

The Urgency of Considering Age and Psychological Maturity in Applying Indonesian Juvenile Criminal Responsibility System

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ABSTRACT

The determination of criminal responsibility for juvenile offenders remains a complex legal issue, particularly when assessments rely primarily on chronological age without sufficient attention to psychological maturity. Such an approach risks imposing sanctions that are disproportionate to a child's emotional and cognitive capacity, potentially undermining the rehabilitative purpose of juvenile justice. This study examines how juvenile criminal liability should be determined by integrating both age and psychological maturity within the Indonesian juvenile justice system. Employing a normative juridical method, this research applies statutory and conceptual approaches to analyze relevant legislation, legal doctrines, and theoretical frameworks governing juvenile justice. The findings demonstrate that Indonesia's juvenile justice system is grounded in the principle of individual accountability, whereby children may be held responsible for criminal acts based on their personal capacity and developmental stage. The system adopts a dual-track sanction model that combines criminal penalties with educational and rehabilitative measures, reflecting an effort to balance accountability with the child's need for guidance and development. The establishment of a minimum age of criminal responsibility serves as an essential safeguard, preventing children who lack sufficient emotional and cognitive maturity from facing legal consequences they cannot fully comprehend. Ignoring psychological maturity risks distorting the objectives of juvenile justice and may result in negative developmental consequences. Therefore, this study underscores the importance of a holistic assessment that integrates legal age and psychosocial development, supporting a more humane, educational, and rehabilitative approach that enables juvenile offenders to reform, reintegrate, and grow into responsible members of society.

Keyword: Juvenile Offenders, Age, Psychological Maturity, Criminal Responsibility

Introduction

Along with the development of society, the types of criminal acts that occur have become increasingly diverse. Today, offenders are not only adults but may also include individuals who are still legally classified as children. In essence, children require special attention, as during their growth and developmental stages, they often engage in actions beyond their emotional control, which may cause harm to others around them. The phenomenon of children becoming perpetrators of criminal acts is deeply concerning and calls for strict supervision and comprehensive attention from all stakeholders to reduce the occurrence of juvenile delinquency and child-related crimes.

According to a report published by *Kompas*, statistical information compiled by the Directorate General of Corrections within the Ministry of Law and Human



Rights of Indonesia reveals a notable upward trend in the number of juveniles involved in criminal cases between 2020 and 2023. As of August 2023, approximately 2,000 minors were documented as being entangled in legal proceedings, comprising 1,467 individuals held in detention and 526 who had already received convictions. The growing prevalence of criminal behavior among young people should be regarded as a serious indicator of deeper social issues that demand comprehensive attention and preventive intervention.

It must be acknowledged that every child experiences a series of distinct developmental stages that profoundly influence how they perceive, interpret, and react to various events in their environment. Both intrinsic factors, such as emotional regulation, intelligence, and moral awareness, and extrinsic factors, including family dynamics, education, and social environment, significantly determine the child's behavioral development. When these factors fail to provide a supportive and nurturing foundation, a child's growth and psychological maturity may be hindered, resulting in emotional instability and difficulty distinguishing right from wrong. Consequently, children raised under such unfavorable conditions are more susceptible to behavioral problems, which, in more severe circumstances, may escalate into acts of delinquency or even criminal offenses. This situation underscores the need to approach juvenile crime by first recognizing the psychological and developmental dimensions that shape a child's behavior, emphasizing efforts to address its underlying causes rather than relying solely on punitive measures.

The application of criminal punishment to children involved in legal conflicts creates a complex dilemma when viewed from juridical, sociological, and philosophical standpoints. On one hand, every legal norm enacted through legislation is binding upon all individuals; on the other hand, a child as a legal subject is often deemed not yet capable of fully understanding and assuming responsibility for their actions. In essence, a child who commits a criminal act has not yet developed the intellectual and emotional capacity to foresee the long term consequences of their behavior, as their cognitive and moral reasoning remain in the formative stage. The essential disparity in the level of accountability between children and adults in committing crimes is rooted in the legal principle that upholds the child's best interests, alongside the doctrine that views imprisonment as the very last measure to be taken (*ultimum remedium*). These principles form the philosophical and normative foundation for adopting a critical and cautious approach in determining the criminal responsibility of juvenile offenders.¹

¹ Rida Ista Sitepu, "Peninjauan Kembali Batas Usia Minimum Pertanggungjawaban Pidana Anak Yang Terlibat Perdagangan Narkotika," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 2, no. 3 (2022): 39–58, <https://doi.org/10.52005/rechten.v2i3.90>.

Child suspected of committing a criminal act may be held criminally responsible, which includes the obligation of an individual for the criminal act they have committed. Criminal responsibility arises as a consequence of the legal violation committed by an individual. Furthermore, criminal responsibility is a mechanism regulated by criminal law to respond to violations based on norms agreed upon by society concerning a particular act. Thus, the criminal responsibility of a child refers to the child's ability to bear the consequences of the criminal act they have committed.²

The criminal responsibility of children is crucial to ensuring justice, as it guarantees that criminal acts committed by minors are not left without consequences. This mechanism serves to uphold fairness for both victims and the broader community. Justice is a fundamental element that must be achieved in the implementation of law and should be protected in accordance with the principles enshrined in the fifth tenet of Pancasila. It forms the foundational basis for fostering security and harmony within society and the state.³ The primary focus of juvenile criminal responsibility is rehabilitation rather than mere punishment. This process aims to educate young offenders, helping them understand the nature of their wrongdoing and preventing the recurrence of such behavior in the future.

