and the South Konawe Police detainee, at first, they had a romantic relationship based on mutual liking, without any coercion. However, the woman's family did not accept the perpetrator's actions after her son told the chronology of the incident, so it was reported to the police with allegations of molestation. According to members of the PPA Office, most of the cases of intercourse that occurred in the South Konawe Police area were initially between the victim and the perpetrator who knew each other closely and established a romance/courtship relationship because there was an assumption that the woman (victim) was naughty, so that the perpetrator was encouraged to establish a relationship and vent his intentions."¹²

In handling cases of sexual violence against children, the South Konawe Police apply two main approaches, namely preventive and repressive. The preventive approach is carried out through counseling, socialization, and cooperation with community and religious leaders. Meanwhile, the repressive approach is carried out through law enforcement, including arrests, the examination of suspects, the confiscation of evidence, and investigative processes in accordance with applicable laws and regulations.

Procedurally, after receiving the report, the police officers carry out the stages of handling the case as stipulated in the criminal procedure law, including the investigation process to determine whether the case is continued to court or resolved through the diversion mechanism. In some cases, the South Konawe Police continue to demand severe criminal charges against the perpetrators in accordance with the Child Protection

¹² L, "Faktor Penyebab Terjadinya Kekerasan Seksual Terhadap Anak Di Wilayah Hukum Polres Konawe Selatan." This research article is used as a supporting source, as interview efforts with the South Konawe Police were unsuccessful due to time constraints.

Law.¹³ However, not all cases are processed in court, as some are resolved through Diversion. In addition, there is also a practice of family settlement through marriage, agreed upon by the families of the perpetrator and the victim.¹⁴

These findings show that case handling is not determined solely by formal legal procedures, but also by the authorities' understanding of the purpose of handling children in conflict with the law. The variation in the settlement of these cases indicates a tension between formal legal frameworks and practices on the ground, influenced by social and cultural values, as well as the authorities' interpretation of justice in cases of child sexual violence.

The Community Supervisor at the Kolaka Correctional Centre Post (Bapas), LH, explained the difference between RJ and Diversion. RJ applies to children and adults, while Diversion is provided for children who are not repeat offenders or pose a threat to public safety under 7 years of age. Successful diversion must be determined by the Chairman or Deputy Chairman of the District Court. LH explains the difference between RJ and Diversion as follows.

“This, if RJ (*Restorative Justice*) can actually generally apply to children and adults. If it is a Diversion, this language applies only to children. The rule is clear in Law Number 11 of 2012 on the Juvenile Criminal Justice System: it is contained in Article 7. The element of Diversion is only 2. First, he is not a repeat offender, and his threat is under 7 years. The determination by the chairman or deputy chairman of the district court must authentically prove the repetition in question.... If the chairman or deputy chairman of the district court has automatically determined this case, it will be stopped. Based on my understanding of Article 29, when the chairman and vice chairman determine Diversion, the investigator is obliged to stop the investigation, and the prosecutor is obliged

¹³ Pemerintah Pusat, “Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak/Law Number 35 of 2014 on Amendments to Law Number 23 of 2002 on Child Protection (2014)”, <https://peraturan.bpk.go.id/Details/38723/uu-no-35-tahun-2014>.

¹⁴ L, “Faktor Penyebab Terjadinya Kekerasan Seksual Terhadap Anak Di Wilayah Hukum Polres Konawe Selatan.”

to stop the prosecution. Based on the determination of the chairman or deputy chairman of the district court.”¹⁵

LH explained the Diversion process under Law No. 11 of 2012 on the Juvenile Criminal Justice System (Sistem Peradilan Pidana Anak, SPPA).

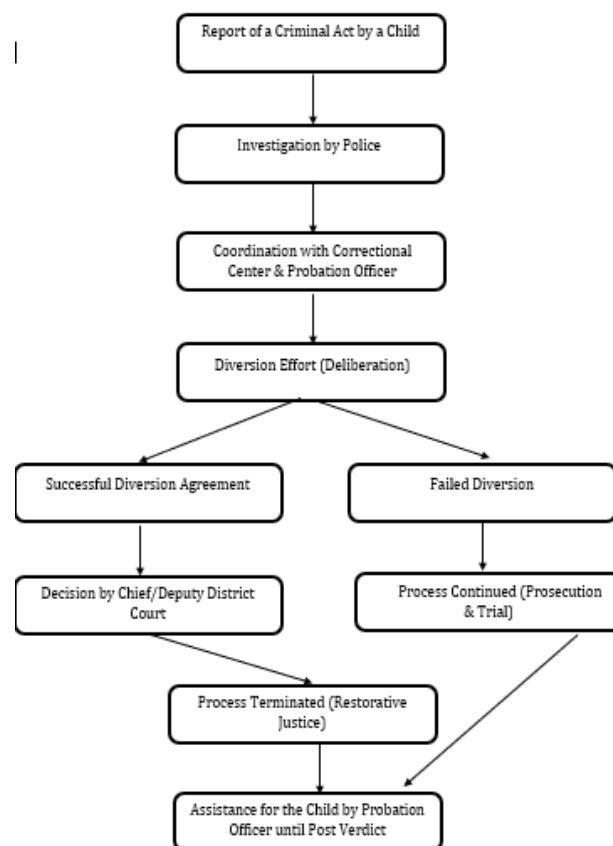


FIGURE 1. Explanation of the diversion flow according to the SPPA Law. Source: Primary Data (2025)

In the visualization, a child is depicted as having committed a crime. During the investigation, the police are obliged to coordinate with the Correctional Center (Bapas) through the Community Supervisor (PK). Furthermore, Diversion is carried out through deliberation between the perpetrator, the victim, the family, the father, and related parties. If

¹⁵ Interview Thursday, July 10, 2025

successful, the Diversion is ratified by the Chairman/Deputy Chairman of the District Court, and the case is stopped. However, if it fails, the legal process proceeds to prosecution and trial. At all stages, PK continues to accompany the child until the verdict is delivered.

