

LEGAL PROTECTION FOR CHILDREN WHO COMMIT SEXUAL VIOLENCE FROM THE PERSPECTIVE OF ISLAMIC LAW

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Abstract

*Children as perpetrators of sexual violence present a complex legal issue because it involves balancing two interests simultaneously: the enforcement of criminal law and the protection of children's rights as minors. This study aims to examine the legal status of children as perpetrators of sexual violence under Islamic law, as well as the forms of legal protection provided to child perpetrators of sexual violence within the national legal system. The methodology employed is a normative legal study using a qualitative descriptive approach, utilizing secondary data—including primary, secondary, and tertiary legal sources—collected through a literature review and analyzed qualitatively. The results of the study indicate that in Islamic law, the legal status of children as perpetrators of sexual violence is determined by the concepts of *ahliyah* (legal capacity) and *taklif* (imposition of legal responsibility); thus, children who have not yet reached puberty (*baligh*) or the age of discernment (*tamyiz*) cannot be held fully criminally liable as adults, and the sanctions applied take the form of *ta'zir*, which are educational and rehabilitative in nature. Meanwhile, under national law, protection for child perpetrators of sexual violence is governed by the 1945 Constitution, the Child Protection Act, the Juvenile Criminal Justice System Act, and the Sexual Violence Crimes Act, which consistently prioritize the best interests of the child, restorative justice, and diversion as the primary foundations for handling children in conflict with the law. This study concludes that Islamic law and national law share a common ground in prioritizing a rehabilitative approach over a purely punitive one toward child perpetrators of sexual violence.*

Keywords: Legal Protection Children Sexual Violence, Islamic Criminal Law, Juvenile Criminal Justice System

INTRODUCTION

Children are both an asset and the nation's future generation, and they must receive protection from the state, their families, and society—whether as victims or as perpetrators of criminal acts (Yase, 2022). Legal protection for children is a critical issue across various legal systems, including Islamic criminal law, as the Child Protection Act guarantees children's rights to live, grow, and develop free from violence and discrimination (Carmela & Suryaningsih, 2021). Data from the Ministry of Social Welfare Planning indicate that more than twenty-one million children experienced sexual violence between 2010 and 2014, and the Ministry of Women's Empowerment and Child Protection reported thousands of cases of violence against children throughout 2020, the majority of which involved sexual violence (Napitupulu & Julio, 2023). A number of cases, including that of a child who committed rape in Samarinda, indicate that family factors and exposure to pornographic content contribute to children committing acts of sexual violence (Hidayat, 2021).

The Constitution of the Republic of Indonesia, through Article 28B, paragraph (2) of the 1945 Constitution, as well as the ratification of the Convention on the Rights of the Child, affirms the state's obligation to protect children from all forms of violence (Sambas, 2013). Sexual violence not only causes physical harm but also long-term psychological effects such as post-traumatic stress disorder, depression, and anxiety for victims (Ariani & Asih, 2022). On the other hand, when a child acts as the perpetrator, the legal system in Indonesia requires a different approach from that applied to adults, prioritizing rehabilitation and the best interests of the child over punishment alone (Prema et al., 2022). From the perspective of Islamic criminal law, a child who commits a crime is not automatically treated the same as an adult because Islamic law upholds the principle of justice based on compassion (*rahmatan lil 'alamin*); thus, the treatment of a child offender must take into account their age, maturity, and moral responsibility.

Previous research on child protection within the criminal justice system has generally focused on the protection of children as victims of sexual violence or on the effectiveness of criminal sanctions based solely on positive law (Wahyuningsih, 2019). Studies that specifically integrate legal protection for children as perpetrators of sexual violence from the perspectives of both Islamic law and national law remain limited. Based on this overview, this study aims to analyze the legal status of children as perpetrators of sexual violence under Islamic law, as well as to identify the forms of legal protection provided to child perpetrators of sexual violence within Indonesia's national legal system.