Every nation establishes its own legal standards regarding the age and extent of criminal accountability for minors. In Indonesia, this issue is governed by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which characterizes a child in conflict with the law as an individual who has reached the age of 12 but has not yet turned 18 and is suspected of engaging in a criminal act. The same legislation further stipulates that children below the age of 12 who commit unlawful acts cannot be subjected to criminal prosecution and should instead be provided with alternative measures emphasizing care, protection, and moral guidance rather than punitive sanctions.

In contrast to Indonesia, the Philippines regulates juvenile criminal responsibility through the Juvenile Justice and Welfare Act of 2006 (Republic Act No. 9344), which establishes 15 years as the minimum age of criminal responsibility and also outlines the joint accountability of parents in relation to their child's actions. A more fundamental difference can be observed in Iran's approach to juvenile criminal accountability. While Indonesia and the Philippines emphasize

² Putri Jasminta Indah and Subekti Subekti, "Optimalisasi Pengaturan Pertanggungjawaban Pidana Anak (Studi Perbandingan Hukum Negara Indonesia Dengan Negara Filipina)," *Jurnal Hukum Dan HAM Wara Sains* 3, no. 01 (2024): 158–66, <https://doi.org/10.58812/jhhws.v3i01.1000>.

³ I Ketut Arjuna Satya Prema, Masruchin Ruba'i, and Nurini Aprilianda, "Pembatasan Usia Pertanggungjawaban Pidana Anak Dalam Peraturan Perundang-Undangan," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 4, no. 2 (2020): 232, <https://doi.org/10.17977/um019v4i2p232-241>.

rehabilitative and preventive measures to keep children from deeper involvement in the justice system, Iran adopts a considerably stricter stance. Under Iranian law, individuals below 18 years of age may still face the death penalty, as stipulated in Article 91 of the 2013 Islamic Penal Code of Iran.⁴

Each country has its own considerations when regulating criminal responsibility for child offenders. However, the most common factors taken into account by the majority of countries are the age of the juvenile and the offender's emotional and intellectual maturity. The age of criminal responsibility denotes the point at which a person is deemed capable of bearing legal responsibility and may be subjected to criminal penalties for their actions. Countries around the world adopt varying policies regarding both the forms of punishment and the minimum age for criminal responsibility. These differences in age thresholds result in diverse national approaches to the penal treatment of offenders, including those who are still legally considered children.

Different countries set varying minimum ages of criminal responsibility for children, often without sufficiently accounting for their emotional and intellectual maturity. Research across jurisdictions shows that this "maturity gap" between chronological age and neurological/psychosocial development raises serious questions over the appropriateness of age-based thresholds alone. For example, neuroscience has demonstrated that adolescent brain regions responsible for impulse control, risk evaluation, and ethical reasoning continue developing well into late adolescence.⁵ In addition, comparative legal analysis reveals that a child's ability to live up to the moral and psychological components of criminal responsibility must be assessed, yet many systems still fix the beginning of liability at low ages.⁶ Such policy disparities create challenges for the implementation of restorative justice in juvenile systems: when regulation focuses solely on formal age limits without integrating psychological maturity, decisions may become disproportionate, less educative, and fail to prioritize the restoration of social relations which is central to restorative justice.

The age and psychological maturity of a child offender constitute crucial considerations in determining the appropriate form of criminal responsibility for juveniles. There remain divergent views within society regarding the imposition of

⁴ Sandya Sandya Mahendra, Bambang Sukoco, and Moh. Indra Bangsawan, "Filsafat Hukum Pidana Pada Anak Di Iran Dan Indonesia," *Academic Journal of Islamic Principles and Philosophy* 3, no. 1 (2022), <https://doi.org/10.22515/ajipp.v3i1.5056>.

⁵ Ezequiel Mercurio et al., "Adolescent Brain Development and Progressive Legal Responsibility in the Latin American Context," *Frontiers in Psychology* 11, no. April (2020): 1-13, <https://doi.org/10.3389/fpsyg.2020.00627>.

⁶ Salome Guliashvili, "AGE - AS THE BASIS OF MINIMUM AGE OF CRIMINAL RESPONSIBILITY (Analysis of International and National Legislation)," *Law and World* 8, no. 4 (2022): 136-53, <https://doi.org/10.36475/8.4.9>.

criminal sanctions on child offenders. Therefore, it is essential to carefully assess the urgency of taking into account both the age and the psychological development of the child when determining their criminal accountability. Such an approach ensures that the measures imposed correspond to the child's actual capacity to understand and assume responsibility for their actions. By integrating these considerations, it is expected that decisions regarding juvenile offenders will be proportionate, contextually appropriate, and ultimately supportive of their positive development and reintegration into society.

Despite the recognition of the importance of age and psychological maturity in juvenile criminal responsibility, empirical evaluation and consistent application of these principles remain limited across legal systems. Many jurisdictions still rely heavily on chronological age as the primary determinant of accountability, often overlooking the child's individual cognitive and psychosocial development. This gap in both research and practice underscores the need for a more nuanced understanding of how age and maturity influence legal outcomes for juvenile offenders. Consequently, a comprehensive investigation is warranted to examine not only the legal framework governing juvenile criminal responsibility but also the practical significance of integrating developmental and psychological considerations into judicial decision-making. In line with this, the present study seeks to fill that void by examining mechanisms of accountability for child offenders, emphasizing the pivotal influence of age and psychological maturity in promoting fair, restorative, and rehabilitative justice.