To the Community Supervisor at the Kolaka Correctional Center Post (Bapas), LH, there is a difference between *restorative justice* (RJ) and Diversion. RJ can be applied to both children and adults. At the same time, Diversion is intended for children with certain criteria, such as not being repeat offenders and not posing a serious threat to public safety.

Nevertheless, this statement requires critical examination. From a normative standpoint, diversion constitutes an element of the restorative justice approach within the juvenile justice system, as established by applicable laws and regulations. Thus, the overly strict separation between RJ and Diversi shows the potential for inaccuracies in conceptual understanding at the implementation level. In addition, the limitations conveyed regarding criminal threats need to be clarified, as in legal provisions, diversion is generally applied to criminal acts involving threats of less than 7 years, not solely on perceived threats to public safety.

These findings show that the understanding of the apparatus is not always in line with the existing legal framework and theory. Therefore, it is important to assess and compare this understanding with the concepts of RJ and Diversi normatively, to determine the extent to which the apparatus truly understands the substance of the approach. This analysis is crucial because an inaccurate understanding can affect the quality of Diversion implementation, the protection of children's rights, and the fulfilment of justice for victims.

Acting Head 4 of the Kolaka Police Satreskrim, KM, said that in handling criminal cases involving children, the Kolaka Police coordinated with Bapas, the Women's Empowerment and Child Protection Office (DP3A), and professional social workers. For diversion involving child perpetrators, coordination is carried out with the father as a companion to the perpetrator. If the victims are children, it involves DP3A and professional social workers. If Diversi has obtained a court decision, it will not be continued to the prosecutor's office or the court. If the file has been submitted but the diversion process is underway, coordination with the prosecutor will continue. KM explained as follows:

"What we are involved in the process of children as perpetrators is the Correctional Center (Bapas). There is a Bapas post here at the Kolaka Detention Center. So, his office is in Kendari, ma'am, but his father's post is here, in a rutan (detention house). That is, if the child is the perpetrator, if the child is the victim, it can involve DP3A, and, from professional social workers, if the professional social worker is appointed directly by the ministry and placed in the social service. He accompanied the child. So, apart from the accompanying parents, Bapas is also the one who accompanies the legal process to the court."¹⁶

Article 65 of Law No. 11 of 2012 on the Juvenile Criminal Justice System stipulates that investigators, prosecutors, and judges must provide special safeguards for children involved in criminal proceedings during emergencies, by ensuring that any sanctions imposed do not place an undue burden on them.

According to the law, investigators are also obliged to coordinate with Bapas if the perpetrators are children. The Community Supervisor of the Bapas Kendari Post in Kolaka, LH, said that Article 27 of Law Number 11 of 2012 on the Juvenile Criminal Justice System states that if the investigator receives a report of an alleged criminal act committed by a child, then the investigator is obliged to coordinate with the Bapas community supervisor. In addition to Bapas, certified child advocates are also required to be involved in accompanying children as perpetrators. Professional social workers focus more on the victim's child, and that's additional. As a precaution, socialization can involve schools.

In general, there is a common understanding between Kolaka and South Konawe Police Criminal Investigation officers and Community Supervisors at the Correctional Center (Bapas) as companions to perpetrators of sexual violence by children in the implementation of the Diversion of sexual violence cases at the Kolaka and South Konawe Police, Southeast Sulawesi, Indonesia. Authorities recognize Law No. 11 of 2012 on the Juvenile Criminal Justice System as the legal foundation for

¹⁶ Interview Thursday, July 10, 2025

implementing diversion for children. Law enforcement officials and Bapas emphasized the importance of Restorative Justice as a Diversion approach that involves victims, perpetrators, and families. Diversion cannot be implemented without the victim and the victim's family. The involvement of fathers, community leaders, parents, and law enforcement officials is very important in the implementation of Diversion.

This indicates that diversion practices in Indonesia remain procedural rather than substantive, as victim protection is often subordinated to social harmony. The understanding of law enforcement officials in Kolaka and South Konawe indicates that Diversion is practiced as a form of restorative justice, oriented towards out-of-court settlements through agreements between the perpetrator and the victim, with a legal basis that is relatively well understood procedurally. However, this understanding remains partial, marked by conceptual simplification (equating Diversion with RJ), a biased perspective that often blames the victim, and informal practices such as reconciliation through marriage. From John Rawls' perspective, this condition indicates the unfulfilled principle of justice as fairness, particularly in ensuring equal protection for victims and vulnerable groups. Meanwhile, in Antony Duff's framework, Diversion practices should emphasize the moral accountability of perpetrators through a communicative and just process, rather than merely a pragmatic compromise. Understandably, Diversion practices in both regions can be categorized as "semi-restorative," that is, formally adopting the principles of restorative justice but not yet fully reflecting substantive justice, either from the perspective of distributive justice or of moral communication within the criminal justice system.

The practice of diversion in Indonesia is carried out in 3 stages: pre-adjudication, adjudication, and post-adjudication. In pre-adjudication, the police can apply *Restorative Justice* and stop the case under the Police Regulations. In adjudication, prosecutors and judges are obliged to seek a transfer in accordance with Law Number 11 of 2012 and Supreme Court Regulation Number 4 of 2014. After adjudication, the Special Child

Development Institution (LPKA) and the Correctional Institution (Bapas) provide rehabilitation, education, and social reintegration for children.¹⁷

Under Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA), several requirements must be met for diversion to be applied. First, the child alleged to have committed the offense must be at least 12 years old, or already married, but still under 18. Second, the offense carries a potential sentence of less than seven years' imprisonment. Third, the child is not a repeat offender. Fourth, the process involves deliberation among the child and their parents or guardians, the victim and their parents or guardians, Community Counselors (PK), and professional social workers. Fifth, any diversion agreement requires the approval of the victim, the victim's child, and/or the victim's parents or guardians. Sixth, the diversion procedure must be completed within 30 days.