LITERATURE REVIEW

Ade's (2020) study concluded that protection for child offenders within the criminal justice system must prioritize children's rights through diversion and restorative justice mechanisms, as stipulated in the Law on the Juvenile Criminal Justice System, with the study focusing on positive law. Fadilah's research (2021) explains that sanctions for child perpetrators of sexual abuse under Islamic law cannot be equated with hudud sanctions for adults but rather fall under the category of *ta'zir*, which is educational in nature. Meanwhile, Ali's research (2022) focuses on the age thresholds for *baligh* and *tamyiz* as prerequisites for the criminalization of children by comparing Islamic criminal law with positive law. These three studies share a common focus on examining the protection of children as perpetrators; however, none has specifically and comprehensively integrated the principle of moral rehabilitation (*ta'dib*) in Islamic law with the national legal protection framework. Therefore, this study aims to fill that gap.

Conceptually, according to Mertokusumo (2005), legal protection refers to the entire body of rules governing behavior in communal life, the enforcement of which can be compelled through sanctions. Muchsin (2003) distinguishes between preventive legal protection—which prevents violations through legislation—and repressive legal protection, which takes the form of sanctions imposed after a violation has occurred. Setiono (2004) adds that legal protection aims to shield society from the arbitrary actions of those in power in order to establish an order that allows people to enjoy their dignity. These principles form the basis for the state in formulating legal policies, including those concerning children in conflict with the law.

In Islamic criminal law (*fiqh jinayah*), the primary purpose of law enforcement is to protect the five fundamental aspects of human life (*maqashid al-shari'ah*): religion, life, intellect, lineage, and property (Audah, 1999; al-Zuhayli, 1989). Crimes in Islamic law are divided into three main categories: *hudud*, *qishash-diyat*, and *ta'zir*, with *ta'zir* being a form of punishment whose application is left to the judge's discretion based on the severity of the offense and the circumstances of the offender. Sexual violence is generally categorized as a *jarimah ta'zir* because the form of punishment is not explicitly stipulated in the texts, thus allowing for a more educational approach, especially when the perpetrator is a child (Sabiq, 1983).

At the national legal level, child protection is regulated through various instruments, including Law No. 35 of 2014 on Child Protection, Law No. 11 of 2012 on the Juvenile Criminal Justice System, and Law No. 12 of 2022 on Sexual Violence Crimes. These three regulations consistently prioritize the principle of the best interests of the child, nondiscrimination, and the right to legal representation as fundamental principles, including for children who are perpetrators of criminal offenses (Nurisman, 2022). A normative legal approach is relevant for analyzing the alignment between these principles and the value of moral rehabilitation in Islamic law.

METHOD

This study employs a normative legal research method with a qualitative descriptive approach—specifically, a legal literature review that bases its analysis on secondary data to examine the applicable legal norms regarding the protection of children as perpetrators of sexual violence. The data used consists of primary legal sources, namely the 1945 Constitution of the Republic of Indonesia, the Criminal Code, the Criminal Procedure Code, Law No. 35 of 2014 on Child Protection, and Law No. 12 of 2022 on Sexual Violence Crimes; secondary legal materials in the form of books, journals, and relevant previous research findings; as well as tertiary legal materials in the form of legal dictionaries and encyclopedias. Data collection was conducted through library research by examining and citing data from books, laws and regulations, and court decisions related to sexual violence crimes. The collected data was then analyzed qualitatively by organizing the information systematically, logically, and coherently so that conclusions could be drawn to address the research questions.

RESULTS AND DISCUSSION

1. The Status of Children as Perpetrators of Sexual Violence Under Islamic Law

From the perspective of Islamic law, the status of a child as a perpetrator of sexual violence is closely linked to the concepts of legal capacity (*ahliyah*) and the imposition of legal responsibility (*taklif*). Islamic law distinguishes a child's legal capacity from that of an adult based on the level of intellectual development, the ability to understand the consequences of an action, and the attainment of puberty (*baligh*). Before reaching puberty, a child is not yet considered a *mukallaf*—that is, a legal subject fully subject to the obligations of Sharia law. In addition, Islamic law also recognizes the concept of *tamyiz*, which is a child's ability to distinguish between good and bad deeds. A child who has reached the *mumayyiz* stage

possesses the ability to think and understand commands and prohibitions; however, this capacity is not yet equivalent to that of an adult, so their legal liability remains limited.