Several prior studies have explored themes closely related to this research. One such study was conducted by I Ketut Arjuna Satya Prema, Masruchin Ruba'i, and Nurini Aprilianda, published in 2019 in the *Journal Ilmiah Pendidikan Pancasila dan Kewarganegaraan* under the title *Pembatasan Usia Pertanggungjawaban Pidana Anak dalam Peraturan Perundang-undangan* (translated as Age Limitation of Juvenile Criminal Responsibility within Statutory Regulations). The research mainly analyzed how Indonesian legislation determines the age limit for criminal accountability in children and examined the ratio legis behind setting this threshold within the Juvenile Criminal Justice framework. Another relevant contribution was made by Damai Alan Saptama, Aime Renata Putri, Nobella Indradjaja, and Chamdani, whose 2024 article appeared in the *Wijaya Putra Law Review*, titled *Neurohukum dan Batas Usia Anak dalam Pertanggungjawaban Pidana* (translated as Neuro-Law and the Age Threshold of Juvenile Criminal Liability). This study combined legal analysis with insights from cognitive neuroscience, offering an interdisciplinary perspective on how neuro-law contributes to understanding the minimum age of criminal responsibility in Indonesia's legal context.

Although these studies significantly contribute to the academic discourse, a clear gap remains. Existing research tends to address juvenile criminal responsibility either from a purely normative juridical perspective that emphasizes chronological age or from an interdisciplinary neuroscientific standpoint that has not been systematically integrated into the structure of positive law and judicial practice. Furthermore, previous studies have not sufficiently examined psychological maturity as a distinct and operational factor in determining criminal responsibility, particularly in the context of how age and psychological development should be jointly assessed within the juvenile justice process. This limitation results in an incomplete understanding of how legal accountability can be aligned with the developmental realities of children.

Responding to this gap, the present study advances a more comprehensive approach by combining normative legal analysis with considerations of psychological maturity in assessing juvenile criminal responsibility. The originality of this research lies in its dual focus: first, on the forms and regulation of criminal responsibility applicable to child offenders under Indonesian positive law; and second, on the urgency of incorporating age and psychological maturity as integrated criteria in determining accountability. By positioning age and psychological development as inseparable elements, this study seeks to strengthen the conceptual foundation of a juvenile justice system that is not only legally sound but also rehabilitative, restorative, and responsive to the best interests of the child.

Building on the discussion above, the need to thoroughly explore the concept of juvenile criminal responsibility, alongside the critical role of age and psychological maturity in assessing accountability, has inspired the author to undertake this research. In response to this motivation, the study is presented under the title: **“The Urgency of Considering Age and Psychological Maturity in Applying Indonesian Juvenile Criminal Responsibility System.”**

Drawing from the discussion above, this research is directed by two closely connected questions designed to achieve a thorough understanding of juvenile criminal accountability. First, how is the criminal responsibility of child offenders structured and implemented under Indonesia’s positive law? Second, to what extent do age and psychological maturity play a crucial role in determining how children can be fairly accountable for their actions?

The primary objective of this study is to analyze the manner in which age factors and psychological growth are integrated within the framework governing children’s criminal liability, ensuring that juvenile offenders are approached with a sense of justice, compassion, and opportunities for meaningful rehabilitation. More specifically, this study seeks to raise awareness and provide insight into the significance of considering both chronological age and developmental maturity

when determining juvenile accountability, thereby promoting a deeper understanding and encouraging more informed, humane, and effective legal practices in handling child offenders.

Research Methods

This study adopts a normative juridical research method, which involves an in-depth examination of legislation, legal doctrines, foundational norms, legal theories, jurisprudence, and other literature-based sources as the core materials for developing a comprehensive analytical framework. The research utilizes both statutory and conceptual approaches to explore the subject matter. The legal materials examined include primary, secondary, and tertiary sources, all gathered through library research that entails reviewing, referencing, and critically analyzing various works relevant to the study's focus. Descriptive-analytical in nature, this research seeks to depict and assess issues concerning the role of age and psychological maturity in determining juvenile criminal responsibility, while also analyzing the governing legal provisions and their practical implementation to offer holistic insights and solutions to the identified legal challenges.⁷

Result and Discussion

1.1 Criminal Liability of Juvenile Offenders in Indonesia's Positive Law

Childhood represents a psychologically vulnerable stage in which a child has not yet achieved full independence, self-awareness, or emotional stability, and their personality remains in the process of development. In other words, a child's psychological state is still unstable, dependent, and easily influenced by external factors. Given this condition, the actions committed by a child cannot be entirely attributed to their own accountability, as the child is not only an offender but also, in many respects, a victim of their circumstances. Therefore, children should not be subjected to formal judicial processes when alternative measures that better serve their best interests are available to address their unlawful behavior.⁸

It is important to recognize that a child who commits a criminal act does not always do so of their own volition, but rather as a result of various influencing factors such as family circumstances and environmental pressures. However, under Indonesian law, any individual who commits a criminal offense must be held accountable in accordance with the prevailing legal provisions. The same principle applies when the offender is a child, the child must also bear responsibility for their actions. Nonetheless, the form of accountability imposed on children should take

⁷ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Pres, 2020), 47.

⁸ Louisa Yesami Krisnalita, "Diversi Pada Tindak Pidana Yang Dilakukan Oleh Anak," *Binamulia Hukum* 8, no. 1 (2019): 93–106, <https://doi.org/10.37893/jbh.v8i1.41>.

into consideration their developmental stage and can include both preventive measures and corrective sanctions. These actions are intended not only to provide a sense of justice by responding proportionately to the offense but also to awaken the child's moral awareness and sense of conscience.

The criminal responsibility of child offenders is essential, as it serves to help children learn from their mistakes and prevent them from repeating the same actions in the future. Holding children accountable for their offenses is also necessary to ensure that justice is served for the victims of their actions. Moreover, imposing criminal responsibility on child offenders can act as an important step in the victims' recovery process. Through acknowledgment and accountability, victims may feel that justice has been upheld, which can contribute significantly to their emotional healing and restoration.