The regulatory aspect is the main highlight in the review of the implementation of Diversion to date. The Diversion Rule, which only applies to criminal acts involving threats by children under 7, has been criticized for creating legal uncertainty. Restrictions can also undermine the essence of Diversion as an alternative to punishment.¹⁸ In addition, research across several regions found differences in how law enforcement officials interpret the requirements for Diversion, especially regarding consent for victims and families. This results in inconsistencies in practice in the field and creates a sense of injustice. Therefore, some authors encourage reformulating the Diversion regulation to better align with RJ principles and local needs.

Ensuring legal safeguards for child victims of sexual violence requires adopting a mediation-based approach between the victim and offender to uphold victims' rights and help minimize trauma. Therefore, practical guidelines are needed for the application of RJ in sexual cases, emphasizing the safety of the victim and the cultural context. Identification of key

¹⁷ Dian Ekawaty Ismail et al., "The Comparative Study: Protecting Children's Rights Through Law Reform of Restorative Justice in Juvenile Cases," *Journal of Law and Legal Reform* 6, no. 2 (2025): 909–50, <https://doi.org/10.15294/jllr.v6i2.13724>.

¹⁸ Muliani Samiri et al., "Reformulasi Syarat Pelaksanaan Diversi Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 5, no. 2 (2023): 358–73, <https://doi.org/10.14710/jphi.v5i2.358-373>; Andre Prakoso and Adianto Mardijono, "Legal Analysis of Diversion Efforts on Criminal Acts of Sexual Violence by Children as Perpetrators," *Journal of Social Science* 4, no. 5 (2023): 1180–86, <https://doi.org/10.46799/jss.v4i5.698>.

phases for the implementation of post-sexual RJ should also be undertaken to ensure that it is safe for adult survivors, especially from vulnerable communities.¹⁹ The challenge of diversion in Indonesia, while still limited to criminal threats under the age of 7, is not optimal in sensitive cases such as sexual violence, and needs to be evaluated by RJ regulations and programs to comply with the standards of the Convention on the Rights of the Child.²⁰

The global literature enriches the debate about Diversion and RJ. RJ can be applied in cases of sexual violence, provided it is carried out with close supervision and adequate victim participation.²¹ Rape survivors see RJ as an effort toward recovery and can complement the legal system.²² Although public resistance remains, global trends point to an increase in RJ acceptance. Some victims felt that RJ allowed them to share their experiences and gain recognition for their suffering.²³ In fact, many survivors feel that they are heard more in restorative mediation mechanisms than in formal court channels.²⁴ Survivor support for RJ and Diversion as an option, as long as it is voluntary and not forced.²⁵

¹⁹ Chepi Ali Firman Zakaria, Ade Mahmud, and Aji Mulyana, "Legal Protection for Child Victims of Sexual Assault in a Restorative Justice Perspective," *Jurnal Penelitian Hukum De Jure* 23, no. 1 (2023): 59–70, <https://doi.org/10.30641/dejure.2023.v23.59-70>; V. Mercer, K. Madsen, and M. and Zinsstag E.) (Edited by Keenan, *Doing Restorative Justice in Cases of Sexual Violence: A Practice Guide*, ed. Marie (Keenan and Estelle Zinsstag (Leuven: Leuven Institute of Criminology (LINC), University of Leuven (KU Leuven) and European Commission, 2015); Courtney Julia Burns and Laura Sinko, "Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review," *Trauma, Violence, and Abuse* 24, no. 2 (2021): 1–15, <https://doi.org/10.1177/15248380211029408>.

²⁰ Ismail et al., "The Comparative Study: Protecting Children's Rights Through Law Reform of Restorative Justice in Juvenile Cases."

²¹ Mercer, Madsen, and (Edited by Keenan, *Doing Restorative Justice in Cases of Sexual Violence: A Practice Guide*.

²² Alexa Sardina and Alissa R Ackerman, "Restorative Justice in Cases of Sexual Harm," *City University of New York Review* 25, no. 1 (2022): 1–57; Marie Keenan and Ailbhe Griffith, "Two Women's Journeys: Restorative Justice after Sexual Violence," in *The Praxis of Justice*, ed. Pali B (Eleven Publishing, 2019), 305–18.

²³ Clare McGlynn, Nicole Westmarland, and Nikki Godden, "'I Just Wanted Him to Hear Me': Sexual Violence and the Possibilities of Restorative Justice," *Journal of Law and Society* 39, no. 2 (2012): 213–40, <https://doi.org/10.1111/j.1467-6478.2012.00579.x>.

²⁴ Burns dan Sinko, "Keadilan Restoratif untuk Penyintas Kekerasan Seksual yang Dialami di Masa Dewasa: Tinjauan Pelingkupan."

²⁵ Francesca Marsh and Nadia M. Wager, "Restorative Justice in Cases of Sexual Violence: Exploring the Views of the Public and Survivors," *Probation Journal* 62, no. 4 (2015): 336–56, <https://doi.org/10.1177/0264550515619571>.

In the United States, RJ has flourished since the 1970s through victim-perpetrator mediation, family conferences, restitution, and school programs. However, its implementation depends on state law and has not addressed the severe issues. As for Malaysia, it refers to the Children's Act 2001 (2016 amendment). Diversion has not been explicitly used in the pre-trial stage, but juvenile courts have the discretion to impose alternative sanctions, such as social work, coaching, and supervision.²⁶ This global context is relevant to Indonesia because local practices such as village deliberations and customary law have the same principles as RJ. Therefore, international practice not only provides theoretical justification but also strengthens the legitimacy of the peace settlement model rooted in Indonesia's local traditions.