In the context of sexual violence, Islamic law explicitly classifies such acts as haram and a serious violation of honor ('irdh), human dignity, and the rights of victims, which must be protected. Such acts contradict the principles of Sharia, which aim to preserve honor (hifz al-'irdh), preserve lineage (hifz al-nasl), and preserve life (hifz al-nafs). Therefore, even though the perpetrator is still a child, this act is still viewed as a reprehensible act that requires serious legal action to protect the victim and prevent the recurrence of similar acts.

However, a child's status as a perpetrator does not automatically equate him or her with an adult perpetrator. The principle of justice (al-'adl) in Islamic law emphasizes that any form of legal accountability must take into account the perpetrator's level of cognitive ability, psychological maturity, and awareness of the consequences of his or her actions. Since children do not yet possess the full capacity of reason and emotional maturity that adults do, they are not held fully criminally liable. Thus, the imposition of sanctions on children must observe the principle of proportionality that is, a balance between the protection of victims, the interests of society, and the rights of children as individuals who are still in the developmental stage.

In the study of criminal fiqh, children are, in principle, not subject to hudud or qishash punishments, because both types of punishment require full criminal accountability (taklif), which is possessed only by those who meet the criteria to be considered mukallaf. Instead, children may be subject to ta'zir sanctions—a type of punishment whose form and severity are not specified in detail in the Qur'an or the hadith, but are left to the discretion of the judge or authority, taking public interest into account. In imposing ta'zir, the judge may consider various factors, such as the child's age, the severity of the offense, the nature of the violence committed, the impact on the victim, family background, psychological condition, and the child's potential for rehabilitation through a guidance process.

The concept of ta'zir is considered highly relevant in dealing with child perpetrators of sexual violence because it serves not only a repressive function—as a form of accountability for the acts committed—but also has preventive, educational, and rehabilitative functions. Ta'zir sanctions can take various forms, such as religious guidance, psychological counseling, character education, mandatory participation in social rehabilitation programs, supervision by parents or guardians, guidance at educational institutions, or other forms of guidance aimed at correcting the child's behavior. This approach suggests that the primary purpose of disciplining a child is not to seek revenge, but rather to foster moral awareness, instill a sense of responsibility, and prevent the child from repeating the same behavior in the future.

This approach under Islamic law is in line with the primary objectives of Sharia (maqashid al-shari'ah), namely to promote the public good (maslahah) and prevent harm (mafsadah) in society. The handling of child perpetrators of sexual violence is not only aimed at serving as a deterrent but also at ensuring that the rehabilitation and guidance process proceeds optimally so that the child can once again become a responsible individual. Thus, Islamic law views child perpetrators of sexual violence not merely as parties who must be punished, but as individuals who still have the potential to be guided, rehabilitated, and

reintegrated into society through mechanisms that are fair, proportionate, and continue to guarantee the protection of victims' rights.

2. Forms of Legal Protection for Child Perpetrators of Sexual Violence Under National Law

Legal protection for children in conflict with the law including children who are perpetrators of sexual violence is part of the state's constitutional responsibility, as mandated by Article 28B, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This provision affirms that every child has the right to survival, growth, development, and protection from violence and discrimination. This constitutional guarantee indicates that protection for children is not only provided to children as victims but also to children who are undergoing legal proceedings as a result of committing a criminal offense. The state is obligated to ensure that the law enforcement process involving children continues to respect human rights, prioritizes the best interests of the child, and safeguards the child's physical, mental, social, and moral development so that it is not disrupted by the judicial process.