The criminal responsibility of children under Indonesia's positive law has undergone continuous transformation in line with social developments and societal reconstruction. This evolution reflects the need to uphold the principles of legality and criminal liability, ensuring that the law remains relevant to contemporary realities. Criminal responsibility arises as a legal consequence when an individual commits an offense that causes harm to others. As a result, that individual must be held accountable for the consequences of their actions. A person who commits a criminal act can only be punished through a court decision with permanent legal force. Accountability must also be supported by proof of the individual's capacity to be held responsible, meaning the person must possess sufficient mental health, rationality, and maturity to understand their actions. Therefore, a criminal act can only be attributed to someone when the unlawful conduct arises from their own volition, free from coercion or external pressure, and when the perpetrator is not in a state of mental disorder.⁹

The concept of criminal responsibility in Indonesian law recognizes that not all individuals possess the mental or psychological capacity to be held accountable for their actions. Article 44(1) of Law No. 1 of 1946 (KUHP) establishes that a person lacking such capacity cannot be subjected to punishment. Simons argues that criminal accountability presupposes a sound psychological condition, assessed through a standard of reasonableness accepted by society. Given that children are still in a developmental stage and have not yet attained full legal competence, the law provides specific safeguards. Article 45 of the same law emphasizes that minors under sixteen years of age cannot be held criminally responsible; instead, the court

⁹Gabe horas Silalahi and Padrisan Jamba, "Pertanggungjawaban Pidana Terhadap Anak Yang Melakukan Tindak Pidana Berat Dikaji Dari Perspektif Hukum Positif Indonesia," *SCIENTIA JOURNAL : Jurnal Ilmiah Mahasiswa* 5, no. 3 (2023), <https://doi.org/10.33884/scientiajurnal.v5i3.7872>.

is authorized to return the child to the care of their parents or guardians, thereby prioritizing protection and rehabilitation over punitive measures.¹⁰

In cases where a child commits an offense as regulated under Articles 489–490, 492, 496–497, 503–505, 514, 517–519, 526, 531–532, 536, and 540 of the Indonesian Penal Code (KUHP), the law mandates that the child be placed under the supervision of the government. The child may be entrusted to a state-run educational facility, a charitable institution, or another legally recognized organization until they attain the age of eighteen. Furthermore, Article 47 of Law No. 1 of 1946 introduces leniency in sentencing by providing a one-third reduction from the maximum principal penalty applicable to adult offenders. In instances where the offense carries the potential for life imprisonment or the death penalty, the maximum sentence that may be imposed on a child is limited to fifteen years. Notably, the law explicitly prohibits the imposition of additional or supplementary punishments on juvenile offenders, emphasizing a rehabilitative rather than retributive approach within Indonesia's criminal justice system.

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System serves as principal legal framework in Indonesia governing the procedures for handling criminal cases involving children, including matters related to their criminal responsibility. The concept of juvenile criminal liability in Indonesia adopts the principle of individual liability, meaning that every child who commits a criminal act is personally accountable for their own conduct and may be subject to sanctions corresponding to the nature and gravity of the offense committed. Article 55 of the Indonesian Penal Code (KUHP) stipulates that any individual who commits a criminal act may be held legally responsible, provided that their involvement in the offense is proven. In relation to the imposition of criminal sanctions on children, the system recognizes what is commonly referred to as the "double-track system." This concept reflects the dual approach in sentencing juvenile offenders, wherein the court may impose either criminal sanctions or rehabilitative measures. The dual track mechanism aims to ensure that the sanctions imposed on children are not merely punitive but also rehabilitative and educational in nature. This approach underscores the child centered philosophy embedded within the UU SPPA, emphasizing that the primary objective of juvenile justice is not retribution, but rather the reintegration and positive development of the child within society.¹¹

Article 1, paragraph (3) of Law No. 11 of 2012 sets the minimum age for criminal responsibility, which directly affects the type and scope of sanctions that may be applied to juvenile offenders. According to this provision, a child who is at least 12 years old but has not yet reached 18 may be held accountable for a criminal act. This

¹⁰ *Ibid.*,

¹¹ Indah and Subekti, *Op. cit*, 159.

legal framework makes it clear that only children within this age bracket can be subject to criminal liability. Additionally, the Juvenile Criminal Justice Law (UU SPPA) further categorizes juvenile offenders into three distinct age groups, each with implications for the type of legal measures or sanctions that may be applied, namely:

1. Children under 12 years old,
2. Children aged between 12 and 14 years, and
3. Children aged between 14 and 18 years.

This classification serves as the foundation for determining the appropriate legal measures, ensuring that each child's level of maturity and developmental capacity is proportionally considered within the Indonesian juvenile justice framework.

Law No. 11 of 2012 provides a structured approach to addressing offenses committed by children, balancing the need for accountability with attention to the child's developmental well-being. The legislation highlights age as a key factor in determining legal responsibility and distinguishes sanctions according to stages of child development. Children under the age of 12 who are suspected of or involved in criminal acts are not subject to legal liability; instead, they are to be returned to their parents or guardians. Article 21 further stipulates that investigators, probation officers, and professional social workers may decide to reintegrate the child into the family or involve them in educational, developmental, or counseling programs organized by governmental agencies or Social Welfare Institutions, either at the central or regional level, for a maximum period of six months.