Indonesia and Scandinavia (such as Norway, Denmark, and Sweden) differ in their approaches to punishing child offenders. The fundamental difference lies in the philosophy underlying the system. The juvenile criminal justice system in Indonesia, although it has undergone development with Law Number 11 of 2012 on the Juvenile Criminal Justice System, still tends to be retributive in practice, namely, in punishing perpetrators according to their actions. On the other hand, Scandinavian countries such as Norway, Sweden, Denmark, and Iceland have embraced a restorative approach. Restorative justice emphasizes improving relationships among perpetrators, victims, and society. The goal is to recover losses from criminal acts and to reintegrate children into society. Scandinavian countries consistently implement restorative approaches through priority diversion, detention as a last resort, comprehensive rehabilitation facilities and program support, and a higher age of criminal responsibility.²⁷

In Norway and Scandinavian countries, RJ is rooted in a tradition of social welfare, a humanist legal system, and a strong commitment to *the best interests of children*. The Convention on the Rights of the Child (CRC) provides a moral and political basis for almost all Scandinavian countries,

²⁶ Ismail et al., "The Comparative Study: Protecting Children's Rights Through Law Reform of Restorative Justice in Juvenile Cases."

²⁷ Morten Holmboe, "Norwegian Youth Punishment-Opportunity or Trap?," *Bergen Journal of Criminal Law and Criminal Justice* 5, no. 1 (2017): 37-58, <https://doi.org/10.15845/bjclcj.v5i1.1352>.

so that policies in line with the law place great emphasis on rehabilitation, social reintegration, and the minimization of detention. Mechanisms such as *Victim-Perpetrator Mediation* (VOM), *Youth Conferences*, or *Youth Sanctions* (Norway) are implemented through official institutions, trained mediators, and social worker support. Research findings, such as those by Albrecht (2010), show that although the RJ model in Scandinavia is relatively well-established, challenges still arise, especially in multicultural contexts, including language barriers, differences in cultural norms, and difficulties mediators face in establishing "resonance" with migrant or refugee participants.²⁸ Meanwhile, research by Andrews & Eide (2024) reveals that in the case of youth, RJ often experiences excessive institutionalization, i.e., professionals dominate the process, victims are rarely present, and the motivation of the perpetrator often comes from the desire to avoid prison, not reconciliation.²⁹ Bauer (2019) points out that Norway has implemented an RJ system consistent with the Convention on the Rights of the Child, in stark contrast to the punitive approach in the United States.³⁰

Nevertheless, Scandinavia has remained consistent in its rehabilitation principles, with very few child detentions, a range of formal diversion programs, and strong social support. Studies such as those conducted by Enell and Holmboe demonstrate a comprehensive legal framework and ongoing policy evaluation to ensure that RJ is aligned with child well-being goals. Enell (2022) highlights that while practices of child detention differ across Nordic countries, they generally emphasize the child's best interests and seek to limit the use of confinement.³¹

Holmboe (2017) outlines Norway's juvenile sentencing system, which is relatively lenient, but requires re-evaluation to avoid unforeseen

²⁸ Berit Albrecht, "Multicultural Challenges for Restorative Justice : Mediators ' Experiences from Norway and Finland," *Journal of Scandinavian Studies in Criminology and Crime Prevention* 11 (2010): 3–24, <https://doi.org/10.1080/14043851003616204>.

²⁹ Therese Marie Andrews and Ann Kristin Eide, "Revisiting the Gap between Ideals and Realities within Restorative Justice : Experiences from the Norwegian Youth Justice Reform," *Criminology & Criminal Justice*, 2024, 1–17, <https://doi.org/10.1177/17488958241235403>.

³⁰ Emily Bauer, "Rehabilitative Promise: Why Norway Uses Restorative Justice in Juvenile Law," *Michigan State International Law Review* January (2019): 1–6.

³¹ Sofia Enell et al., "Confinement and Restrictive Measures against Young People in the Nordic Countries – a Comparative Analysis of Denmark," *Nordic Journal of Criminology* 23, no. 2 (2022): 174–91, <https://doi.org/10.1080/2578983X.2022.2054536>.

consequences for children. Child punishment in Norway, or *youth punishment* (*ungdomsstraff*), was introduced in 2014 as an alternative to prison for child offenders. This framework is grounded in the principle that detention of children should only be used as a measure of last resort, consistent with the UN Convention on the Rights of the Child. Norway sets the age of criminal liability at 15 years, and children under 18 are treated less leniently than adults.

Empirically, the use of *youth punishment* has increased in recent years. The latest data shows that by 2025, the Norwegian mediation agency (*Konfliktrådet*) will handle around 218 youth sanction cases, an increase of more than double compared to the previous year.³² This indicates increasing trust of law enforcement officials in the non-imprisonment approach for child offenders, especially for serious or repeat crimes.

In practice, *youth punishment* is carried out through a restorative conference mechanism facilitated by *Konfliktrådet*, involving perpetrators, victims, families, and other social actors. The result of the conference is the preparation of an individualised action plan that may include obligations to participate in education and job training, psychological counselling, social restrictions, and intensive supervision by social workers. The implementation duration ranges from 6 months to 3 years.³³

In terms of effectiveness, the data show that around 80% of perpetrators complete the *youth punishment* program, while about 20% fail, generally due to violations of conditions or new criminal acts. However, recidivism rates are still a challenge, with around 50% of offenders re-committing offenses within 1-3 years after the program is completed.³⁴ These findings suggest that although restorative approaches provide rehabilitation opportunities, the process of desistance from crime remains long-term and complex.

On the other hand, the *National Audit Office of Norway's* (2025) report shows that juvenile crime is actually increasing, including in the

³² Nordic Times, "Norway Sees Sharp Increase in Youth Sentencing," 2025.

³³ Konfliktrådet, "Young Offenders and Youth Sanctions in Norway," 2023. Konfliktrådet is an official mediation institution in Norway that handles conflict resolution and criminal acts through a restorative justice approach, by bringing together perpetrators and victims to reach a peaceful agreement.

