CHAPTER I

INTRODUCTION

A. BACKGROUND OF STUDY

Juvenile delinquency has become a recurring legal and social issue that increasingly involves adolescent in serious criminal offense. Many different countries have established various juvenile criminal justice system, resulting in a careful balance between punishment and restorative approaches. The high range of violence among adolescent has drawn attention, frequently at the young age. This issue should be addressed the development of state legislative provision. As the result, each states has developed its own legislation governing the classification of juvenile considering disparities in the treatment, criminal culpability and imprisonment of juvenile offenders. Juvenile crime is evidenced the involvement of children aged 13 (thirteen) to 17 (seventeen) in serious criminal offenses indicating that juvenile offending no longer incidental.[1] In Indonesia, criminal offense involving of children have significantly increased. Based on data from the Indonesian National Criminal Information Center (PUSIKNAS PORLI), more than 1000 children are recorded as criminal suspects each month, indicating that juvenile offending is a structural and recurring phenomenon rather than isolated cases.[2] The increasing number of criminal cases involving minors as a result

[1] Http://pusiknas.polri.go.id/detail_artikel/tiap_bulan,_lebih_1.000_anak_jadi_tersangka_kejahatan, Accessed on 8th October 2025.
[2] *Ibid*

of Juvenile delinquency has led many young offenders to face the legal sanction in accordance with existing regulations.[3]

The juvenile criminal justice system is one of the preventive mechanism. The purpose of this system is not only to punish children who have committed criminal offense, but also provide them with protection. Children play a fundamental role in national development, therefore, the state has to establish special legal protection. Safeguarding the rights of children represents a concrete manifestation of the protection of human rights, ensuring that minors are treated fairly and provided with measures that promote their welfare, development, and rehabilitation.[4]

Juvenile justice should not merely function as mechanism for punishment, but also as a system that takes into account the child's psychological development, level of awareness, and culpability for the criminal act. In this context, the determination of criminal responsibility becomes an issue a child can't always be equated with an adult offender in terms of moral awareness and legal capacity.

The Juvenile criminal justice system in Indonesia is clearly regulated under Law Number 11 of 2012 amending Law Number 3 of 1997 concerning the Juvenile criminal justice system on the Juvenile criminal justice System (SPPA Law). The system must ensure that the needs and rights of children in

[3] Kayla Manda Maharani, "Efektivitas Hukum Pidana Anak: Tercapainya Diversi, Terabaikannya Hak Asasi", available in Https://Lk2fhui.Law.Ui.Ac.Id/Portfolio/Efektivitas-Hukum-Pidana-Anak-Tercapainya-Diversi-Terabaikannya-Hak-Asasi/, Accessed on 8th October 2025.

[4] The "Considering" section of Law of the Republic of Indonesia umber 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law).

conflict with the law are fully met, and that all decisions are made in accordance with the principle of *the best interests of the child*.[5] The provisions of this law prioritize alternative resolutions, such as returning the child to their parents or placing them in a social institution. From a legal perspective, the Juvenile criminal justice System is defined in the explanation of Article 1, point 1, of Law Number 11 of 2012 amending Law Number 3 of 1997 concerning the Juvenile criminal justice system, the meaning of Juvenile criminal justice System states that:

"Sistem Peradilan Pidana Anak Adalah keseluruhan proses penyelesaian perkara Anak yang berhadapan dengan hukum, mulai tahap penyelidikan sampai dengan tahap pembimbingan setelah menjalani pidana." The principle of child protection is a non-violent principle that emphasizes the best interests of the child and the child's right to protection, life, welfare, and development, including in cases where the child has committed a criminal offense.[6]

SPPA Law also establishes age limitation regarding child to criminal responsibility. The determination of the minimum age of a child under the Juvenile criminal justice System law (SPPA Law) is regulated in Article 32, paragraphs (1) and (2). It stipulates that detention may only be carried out if a child is at least 14 years old and is suspected of committing a criminal offense punishable by imprisonment of seven years or more, provided that no guarantee is given by the parent/guardian or institution that the child will not