For children aged 12 to 14 years, accountability is recognized, yet criminal punishment cannot be imposed. Instead, the law provides for corrective measures, as outlined in Article 82, which include returning the child to parents or guardians, placement under the care of an individual, treatment in psychiatric hospitals, care in Child Guidance Centers (LPKS), participation in formal education or training programs, revocation of driving licenses, and/or reparations for damages caused by the offense. These measures are designed to address the offense while supporting the child's positive development.

Juveniles over 14 years of age may be subjected to criminal sanctions, which are categorized under principal and additional penalties as stipulated in Article 71. Principal sanctions include warnings, conditional sentences, work training, institutional guidance, and custodial imprisonment, whereas additional penalties may involve the confiscation of profits derived from the offense or compliance with customary obligations. Article 32 further restricts detention to those aged 14 years and above, and only in cases where the alleged offense carries a minimum sentence of seven years or more.

This age-responsive and development-oriented approach illustrates the UU SPPA's underlying rehabilitative and educational philosophy, which regards children not merely as offenders but as individuals in a crucial phase of personal growth who must be guided toward positive transformation. By distinguishing the types and degrees of sanctions according to the offender's age and level of psychological maturity, the law seeks to ensure that accountability remains proportionate to the child's understanding and intent. Such differentiation also serves to protect children from punitive practices that could hinder their emotional and social development. Instead, it promotes restorative measures aimed at healing relationships, rebuilding trust within the community, and enabling the young person to reintegrate into society with a renewed sense of responsibility. In this way, the UU SPPA aspires to achieve a balanced form of justice, one that not only upholds the rights of victims but also nurtures the potential for moral rehabilitation and long-term social harmony.

Since the year 2023, Law No. 1 of 2023 concerning the Criminal Code (New KUHP) has officially been promulgated and is scheduled to come into force on January 2, 2026. Upon its enforcement, Law No. 1 of 1946 on the Criminal Law Regulations will be rendered void. Consistent with the provisions of the Juvenile Criminal Justice System Law (UU SPPA), the new Criminal Code, through Articles 40, establishes that children below the age of twelve who engage in criminal conduct cannot be held criminally liable. Instead, they are to be entrusted to their parents or legal guardians, or directed to undergo mentoring, rehabilitation, or educational interventions under the supervision of social welfare institutions or relevant government bodies. The age classification for handling minors under the new Code also mirrors the framework set out in Law No. 11 of 2012 specifically addressing children aged twelve to under fourteen years. Furthermore, with regard to diversion mechanisms, corrective actions, and the imposition of sanctions, the KUHP maintains coherence with the UU SPPA, as stated in Article 117, which provides that such procedures must be carried out in accordance with the prevailing statutory framework.

The principle of juvenile criminal responsibility in Indonesia is not only derived from domestic legal norms but also harmonized with global human rights standards, particularly those embodied in the Convention on the Rights of the Child (CRC), which highlights the need to ensure every child's protection, rehabilitation, and the fulfillment of their paramount welfare in all legal proceedings. This orientation resonates with the spirit of Articles 2 and 3 of Law No. 11 of 2012, which reaffirm the centrality of a restorative approach to justice, the commitment to equality before the law, and the principle that deprivation of liberty must remain a

last and exceptional measure, applied only when absolutely necessary (ultimum remedium).

Considering the distinctive characteristics of children and the need to ensure their protection, Law No. 11 of 2012 mandates that cases involving young individuals facing legal proceedings be examined within specialized juvenile courts operating under the broader structure of the national judiciary. The process of handling such cases, from the stages of arrest and detention to trial, must be carried out by personnel who possess specific expertise and sensitivity toward children's rights and psychological conditions. Nevertheless, prior to proceeding to formal adjudication, law enforcement officers, together with families and community representatives, are required to prioritize non-judicial settlement mechanisms through diversion, which are grounded in the restorative justice approach that emphasizes healing, accountability, and the restoration of social harmony.¹²

Diversion serves as a key mechanism of juvenile criminal accountability, allowing cases involving children to be redirected from formal criminal proceedings to alternative, non-judicial processes. Under both Law No. 11 of 2012 and the new Criminal Code (Law No. 1 of 2023, effective 2026), diversion must be considered at all stages, including investigation, prosecution, and trial, whenever appropriate. This approach is applicable particularly in cases where the offense carries a maximum prison sentence of less than seven years and the child has no prior criminal record. The diversion process emphasizes family-oriented values and restorative principles, seeking to address the wrongdoing while minimizing the negative impact on the child's development, social integration, and future prospects. By incorporating guidance, counseling, and rehabilitative programs, diversion aligns with the best interests of the child, ensuring that accountability is balanced with education and personal development. This approach not only prevents unnecessary exposure to formal criminal sanctions but also promotes a supportive framework where children can learn from their actions, repair harm, and reintegrate positively into society. Ultimately, diversion embodies a restorative justice philosophy that prioritizes rehabilitation over punishment, fostering both justice for victims and sustainable growth for young offenders.¹³

In general, it can be concluded that there are three major paradigms of juvenile justice used as forms of accountability for child offenders. First, the Individual Treatment Paradigm emphasizes addressing the problems faced by the offender rather than focusing solely on the offense or the harm caused. Second, the

¹² Mohammad Taufik Makarao, Weny Bukano, and Syaiful Azri, *Hukum Perlindungan Anak Dan Penghapusan Kekerasan Dalam Rumah Tangga* (Jakarta: Rineka Cipta, 2013), 62.

¹³ Devi Mardiana and Oci Senjaya, "Pertanggungjawaban Pidana Terhadap Anak Sebagai Pelaku Tindak Pidana Persetubuhan Berdasarkan Sistem Peradilan Pidana Anak," *Jurnal Kertha Semaya* 9, no. 2 (2021): 301-13, <https://doi.org/10.24843/KS.2021.v09.i02.p10>.