³⁴ Nordic Times, "Norway Sees Sharp Increase in Youth Sentencing."

form of serious crimes such as serious violence and robbery.³⁵ In fact, the increase is also evident among children below the age of criminal responsibility (under 15 years old), who are not subject to criminal prosecution.

This shows the structural challenges in Norway's system for preventing and handling child crime. In the context of judicial practice, *youth punishment* is not universally applied to all serious crimes. In certain cases, such as murder and serious sexual violence, courts—including the Norwegian Supreme Court—continue to impose prison sentences with consideration of the interests of public justice and public prevention. Thus, the restorative approach does not completely replace the retributive paradigm in practice.

Furthermore, as Holmboe (2017) criticized, there is potential ambivalence in the design of *youth punishment*. On the one hand, this system provides more humane rehabilitation opportunities than imprisonment. However, because the content of the *action plan* is determined after the court decision and can be very intensive, there is a risk that the sanctions will be heavier than alternatives, such as *youth follow-up*. This condition has the potential to "trap" the child in a scheme whose consequences are not fully understood from the start.

In summary, youth sanctions reinforce a rehabilitative focus within Norway's juvenile justice system by emphasizing a community-based restorative model. However, evidence suggests that their effectiveness remains contingent on how well they are implemented, the institutional capacity of bodies such as Konfliktrådet, and the system's ability to strike a balance between safeguarding children's best interests and meeting broader expectations of justice. In this context, Holmboe's (2017) critique remains relevant, that *youth punishment* is an "opportunity or trap" that requires continuous evaluation.

In summary, the understanding of the apparatus and perpetrators' companions in the implementation of the Sexual Violence Case Diversion case in the Kolaka and South Konawe Police, Southeast Sulawesi, and its

³⁵ Riksrevisjonen (National Audit Office of Norway), "The Authorities' Efforts to Combat Crime Committed by Children and Young People (Document 3:Xx 2024–2025)." (Oslo, 2025).

comparison with the practice in Norway, can be seen in the following table:

TABLE 1. Comparison of Apparatus Understanding in Indonesia and Norway

Aspects	Kolaka Police Station	South Konawe Police Station	Kolaka Community Counselors	Practice in Norway
Special legal basis	Emphasizing Perpol No.8/2021 on Restorative Justice.	Focus on Law No.35/2014 on Child Protection in addition to Law No.11/2012 on the Juvenile Criminal Justice System.	Strictly referring to the articles of Law No.11/2012 on the Juvenile Criminal Justice System (Articles 7, 27, 65).	Juvenile criminal justice is based on the United Nations Convention on the Rights of the Child, national criminal law, and <i>youth punishment</i> (2014), which states that imprisonment of children is a last resort.
Definition and scope	Diversion is focused on perpetrators of child crimes, criminal threats under 7 years old, and must go through the District Court.	In South Konawe, Diversi and RJ are sometimes mixed with adat (settlement through marriage).	Diversion is focused on perpetrators of child crimes, criminal threats under 7 years old, and must go through the District Court. RJ for children and adults, flexible (can stop at inquiry).	Alternative prison sanctions for children aged 15–18 years based on RJ, applied to serious/repeated crimes.

Process	There is a case titled "Diversion," awaiting the District Court's determination. RJ can be stopped in the investigation.	Case handling is more repressive-preventive. Diversion / RJ is carried out selectively.	It is mandatory to coordinate from the beginning. The chairperson or vice-chairman of the District Court must request a successful diversion.	Through restorative conferences (by <i>Konfliktrådet</i>) involving perpetrators, victims, and families, an individual <i>action plan</i> lasting 6 months to 3 years is developed.
Victims' rights and compensation	There is concrete compensation (money/goods).	Often not explicit, more of a "family/customary agreement" (e.g., marriage).	Diversion must respect victims' rights. If the victim refuses, the legal process continues.	The victim was actively involved; Recovery emphasizes restorative (apology, perpetrator responsibility) rather than financial compensation.
Case data	42 cases (2023), child perpetrators 5–10 cases/year.	In 12 cases (2015–2019), the majority of sexual violence cases originated from dating.	The data is centralized at Bapas Kendari and accompanies children at all stages of their development.	In 2025, around 218 cases; $\pm 80\%$ succeed, $\pm 20\%$ fail; recidivism is about 50%; it does not apply to all serious crimes (murder and serious sexual violence).

Source: Primary and Secondary Data, 2025

B.Supporting and Inhibiting Factors for the Implementation of Diversion

This study further examines the enabling and constraining factors influencing the implementation of diversion, drawing on experiences in handling child-perpetrated sexual violence cases within the jurisdictions of the Kolaka and South Konawe Police in Southeast Sulawesi, Indonesia, and compares them with similar conditions in Scandinavia, particularly Norway.

In the understanding of the Acting Officer of Kanit 4 Satreskrim of the Kolaka Police, KM, the supporting factors for the implementation of Diversion are the existence of an agreement, the fulfillment of the victim's rights, and a statement letter from the victim. In supporting Diversion, traditional leaders can become mediators in accordance with the provisions of Police Regulation Number 8 of 2021. Based on his experience handling cases in the field, traditional leaders have been involved. The Community Advisor at the Kolaka Bapas Post, LH, emphasized that in some cases, mediation involves traditional leaders or community leaders to strengthen the peace agreement. In South Konawe, the peaceful path involving family agreements, such as marrying child perpetrators and child victims in cases of sexual violence, was chosen because some communities still adhere to a very thick customary system.³⁶ A key obstacle to implementing diversion in child violence cases at the Kolaka Police is that victims or their families often prefer to pursue formal court proceedings, or because the victims' rights have not yet been adequately fulfilled. Kolaka Police investigators also face challenges in revealing cases of violence against children because victims are often closed off and difficult to communicate with.