More specific provisions regarding child protection are contained in Law No. 35 of 2014 Amending Law No. 23 of 2002 on Child Protection. This law affirms that every child has the right to protection from inhumane treatment, torture, punishment that degrades human dignity, and discriminatory acts during legal proceedings. Furthermore, the state, the government, local governments, families, and society share a collective obligation to ensure that children's rights are fulfilled without distinction based on their legal status. For children in conflict with the law, this protection is realized through the provision of legal assistance, psychological support, identity protection, health care, education, and social rehabilitation so that children continue to have the opportunity to lead a normal life after completing the legal process.

The legal instrument that specifically regulates the mechanisms for handling children in conflict with the law is Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA). This law shifts the paradigm of juvenile punishment from a retributive justice approach to a restorative justice approach. In this system, children are viewed as individuals who are still in the developmental stage and therefore have great potential to be guided and rehabilitated. Consequently, the primary objective of the juvenile criminal justice system is not merely to impose punishment, but to provide protection, guidance, and education, as well as to encourage children to resume fulfilling their social roles optimally within society.

The main principle introduced by the SPPA Law is the application of restorative justice, which involves resolving criminal cases by engaging the perpetrator, the victim, the families of both parties, community mentors, social workers, and other stakeholders to jointly seek a fair resolution. This approach aims not only to compensate the victim for their losses but also to foster the offender's awareness of their wrongdoing and to repair social relationships disrupted by the crime. In the context of child offenders of sexual violence, the application of restorative justice must still take into account the severity of the crime, the victim's interests, the psychological impact caused, and the protection of the victim's rights to prevent revictimization.

In addition to restorative justice, the SPPA Law also provides for a diversion mechanism, which involves transferring the resolution of juvenile cases from the criminal justice system to an out-of-court process. Diversion aims to achieve reconciliation between the victim and the offender, spare the child from deprivation of liberty, prevent stigmatization as a criminal, and encourage community participation in the child's rehabilitation process. Through diversion, it is hoped that the child will not experience the negative impacts of the formal criminal justice system, such as loss of access to education, psychological developmental disturbances, or social stigmas that could affect their future. However, diversion cannot be applied to all cases. For certain criminal offenses—particularly those carrying severe penalties or causing extremely serious harm to victims, including certain forms of sexual violence—the use of diversion is restricted in accordance with the provisions of the Child Protection Act (UU SPPA). These restrictions aim to maintain a balance between protecting the child offender and ensuring justice for the victim.

Regulatory developments regarding sexual violence offenses have been further strengthened by the enactment of Law No. 12 of 2022 on Sexual Violence Offenses (TPKS Law). This law provides more comprehensive regulations regarding various forms of sexual violence, case handling mechanisms, victim protection, victim recovery, and interagency coordination in law enforcement. Although the primary focus of the UU TPKS is to provide maximum protection to victims of sexual violence, the law still recognizes that if the perpetrator is a child, the entire handling process must adhere to the provisions of the Child Protection Act (UU SPPA). Thus, even if the act committed constitutes a serious criminal offense, the child perpetrator still receives legal protections in the form of legal representation, identity protection, child-friendly interrogations, separation from adult detainees, as well as guidance and rehabilitation programs tailored to the child's developmental needs.

Legal protection for child perpetrators of sexual violence is also realized through the restriction of the use of imprisonment as a last resort (*ultimum remedium*). In the practice of the juvenile criminal justice system, judges are encouraged to prioritize rehabilitative measures over punitive sentencing. Such protection may take the form of return to parents or guardians, placement in a rehabilitation facility, vocational training, formal or non-formal education, psychological counseling, social rehabilitation, and supervision by the Correctional Services Office (Bapas). This approach aims to ensure that children continue to have the opportunity to correct their behavior without losing their right to grow and develop to their full potential.

In addition, legal protection is also provided through guarantees of procedural rights throughout the judicial process. Children have the right to legal assistance from the investigation stage onward, to be accompanied by a parent, guardian, social worker, or legal counsel, and to be examined in an environment that does not cause psychological distress. The child's identity must be kept confidential to avoid stigmatization by the community. Juvenile trials are held in closed sessions, and law enforcement officials are required to use a child-friendly approach by avoiding actions that could cause trauma or worsen the child's psychological condition.