Retributive Paradigm determines the imposition of sanctions at the point when the offender serves the prescribed sentence, prioritizing punishment proportional to the wrongdoing. Third, the Restorative Paradigm involves the active participation of victims in the judicial process to achieve the objectives of the sanction. The effectiveness of restorative sanctions is measured by indicators such as the restoration of the victim, victim satisfaction, and other outcomes reflecting justice and reconciliation.¹⁴ Thus, the regulation of juvenile criminal responsibility within Indonesia's positive law demonstrates a paradigm shift from a retributive system to one oriented toward rehabilitation and social restoration, reflecting a broader reform of the national criminal law toward a more humane and socially responsive approach to justice.

1.2 The Importance of Considering Age and Psychological Maturity in the Criminal Responsibility of Child Offenders

Handling children as offenders is a complex issue that requires a distinct approach and legal framework compared to dealing with adult offenders. Children differ significantly from adults, who are generally capable of considering actions and consequences from multiple perspectives and making informed decisions about right and wrong. In contrast, children have not yet fully developed such cognitive capacities. Lengthy court proceedings and direct punitive measures that stigmatize children as criminals are therefore far from ideal. Societal attitudes that insist children who commit offenses must be harshly punished to "learn a lesson" often perpetuate the perception that these children remain criminals even after serving their sentences. Such conditions constitute a serious violation of children's fundamental rights, including their right to life and to grow and develop in a safe and supportive environment.¹⁵

Sentencing children fundamentally impacts the lives of juvenile offenders. These children are highly vulnerable to physical and psychological harm, prisonization, deprivation, and societal stigma or labeling, all of which can have destructive effects on their still developing lives and may trap them in a continuing cycle of criminal behavior. Therefore, addressing cases involving children requires careful attention and well-considered approaches that not only prevent an increase in juvenile crime but also ensure that law enforcement processes take into account the child's psychological and social development.

¹⁴ Dewi Sartika et al., "Prinsip Perlindungan Terhadap Anak Yang Melakukan Tindak Pidana," *Journal Kompilasi Hukum* 4, no. 2 (2019): 206–16, <https://doi.org/10.29303/jkh.v4i2.31>.

¹⁵ Hwian Christianto, "Tafsir Konstitusionalitas Terhadap Batas Usia Pemidanaan Anak," *Jurnal Konstitusi* 8, no. 5 (2016): 733, <https://doi.org/10.31078/jk855>.

Handling children who commit criminal acts presents a complex challenge, requiring careful consideration of their age and psychological maturity. Children are still in the process of physical, emotional, and cognitive development, which limits their ability to fully understand the consequences of their actions. Recognizing this, it becomes essential to approach juvenile offenders with a perspective that balances accountability with guidance and support. Decisions regarding their criminal responsibility must be made thoughtfully, ensuring that responses are not only fair but also foster the child's growth, rehabilitation, and reintegration into society. This approach underscores the importance of treating child offenders as individuals in development rather than as fully responsible adults.¹⁶

Fundamentally, children are recognized as a vulnerable segment of society because their cognitive, emotional, and social capacities are still in development, making them less able to fully grasp or shield themselves from the influences and pressures of their environment. In the framework of criminal responsibility, this vulnerability is crucial, as it underpins the reasoning for exempting certain young individuals from conventional punitive measures. The theory of pointless punishment emphasizes that applying legal sanctions to those who lack sufficient mental maturity or conscious intent to commit wrongdoing is not only ineffective but potentially harmful. This perspective calls for a justice system that carefully considers the developmental stage of children, focusing on protection, education, and rehabilitation rather than mere retribution, thereby promoting outcomes that support their growth into responsible and socially integrated individuals.¹⁷

As a vulnerable group, children may exhibit certain cognitive and behavioral capabilities, yet these abilities remain incomplete due to environmental factors and limited knowledge, reflecting their ongoing developmental phase and search for identity. This condition makes them highly susceptible to external influence, manipulation, or provocation by irresponsible individuals. Furthermore, the surrounding environment plays a crucial role in shaping a child's behavior, emphasizing the importance of social, familial, and educational contexts in understanding their accountability within the justice system.¹⁸

¹⁶ Anik Iftitah et al., "Pertanggungjawaban Hukum Anak Dalam Pelaku Tindak Pidana Berat: Pendekatan, Dampak, Dan Implikasi Dalam Sistem Peradilan Anak," *Birokrasi: JURNAL ILMU HUKUM DAN TATA NEGARA* 1, no. 2 (2023): 152-67, <https://doi.org/10.55606/birokrasi.v1i2.592.A>

¹⁷ Rasdianah Rasdianah, "Prinsip Dan Syarat Penjatuhan Hukuman Bagi Anak Berkonflik Hukum," *Jurisprudentie: Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum* 4, no. 2 (2017): 157, <https://doi.org/10.24252/jurisprudentie.v4i2.4061>.

¹⁸ M. Nasir Djamil, *Anak Bukan Untuk Dihukum : Catatan Pembahasan UU Sistem Peradilan Pidana Anak (UU-SPPA)*, Cet. 3 (Jakarta: Sinnar Grafika, 2015), 11.

It is essential to emphasize that the purpose of the legal system governing the criminal liability of children as offenders is not merely to impose severe punishment, but rather to protect, educate, and rehabilitate them so that they may be guided back toward the right path. In this context, a holistic and sustainable approach is indispensable, one that considers the psychological, social, and developmental dimensions of the child. A rehabilitative approach to criminal liability seeks to transform the behavior of child offenders and prepare them for positive social reintegration. Thus, imposing punishment upon children should not be seen as an act of retribution, but as a human centered effort to provide them with the opportunity to change the course of their lives and grow into responsible members of society.