To address this, the Kolaka Police Criminal Investigation PPA Unit developed an approach that relies on the role of the Women Police (Polwan) and on communication methods more sensitive to victims' needs. This approach not only focuses on legal procedures but also considers the psychological, cultural, and comfort aspects of the victim in

³⁶ L, St Fatmawati. "Faktor Penyebab Terjadinya Kekerasan Seksual Terhadap Anak Di Wilayah Hukum Polres Konawe Selatan." *Almufi Jurnal Sosial Dan Humaniora* 1, no. 3 (2024): 410-16. <https://almufi.com/index.php/ASH/article/view/402>.

the examination process. Thus, the use of Polwan and this particular method reflects the adaptation of law enforcement practices to the local social context, particularly in building trust and reducing victim trauma. The following excerpt of KM's statement:

"We approached the victim. So, there are ways we are here. Sometimes, some parties do not want to be communicated with. So, we approached him to let him speak his mind. So, that's just the way we are here. We put forward the Police here."

³⁷

In addition, there is no special rehabilitation place for child victims of violence in the Kolaka Regency area. In fact, this facility also contributed to the diversion agreement between the perpetrator and the victim's child.

Meanwhile, in the South Konawe Police, the factors that hinder the diversion of cases of sexual violence by children are local culture, social stigma, limited understanding of the authorities and society, and internal family factors. From a cultural perspective, some cases that are resolved by marrying the victim and the perpetrator have the potential to ignore the rights of the victim. Meanwhile, the social stigma in South Konawe shows that victims are often considered "naughty", so they are not seen as the aggrieved party. There is limited understanding among authorities and the public of the principles of *Restorative Justice* (RJ), which should be oriented towards the recovery of victims rather than just family peace. Internal family factors, such as weak supervision and permissive attitudes, trigger repeat cases. While external influences are technology (pornography), alcohol, and a lack of social control, they worsen the situation.³⁸

The Community Supervisor of the Kolaka Bapas Post, LH, said the biggest challenge in implementing Diversion was when the victim rejected the effort. Another inhibiting factor is the failure to fulfil victims' rights or

³⁷ Interview Thursday, July 10, 2025.

³⁸ L, St Fatmawati. "Faktor Penyebab Terjadinya Kekerasan Seksual Terhadap Anak Di Wilayah Hukum Polres Konawe Selatan." *Almufi Jurnal Sosial Dan Humaniora* 1, no. 3 (2024): 410–16. <https://almufi.com/index.php/ASH/article/view/402>.

provide compensation. In addition, case files are sometimes submitted to the prosecutor's office even while diversion efforts are ongoing, necessitating intensive coordination among Bapas, the police, and the prosecutor's office.

Studies in Kolaka and South Konawe Districts, Southeast Sulawesi, show that the protection and prevention of violence against children requires institutional synergy, systematic communication strategies, and sustainable educational interventions. The collaboration between the Women's Empowerment and Child Protection Office (DP3A) and the Kolaka Police through the PPA Unit can be seen through the mechanism of face-to-face dialogue, communication media-based coordination, as well as legal counseling and children's forums, which, as a whole, have built trust and harmony of roles in handling cases of child violence. DP3A Kolaka conveyed information by phone and in collaboration with the Kolaka Police, Religious Courts, non-governmental organizations, and the mass media.³⁹

In Kolaka Regency, DP3A's communication strategy emphasizes the implementation of initial surveys to find out the location of socialization, coordination with relevant officials at the sub-district level, as well as the preparation of persuasive, educational, informative, and tailored communication messages tailored to the characteristics of the target, as an effort to encourage changes in mindset, behavior, and culture.⁴⁰ In addition, Community Service (PKM) activities at SMK Negeri 4 South Konawe show that socialization of sexual violence prevention can increase adolescents' knowledge and awareness of the risk of violence, as well as make a real contribution to efforts to mitigate cases of sexual violence, which still show high numbers in the region.⁴¹

³⁹ Hendrik, Jamaluddin, and Septiana, "Sumberdaya Dalam Penanganan Anak Korban Kekerasan Seksual Pada Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Kabupaten Kolaka Sulawesi Tenggara."

⁴⁰ Arman, Nursamsir, and Anis Ribcalia Septiana, "Strategi Komunikasi Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Dalam Mencegah Tindak Kekerasan Perempuan Dan Anak Di Kabupaten Kolaka," *Arus Jurnal Sosial Dan Humaniora (AJSH)* 4, no. 3 (2024): 2050–65, <https://doi.org/10.57250/ajsh.v4i3.835>.

⁴¹ Septiana et al., "Sosialisasi Pencegahan Kekerasan Seksual Pada Remaja Di SMK Negeri 4 Konawe Selatan." This community service activity was carried out by a team of lecturers from the University of Sembilanbelas November Kolaka in an effort to prevent sexual violence against children in the school environment in South Konawe Regency, Southeast Sulawesi.

Restorative Justice (RJ) is a normative framework that emphasizes a balance between protecting the perpetrator's children and the victim's children. Several previous studies have shown the need for psychosocial rehabilitation for sexually abused children. There is also a restitution assessment, which serves as an instrument of victim recovery and a means to hold perpetrators accountable.⁴² The victim's position in the transfer practice is often ignored, so a more balanced approach is needed for both parties.⁴³ At the school level, students assess the need for an appropriate response to each case of sexual violence, which tends to incorporate a diversion and punishment approach.⁴⁴ Meanwhile, students proposed the feminist diversion model as an alternative mechanism for handling sexual violence on campus to be more responsive to the needs of victims. Because so far, the handling of sexual violence cases on campus has relied on traditional criminal logic.⁴⁵

Cultural, structural, and financial factors are believed to influence the success of Diversion, including community leaders' support and the victim's decision to file the case in court. On the other hand, criminal mediation, the role of the family, and law enforcement awareness are also main factors in the success of Diversion. The support of community leaders and religious leaders strengthens the legitimacy of Diversion at the

⁴² Panusunan Panusunan et al., "Reformulation of Law Decision Bias on Restitution Payments in Sexual Violence Crimes (Comparison of Indonesia and The Netherlands)," *Journal of Law and Legal Reform* 6, no. 3 (2025), <https://doi.org/10.15294/jllr.v6i3.22109>.