The novelty of this study lies in its integrative approach to analyzing child perpetrators of sexual violence from two distinct yet complementary normative systems—Islamic criminal

law (fiqh jinayah) and Indonesia's national legal framework—within a single, coherent analytical framework. Unlike prior studies that tend to examine child offenders exclusively through either a purely doctrinal Islamic lens or a purely positive-law lens, this study is original in situating the concept of *ta'zir* alongside the restorative justice and diversion mechanisms mandated by the Juvenile Criminal Justice System Law and the Sexual Violence Crimes Law, thereby revealing points of convergence between religious and secular normative reasoning that have not been systematically mapped in the existing literature.

The core findings of this study reaffirm that, under Islamic law, a child's criminal responsibility is inseparable from the concepts of *ahliyah* and *taklif*: children who have not yet reached *baligh* or attained *tamyiz* cannot be held to the same standard of criminal accountability as adults, and are instead subject to *ta'zir* sanctions that are corrective and educational rather than punitive. At the national level, the findings show that legal protection for child perpetrators of sexual violence is anchored in Article 28B(2) of the 1945 Constitution and operationalized through the Child Protection Law, the Juvenile Criminal Justice System Law, and the Sexual Violence Crimes Law, all of which consistently prioritize the best interests of the child, restorative justice, and diversion. These findings are significant because they demonstrate that, despite operating under different sources of authority, both systems converge on a rehabilitative rather than retributive philosophy of juvenile justice—an outcome directly relevant to policymakers, judges, and child-protection practitioners seeking normatively grounded alternatives to punitive sentencing.

These findings are consistent with, yet also extend, several strands of prior research. Ade's (2020) study similarly concluded that protection for child offenders must prioritize diversion and restorative justice under the Juvenile Criminal Justice System Law, a conclusion supported by the present study's findings on national law. Fadilah (2021) and Ali (2022) likewise affirm that Islamic law positions *ta'zir*, rather than *hudud*, as the appropriate sanction for child perpetrators of sexual offenses, a conclusion this study corroborates and further situates within the national legal framework. Wahyuningsih (2019) similarly emphasizes the rehabilitative orientation of Islamic law toward child offenders, while Nurisman (2022) highlights the challenges of enforcing the Sexual Violence Crimes Law in a manner that remains protective of child perpetrators—both of which align with this study's findings on the constraints and safeguards embedded in national regulation. Prema et al. (2022) further reinforce the centrality of the best-interests-of-the-child principle in the implementation of the Child Protection Law, corroborating this study's emphasis on that principle as a unifying thread across both legal systems.

The findings of this study are broadly consistent with the growing body of international literature emphasizing that juvenile justice systems should prioritize rehabilitation, education, and social reintegration rather than purely punitive sanctions when addressing children who commit criminal offences, including sexual violence. The present study demonstrates that both Islamic criminal law and Indonesia's national legal system adopt a child-centered approach by recognizing children's limited legal responsibility due to their developmental stage and by promoting rehabilitative sanctions through *ta'zir*, restorative justice, diversion, and comprehensive child protection mechanisms. This convergence illustrates that although these

legal systems derive their authority from different normative foundations, they pursue similar objectives in balancing accountability, victim protection, and the best interests of the child.

These findings support the empirical study conducted by Jeumpa et al. (2026), which examined the settlement of child sexual abuse cases in Aceh through a restorative justice framework integrating Islamic law, customary law, and national legislation. Their study concluded that restorative justice provides a more balanced resolution by simultaneously protecting victims, encouraging offender accountability, and facilitating children's rehabilitation. Likewise, the present study finds that rehabilitation and moral guidance should constitute the primary objectives of legal intervention for child perpetrators of sexual violence. Nevertheless, while Jeumpa et al. (2026) relied on qualitative socio-legal field research involving the practical implementation of restorative justice in Aceh, the present study adopts a normative legal approach by systematically examining statutory regulations, Islamic legal doctrines, and legal principles governing children's criminal responsibility. Consequently, this study contributes a broader theoretical understanding of how Islamic criminal law and national law can be harmonized conceptually despite differences in their legal sources.