Research has shown that children involved in the criminal justice system constitute one of the most vulnerable groups compared to their peers who are not. Studies indicate that processing children formally within the juvenile justice system does not effectively prevent future crimes; rather, it tends to increase the likelihood of reoffending in the years ahead. Without receiving appropriate interventions, individuals who first come into contact with the justice system during childhood are more likely to become chronic offenders, continuing their criminal behavior into adulthood. Moreover, incarceration itself can hinder the healthy development of a child, as confinement has been proven to have adverse effects on their psychosocial maturity and overall well-being.¹⁹

It is essential to define a thoughtful and appropriate minimum age for criminal responsibility, ensuring it is not set too low and that the psychological development of juvenile offenders is carefully taken into account. Article 40 of Indonesia's Juvenile Criminal Justice System Law explains that the age threshold of 12 years is determined based on psychological factors, including emotional, intellectual, and mental maturity. Children below this age are considered to lack sufficient psychological development and, therefore, are not fully capable of being held criminally responsible for their actions. Prof. Judy Cashmore from Sydney Law School, University of Sydney, emphasizes that decisions regarding the age of criminal responsibility should primarily be approached as a public health matter, given that the behavior of children aged 10 to 14 generally requires supportive care and developmental interventions rather than solely punitive measures.²⁰

¹⁹ Elizabeth S. Barnert et al., "Setting a Minimum Age for Juvenile Justice Jurisdiction in California," *International Journal of Prisoner Health* 13, no. 1 (2017): 49-56, <https://doi.org/10.1108/IJPH-07-2016-0030>.

²⁰ Damai Alan Saptama et al., "Neurohukum Dan Batas Usia Anak Dalam Pertanggungjawaban Pidana," *Wijaya Putra Law Review* 3, no. 1 (2024): 21-38, <https://doi.org/10.38156/wplr.v3i1.183>.

The designation of 12 years as the minimum age for holding juvenile offenders legally responsible is based on the Constitutional Court Decision No. 1/PUU-VIII/2010. This ruling recognizes that children who have reached this age possess a level of maturity that allows them to be engaged in legal processes and, if necessary, held accountable for their actions. This threshold is consistent with international legal frameworks, such as the United Nations Convention on the Rights of the Child (CRC), which advocates for 12 years as the baseline age for criminal responsibility, reflecting a balance between recognizing children's developing capacities and ensuring accountability within the justice system.

This age determination serves as a benchmark for assessing a child's ability to comprehend the legal and moral consequences of their actions. Nevertheless, the United Nations Committee on the Rights of the Child, through *General Comment No. 10* (10 February 2007), along with UNICEF, advocates for a higher minimum age of criminal responsibility, preferably 14 years or above, in accordance with practices adopted by many countries worldwide. This recommendation is supported by empirical studies suggesting that setting the minimum age at 14 or older constitutes a more appropriate and humane approach, as it better accounts for the psychological maturity and cognitive development of children in a fair and proportionate manner.

Nevertheless, while chronological age is commonly used as the primary determinant of criminal responsibility, this approach is often not accompanied by sufficient psychological assessment to evaluate the child's emotional and intellectual maturity. Empirical studies affirm that "age and maturity play major roles in judicial determinations of juvenile competency", underscoring that age alone cannot accurately measure a child's capacity for legal accountability. Cox et al. further substantiated this by analyzing psychological evaluations of children aged 12-17, categorized as either "mature" or "immature," revealing that psychosocial maturity significantly influences judicial assessments of juvenile competence.²¹

Evaluating the criminal responsibility of children should extend beyond mere chronological age, incorporating careful consideration of their psychological and social development. Studies indicate that a child's level of psychosocial maturity strongly affects their understanding of the consequences of their actions and influences how the justice system assesses their legal competency. Young children, who are still developing emotionally and cognitively, are particularly susceptible to rigid legal procedures, which can lead to sanctions that are disproportionate and

²¹ Jennifer Mayer Cox et al., "The Impact of Juveniles' Ages and Levels of Psychosocial Maturity on Judges' Opinions about Adjudicative Competence," *Law and Human Behavior* 36, no. 1 (2012): 21-27, <https://doi.org/10.1037/h0093953>.

potentially harmful to their future. By integrating thorough psychological assessments into juvenile justice processes, the system can ensure not only fairness for victims but also protection, education, and rehabilitative support for the child offenders. A juvenile justice approach that is attuned to a child's psychological maturity enables the effective implementation of restorative justice practices while fostering the development of responsibility and facilitating the child's positive reintegration into society.²²

Without incorporating individualized psychological assessments, the system of juvenile criminal responsibility risks becoming excessively rigid and disconnected from the actual dynamics of child development. As a result, this could impede the effective realization of restorative justice principles and weaken the rehabilitative purpose of juvenile law, since judicial decisions may overlook the child's genuine psychological ability to understand their actions and engage meaningfully in the process of correction and recovery. In essence, the absence of a child-centered evaluation approach undermines the very foundation of juvenile justice, which is meant to balance accountability with compassion and protection. A fair and effective legal process should therefore not only assess the legality of a child's conduct but also consider the emotional, cognitive, and moral dimensions that influence their behavior. By integrating psychological assessments into every stage of the judicial process, the justice system can move closer to achieving a restorative model that promotes healing, education, and positive reintegration rather than punishment alone.