⁴³ Maria Natasha Rudijanto et al., "Analisis Mengenai Hak Anak Yang Menjadi Pelaku Kekerasan Seksual: Penerapan Diversi Perwujudan Dari Restorative Justice," *Jurnal Serina Sosial Humaniora* 1, no. 1 (2023): 6–14, <https://doi.org/10.24912/jssh.v1i1.25018>; Tuti Widyeningrum and Andry Suharto, "The Value of Restitution and Diversion in the Law Enforcement of Criminal Sexual Violence Against Children," *Krtha Bhayangkara* 18, no. 1 (2024): 155–68, <https://doi.org/10.31599/krtha.v18i1.1458>; Zulfikar Kamarmir and Junifer Dame Panjaitan, "The Position of Diversion Against Victims of Child Sexual Abuse," *Insight: International Journal of Social Research* 2, no. 1 (2024): 11–18, <https://doi.org/10.59888/insight.v2i1.12>.

⁴⁴ Anis Widyawati et al., "From Peer Education to Legal Empowerment: Youth-Led Strategies for Preventing Sexual Violence in Indonesia," *The Indonesian Journal of International Clinical Legal Education* 7, no. 2 (2025), <https://doi.org/10.15294/iccle.v7i2.28329>.

⁴⁵ Savannah Gerrish, "Restorative Justice as a Response to Sexual Harm in Schools : Youth Perspectives and Reasoning" (Thompson Rivers University, 2019); Mary P. Koss, Jay K. Wilgus, and Kaaren M. Williamsen, "Campus Sexual Misconduct: Restorative Justice Approaches to Enhance Compliance With Title IX Guidance," *Trauma, Violence, and Abuse* 15, no. 3 (2014): 242–57, <https://doi.org/10.1177/1524838014521500>; Coker Donna, "Crime Logic, Campus Sexual Assault, and Restorative Justice," *Texas Tech Law Review* 49 (2016): 147–210.

local level.⁴⁶ This can be understood because sexual violence against children occurs due to family factors, environment, access to pornography, alcohol, and weak supervision from the family and environment.⁴⁷ The findings indicate that attentive parenting and active parental engagement in children's lives are associated with positive social behavior. In contrast, overly permissive or neglectful parenting tends to increase the risk of delinquent conduct.⁴⁸

Child sexual abuse has also become a hot issue among Catholic religious leaders, and they are assessing whether restorative dialogue can be a more meaningful alternative solution.⁴⁹ At the same time, the resolution of child sexual violence cases is carried out through a retributive and restorative approach in customary law, which is still limited to victim protection. This happens because customary law tends to blame the victim with social sanctions.⁵⁰

On the other hand, diversification barriers arise from regulatory and socioeconomic factors. The juridical obstacle is the restriction on the diversion requirement, which limits its application to offenses punishable by less than seven years of imprisonment. Another obstacle is the difficulty of fulfilling restitution by child perpetrators from underprivileged families, as well as the resistance of the victim's family, who are still oriented towards retributive justice. Research conducted by the South Konawe

⁴⁶ Setya Wahyudi dan Angkasa, "Faktor Pendukung dan Penghambat Penerapan Program Pengalihan pada Kasus Kekerasan Seksual Anak dalam Sistem Peradilan Anak di Indonesia," dalam SHS Web of Conferences, vol. 54 (EDP Sciences, 2018), <https://doi.org/10.1051/shsconf/20185407007>; Indryati Mokodongan, Fenty U Puluhalawa, dan Karlin Z Mamu, "Faktor-faktor yang Mempengaruhi Implementasi Pengalihan Anak Pelaku Kejahatan Diseminasi Video Pornografi," *Jurnal Hukum Estudiante* 7, no. 1 (2025): 111–24, <https://doi.org/10.33756/eslaj.v7i1.30109>.

⁴⁷ L, "Faktor Penyebab Terjadinya Kekerasan Seksual Terhadap Anak Di Wilayah Hukum Polres Konawe Selatan."

⁴⁸ Irabiah Junus, A. M. Muhammad As Ari, and Yahyanto, "Criminological Review of Juvenile Delinquency in Society Due to Parenting in the Gen Z Era," *Journal of Law and Legal Reform* 6, no. 1 (2025): 481–98, <https://doi.org/10.15294/jllr.v6i1.14467>.

⁴⁹ Theo Gavrielides, "Clergy Child Sexual Abuse and the Restorative Justice Dialogue," *Journal of Church and State* 55, no. 4 (2012): 617–39, <https://doi.org/10.1093/jcs/css041>.

⁵⁰ Gede Rhama Sukamyoga Wiweka et al., "Settlement of Sexual Violence Against Children Based on Balinese Customary Law," *Policy Law Notary and Regulatory Issues (Polri)* 3, no. 2 (2024): 240–51, <https://doi.org/10.55047/polri.v3i2.1120>; Putu Eva Ditayani Antari, "Fulfillment of Children Rights as Sexual Violence Victim Based on Restorative Justice on Tenganan Pegriingsingan Community in Karangasem, Bali," *Jurnal HAM* 12, no. 1 (2021): 75–93, <https://doi.org/10.30641/ham.2021.12.75-94>.