The findings are also consistent with Hadiputra et al. (2024), who argue that Indonesian juvenile justice and Islamic criminal law share common principles emphasizing rehabilitation, education, proportionality, and protection of children's rights. Their comparative analysis demonstrates that diversion and restorative justice reflect not only modern human rights principles but also Islamic values concerning mercy, justice, and social responsibility. Similarly, this study concludes that the concepts of *ahliyah*, *taklif*, and *ta'zir* complement the restorative justice principles embodied in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. However, the present research extends their analysis by focusing specifically on children who commit sexual violence, an offence involving greater legal complexity due to the necessity of simultaneously protecting victims while safeguarding children's rights as offenders. Accordingly, this study provides a more comprehensive explanation of how proportional criminal responsibility may be achieved without disregarding either child protection or victim recovery.

Furthermore, the present findings correspond with Sriwiyanti et al. (2021), who emphasize that restorative justice should not merely function as an alternative dispute resolution mechanism but should also accommodate children's psychological development and emotional maturity. Their research demonstrates that effective rehabilitation requires educational sanctions, counselling, family participation, and social support rather than imprisonment alone. This conclusion is reinforced by the present study, which argues that Islamic criminal law adopts a similar philosophy through the doctrine of *ta'zir*, allowing judges to impose individualized sanctions based upon children's age, maturity, psychological condition, and capacity for moral improvement. Such flexibility distinguishes juvenile justice from adult criminal responsibility and reflects the broader objectives of *maqashid al-shari'ah* in protecting human dignity, family integrity, and social welfare.

The present study is further supported by Alhakim et al. (2023), who found that restorative justice contributes significantly to reducing recidivism among juvenile offenders while strengthening social reintegration through multidisciplinary intervention. Their research

indicates that imprisonment should remain the last resort because incarceration frequently produces negative psychological consequences, educational disruption, and social stigmatization that increase the likelihood of reoffending. These findings align closely with the present study, which argues that Indonesian national law appropriately treats imprisonment as *ultimum remedium* while prioritizing diversion, rehabilitation, psychological counselling, vocational education, and parental supervision. Nevertheless, whereas Alhakim et al. focused primarily on evaluating restorative justice implementation, this research concentrates on the normative legal justification underlying rehabilitative sanctions in both Islamic law and Indonesian statutory law.

The findings are likewise consistent with recent comparative studies examining juvenile criminal responsibility within Muslim-majority countries. Kaluku et al. (2026) observed that although Muslim jurisdictions adopt different institutional models of juvenile justice, they generally recognize children's limited criminal capacity and prioritize rehabilitation over retribution. Indonesia was identified as one of the jurisdictions demonstrating substantial compatibility between Islamic legal values and modern child protection legislation. This observation strongly supports the present findings that Islamic criminal law and Indonesia's national legal framework should not be viewed as conflicting systems but rather as complementary legal traditions capable of collectively protecting children while ensuring accountability for criminal conduct.

Empirical studies focusing on rehabilitation programs also reinforce the findings of this research. Putra (2025) reported that successful rehabilitation of juvenile sexual offenders depends upon the integration of psychological counselling, parental supervision, religious education, educational continuity, and community reintegration. Similar conclusions emerge from the present study, which emphasizes that legal accountability should be accompanied by comprehensive rehabilitation programs addressing children's cognitive, emotional, moral, and social development. This holistic approach reflects the understanding that juvenile offending frequently results from multiple interconnected risk factors, including family dysfunction, exposure to pornography, inadequate supervision, peer influence, and limited moral education rather than solely individual criminal intent.