The regulation concerning the minimum age of criminal responsibility, along with the consideration of a child offender's psychological maturity, as reflected in international instruments such as the United Nations Convention on the Rights of the Child, underscores the vital importance of safeguarding children's rights and upholding justice within the legal system. These international standards consistently affirm that children, as individuals still undergoing emotional, cognitive, and moral development, must receive special protection from legal actions that could cause psychological or social harm. Setting a well-defined age limit for criminal responsibility is therefore essential to prevent children who have not yet reached full emotional or intellectual maturity from being subjected to harsh legal sanctions they cannot entirely comprehend.

Moreover, such regulations are consistent with the rehabilitative principle, which underscores that the juvenile justice system should prioritize the child's

²² Jennifer Lavoie et al., "How Important Is Developmental Maturity in Assessing Whether Adolescents Will Share True or False Accounts of a First Offense in Legal Interactions?," *Journal of Developmental and Life-Course Criminology* 9, no. 4 (2023): 648–69, <https://doi.org/10.1007/s40865-023-00238-x>.

recovery, growth, and reintegration within the community rather than enforcing punitive sanctions that could impede their overall development. Thus, determining a proper age limit for criminal responsibility not only demonstrates a strong commitment to protecting children's rights but also contributes to the broader aim of building a fair, compassionate, and sustainable society grounded in restorative justice.

One of the fundamental objectives of the law is to ensure justice for every individual. This goal can be achieved only when legal systems and legislative instruments are fair, accurate, and effectively regulate social life. Establishing clear age limits for criminal responsibility and considering the psychological maturity of juvenile offenders are crucial factors that help promote justice within the legal process. Young children who do not yet have the mental ability to understand the outcomes of their actions fully should be treated differently from adults. Consequently, criminal responsibility for child offenders must be applied more humanely, with full regard to their developmental stage. Overlooking a child's age and psychological maturity risks creating injustice within the legal system, where children may be treated as adults without recognition of their limited capacity to grasp and control their behavior. Such treatment not only violates the principles of child protection but also undermines public confidence in the justice system. Failing to account for age and psychological maturity can significantly affect a child's future. Children who engage in criminal behavior at a young age are often still in an emotionally and cognitively developing stage. If the justice system does not consider these factors in determining criminal responsibility, there is a risk that children may be subjected to disproportionate penalties that could even exacerbate their future behavior. In many cases, children punished without regard to their age and maturity may experience long-term social stigma, which hinders their reintegration into society. Moreover, a system insensitive to these factors may contribute to mental health issues, depression, feelings of isolation, and a sense of being misunderstood, increasing the likelihood of reoffending in the future.

Therefore, taking into account both the age and psychological maturity of juvenile offenders is critical when assessing their accountability. It is important to incorporate these factors throughout all phases of the legal proceedings involving children. By doing so, the justice system can adopt a more compassionate, educational, and rehabilitative approach, providing young offenders with the guidance and support needed to grow into responsible, productive, and well-adjusted individuals. Failing to consider age and psychological development not only disadvantages the child but can also have broader societal repercussions, including an increased risk of juvenile delinquency.

Building on this perspective, addressing juvenile criminal responsibility requires more than rigid adherence to legal provisions; it demands a nuanced appreciation of the child's age, psychological maturity, and social context. Children are not miniature adults, and their developmental stage profoundly shapes their understanding, decision-making, and capacity to bear responsibility for their actions. By integrating considerations of emotional, cognitive, and psychosocial maturity into every stage of the legal process, the justice system can move beyond purely punitive approaches toward strategies that are educational, rehabilitative, and restorative. Such an approach safeguards the rights and well-being of the child while fostering long-term societal benefits, supporting young individuals to learn from their mistakes, reintegrate positively, and contribute responsibly to their communities. Recognizing the unique needs of child offenders affirms a justice system that is not only fair but deeply humane.

Conclusion

The concept of juvenile criminal responsibility in Indonesia is grounded in the principle of individual accountability. In imposing criminal sanctions on children, the double-track system is applied, offering two distinct pathways: punitive measures and rehabilitative efforts. This system ensures that sanctions for juvenile offenders are not purely retributive but also focus on their recovery and education. Establishing a clear age limit and considering the psychological maturity of young offenders are key to ensuring justice within the legal framework. International conventions on children's rights consistently affirm that children, as individuals still undergoing growth and development, must receive special protection from legal measures that could negatively affect their psychological and social well-being. Setting a definitive age threshold for criminal responsibility serves to prevent children who have yet to achieve emotional or cognitive maturity from being subjected to legal consequences they cannot fully comprehend. Disregarding age and mental maturity in determining accountability risks creating disproportionate punishments and may even reinforce undesirable behavior in the long term. Therefore, integrating both age and psychological maturity into the handling of juvenile offenders is vital to achieving a more humane, educational, and rehabilitative approach one that enables children to grow into responsible, productive, and morally conscious individuals in the future.

Suggestion

Drawing from the findings of this research, it is strongly recommended that all relevant stakeholders, including lawmakers, law enforcement officials, the judiciary, and institutions focused on child rehabilitation, enhance the

implementation of child criminal responsibility frameworks that prioritize education and rehabilitation over purely punitive measures. Throughout every stage of the legal process, careful attention must be given to a child's age and psychological maturity, ensuring that decisions not only uphold fairness but also nurture the child's emotional and social development. Those directly working with juvenile offenders, such as investigators, probation officers, and social workers, should be equipped with specialized training in child psychology, restorative justice practices, and rehabilitative methods. Moreover, programs providing guidance, education, and skill building should be expanded to offer children constructive opportunities to amend behavior and reintegrate successfully into society. Equally important is raising public understanding of children's rights and the necessity of humane approaches within the justice system, helping to reduce stigma and granting young offenders a genuine chance to grow into responsible, empowered, and productive members of their communities.

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