Police Force reinforced this finding, showing the difficulty of reaching a peaceful agreement due to social pressure from the surrounding community.⁵¹ So far, the legal system has tended to emphasize the rights of the perpetrator over those of the victim, so victims often do not receive full justice. Therefore, some critics consider RJ to be less effective in sexual cases because it risks victimization and is not in accordance with the principles of non-discrimination and legal certainty.⁵²

Olivares (2020) research confirms that the implementation of restorative justice (RJ) in children in Norway and Scandinavian countries is supported by the main factor, namely mastery of RJ theory. These process conditions support dialogue, the parties' will, and the pro-RJ socio-political context.⁵³ The findings of Winterdyk (2016) suggest that socio-economic stability and low crime rates enable Norway to maintain a welfare-based RJ model despite new challenges, such as immigration. Meanwhile, Hafsteinsson (2010) in Iceland showed that police-led conferences can be effective and restorative, especially in mild cases and when facilitated by trained facilitators.⁵⁴

When compared to the Indonesian context, especially in Kolaka and South Konawe, these four factors have not been fully met. The mastery of RJ theory at the apparatus level still varies; the conditions for dialogue are not always ideal due to social and cultural pressures, and power relations and local norms, such as settlement through a family approach, will often influence the parties. In addition, Indonesia's socio-political context—characterized by high case numbers and limited institutional capacity—has not fully supported the restorative approach, posing challenges in the implementation of Diversion.

Thus, the practice of RJ in Norway and, more generally, in Scandinavia shows strong structural support grounded in welfare values

⁵¹ Prakoso and Mardijono, "Legal Analysis of Diversion Efforts on Criminal Acts of Sexual Violence by Children as Perpetrators."

⁵² Ribut Hari Wibowo, Ahmad Busro, and Ani Purwanti, "Reassessing Restorative Justice: Addressing Sexual Violence Cases in Indonesia," *Indonesia Law Review* 13, no. 3 (2023): 117–23, <https://doi.org/10.15742/ilrev.v13n3.5>.

⁵³ Nancy Gutiérrez Olivares, *Piecing the Puzzle : Restorative Justice with Children and Young Offenders in Scandinavia, an Interview Study with Professionals* (Department of Social Work University of Gothenburg, 2020).

⁵⁴ Hafsteinn Gunnar Hafsteinsson, "The Implementation of Restorative Justice in Iceland : A Comparison of Police- and Expert-Led Conferencing" (University of Denver, 2010).

and social inclusion. In contrast, in Indonesia, its implementation remains heavily influenced by complex local dynamics. This comparison confirms that RJ's success is determined not only by the legal framework but also by social, cultural, and institutional readiness in each context.

On the other hand, in Indonesia, the application of RJ for perpetrators of child violence has a strong legal foundation, especially through Law Number 11 of 2012 on the Juvenile Criminal Justice System (SPPA Law), which stipulates Diversion as an obligation at all levels of the law enforcement process. Technical regulations such as Supreme Court Regulation (PERMA) No. 4/2014 on Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System, Supreme Court Circular Letter (SEMA), and Police Regulation (Perpol) No. 8/2021 on Restorative Justice-Based Crime Handling strengthen this mandate. In practice, Indonesia has a unique combination of state-based RJ and community/customary RJ, as deliberative culture, family mediation, and dispute-resolution practices have long been part of society. Indonesia's advantage lies in the social closeness between actor-victims and the community, which can facilitate direct dialogue and a faster recovery. However, some challenges remain significant, namely the uneven quality of mediators, the psychosocial readiness of child offenders is often not adequately assessed, social pressure can make peace agreements less fully voluntary, and monitoring of agreement fulfillment (follow-up) has not been systematic. In addition, cases of violence involving children, especially sexual violence or group violence, often generate public pressure so that the authorities revert to the pattern of retaliation, despite the SPPA Law emphasizing diversion. The challenge of diversion in Indonesia, while still limited to criminal threats under the age of 7, is not optimal in sensitive cases such as sexual violence, and needs to be evaluated by RJ regulations and programs to comply with the standards of the Convention on the Rights of the Child.⁵⁵

In comparison, Norway and other Scandinavian countries rely on strong state institutions, the professionalization of mediators, and integrated social welfare systems, but risk losing community participation

⁵⁵ Ismail et al., "The Comparative Study: Protecting Children's Rights Through Law Reform of Restorative Justice in Juvenile Cases."

and the value of volunteerism. Indonesia has substantial social capital through family and customary mechanisms. Still, it needs to strengthen procedural standards, mediator training, and victim protection to ensure that the RJ process is truly safe and fair. Norway faces multicultural challenges and excessive institutionalization, while Indonesia faces variations in implementation, capacity gaps, and social pressures that sometimes reduce restorative quality. Thus, the application of RJ for perpetrators of child violence in Indonesia can take two major lessons from Norway, namely the importance of more mature psychosocial and pre-conference assessments, and the need for a social support system and continuous monitoring. Instead, Norway and other Scandinavian countries can learn from Indonesia about the potential role of local communities and cultures in reviving the values of organic, participatory recovery.

Conclusion

This study demonstrates that the apparatus understanding of the application of diversion in cases of sexual violence against children in Kolaka and South Konawe, Southeast Sulawesi, Indonesia, refers to the legal framework. However, its implementation remains constrained by social, cultural, and institutional limitations. In contrast, Norwegian practice is supported by a robust welfare system and places imprisonment as a last resort. From a theoretical perspective, this research advances restorative justice scholarship by highlighting the constraints of applying diversion to sensitive offenses like sexual violence, particularly within specific sociocultural settings. These findings confirm that diversion's effectiveness is contextual and requires a balance between protecting perpetrators and fulfilling victims' rights. From a policy perspective, it is necessary to strengthen diversion guidelines, increase officers' capacity, and provide more comprehensive protection and recovery for victims. Without these improvements, diversion implementation risks creating new injustices and is not fully aligned with the principles of child protection and human rights.

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During the preparation of this manuscript, the author(s) used Grammarly to refine language and improve readability. Following this process, the author(s) critically reviewed, edited, and validated the output to ensure accuracy and scientific integrity. The author(s) maintain full accountability for the final content. AI was used solely as a supportive tool and is not credited with authorship. No original data analysis or interpretations were performed by the AI without human oversight.

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