Despite these substantial similarities, several important differences emerge when comparing the present findings with previous research. Lase et al. (2026) identified significant institutional obstacles affecting the practical implementation of restorative justice, including inadequate coordination among law enforcement agencies, insufficient rehabilitation facilities, inconsistent judicial practices, and limited professional capacity among legal practitioners. Likewise, Aziza et al. (2026) reported that diversion remains difficult to implement in cases involving serious sexual violence because judges and prosecutors must carefully balance the rehabilitation of child offenders with victims' rights, public safety, and community expectations. These implementation challenges are less prominent in the present study because it employs normative legal research rather than empirical investigation. Consequently, while this research demonstrates that Indonesian law provides a comprehensive legal framework supporting child protection, future empirical studies remain necessary to determine whether these legal principles are consistently implemented in judicial practice.

The similarities between this study and previous international scholarship may be explained by the increasing global acceptance of child-centered justice principles embodied in the Convention on the Rights of the Child and other international human rights instruments. Contemporary juvenile justice increasingly recognizes that children possess evolving capacities requiring individualized legal treatment, educational intervention, and opportunities for rehabilitation rather than automatic punitive sanctions. These international principles correspond closely with Islamic criminal law, which likewise distinguishes children's criminal responsibility according to their cognitive maturity through the concepts of *baligh*, *tamyiz*, *ahliyah*, and *taklif*. Consequently, despite originating from different philosophical and legal traditions, both systems ultimately pursue similar objectives of protecting children's welfare while maintaining legal accountability proportional to their developmental capacity.

Conversely, the differences identified across previous studies largely arise from methodological approaches, legal traditions, institutional contexts, and research objectives. Most empirical studies evaluate restorative justice through interviews, court observations, case analyses, or rehabilitation programs, whereas the present study employs doctrinal legal analysis focusing upon statutory interpretation and Islamic jurisprudence. Additionally, legal implementation varies considerably across jurisdictions because of differences in judicial discretion, institutional resources, professional training, community participation, cultural values, and governmental commitment to child protection. These contextual differences explain why restorative justice may produce varying outcomes despite being founded upon similar legal principles. Previous scholarship similarly acknowledges that restorative justice achieves optimal results only when supported by adequate institutional capacity, interdisciplinary cooperation, victim participation, and comprehensive rehabilitation services rather than functioning merely as an alternative legal procedure.

Overall, the present study advances existing scholarship by demonstrating that Islamic criminal law and Indonesia's national legal system are not competing paradigms but complementary normative frameworks capable of simultaneously protecting victims, ensuring children's accountability, and promoting rehabilitation. Unlike previous studies that predominantly examine either statutory law or Islamic law independently, this research develops an integrated comparative framework illustrating that *ta'zir*, restorative justice, diversion, and child protection constitute mutually reinforcing mechanisms for achieving justice. This integrated perspective contributes to comparative legal scholarship by providing a more comprehensive understanding of juvenile criminal responsibility within plural legal systems and offers a stronger theoretical foundation for future empirical investigations concerning the implementation and effectiveness of rehabilitative justice for child perpetrators of sexual violence.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that the legal status of a child as a perpetrator of sexual violence under Islamic law is determined by the concepts of *ahliyah* and *taklif*, whereby a child who has not yet reached the age of puberty (*baligh*) or the age of discernment (*tamyiz*) cannot be held to the same full criminal liability as

an adult; thus, the sanctions applied take the form of ta'zir—which is educational and rehabilitative in nature—rather than hudud or qishash. Meanwhile, legal protection for child perpetrators of sexual violence under national law is enshrined in Article 28B(2) of the 1945 Constitution, the Child Protection Law, the Juvenile Criminal Justice System Law, and the Sexual Violence Crimes Law, which consistently prioritize the principle of the best interests of the child, restorative justice, and diversion. Both legal systems share a common orientation in prioritizing rehabilitative and corrective approaches over punishment alone, although they differ in their sources of authority and implementation mechanisms. Further research is recommended to empirically examine the implementation of diversion and ta'zir mechanisms in juvenile court rulings, in order to identify gaps between legal norms and enforcement practices regarding child perpetrators of sexual violence in Indonesia.

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