[5] Kementerian Perencanaan Pembangunan Nasional/Badan Perencanaan Pembangunan Nasional, *Modul Sistem Perlindungan Anak: SPA Modul 3*, Kementrian PPN/Bappenas, Jakarta, 2025, p. 115.
[6] Michael Freeman, *a Commentary on the United Nations Convention on The Rights of the Child Article 3: The Best Interest of the Child*, 1st edition, Martinus Nijhoff publishers, Leiden, 2007, e-book p. 50.

escape, destroy or tamper with evidence, or repeat the offense. Meanwhile, the minimum age at which a child can be held criminally responsible under the SPPA Law is set at 12 years old.[7] However, SPPA Law doesn't explicitly provide standards for assessing the child's psychological maturity, subjective awareness, or moral understanding when determining the criminal responsibility. The attribution is tend to rely on formal age requirement rather than comprehensive evaluation of child's culpability and capacity of act.

The Juvenile criminal justice System law regulates the obligation of law enforcement officials to implement a restorative justice approach through a diversion system, which allows the resolution of juvenile cases to be redirected from formal judicial proceedings to alternative measures outside the criminal justice process at all stages of the juvenile legal process.[8] This is based on the right to child protection, which is explicitly stated in Article 28B, paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which provides that:

"Setiap anak berhak atas keberlangsungan hidup, tumbuh, dan berkembang serta berhak atas perlindungan dari kekerasan dan diskriminasi" In the Indonesian legal system, children are not only the responsibility of their parents but also the obligation of the state to ensure that they grow up in a safe environment, free from violence and other forms of harm.[9]

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[7] Lilik Mulyadi, *Wajah Sistem Peradilan Pidana Anak Indonesia*, 1st edition, PT. Alumni, Bandung, 2014, p.3.

[8] Yul Ernis, "Diversi dan Keadilan Restoratif Dalam Penyelesaian Perkara Tindak Pidana Anak di Indonesia", *Jurnal Ilmiah Kebijakan Hukum*, Vol. 10 No. 2, Kementrian Hukum dan HAM RI, 2016, p. 164.

[9] Fatha M. P. & Nova K. U., "Perlindungan Hukum Terhadap Anak: Menjamin Hak-Hak dan Kesejahteraan Anak di Indonesia", *Causa: Jurnal Hukum dan Kewarganegaraan*, Vol. 5 No. 11, 2024.

This behavior constitutes an act violates social norms. However, it is also viewed as a part of social reality. Through institutions under the auspices of the United Nations (UN), has issued various child protection instruments that serve as guidelines and references for the national legal systems of individual states.[10] It has stated rehabilitation, proportionally, and the avoidance of unnecessary deprivation of liberty for children. Because Juvenile criminal justice system does not limited the fulfillment of children's right as members of society, but also involves them in maintaining social order and community safety.

The issue of determining juvenile criminal responsibility is also addressed differently in the United States through Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974, as amended in 2018. The United States juvenile criminal justice system emphasizes rehabilitation, accountability, and individualized assessment in responding to juvenile delinquency.

The Juvenile criminal justice system in the United States defines its scope and orientation based on the principle that juvenile delinquency is not merely subject to repressive measures or criminal punishment. Instead, it adopts a comprehensive, evidence-based approach with a focus on rehabilitation. This principle is articulated in **34 U.S.C. § 11101 (10) - (11)** of the Juvenile criminal justice and Delinquency Prevention Act (JJDPA), which states:

[10] Tiara Ramadhani, "Perbandingan Pertanggungjawaban Pidana Anak di Indonesia dan Amerika Serikat", *Causa: Jurnal Hukum dan Kewarganegaraan*, Vol. 10 No. 12, 2025, p. 3.

(10) “These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting”—

(A) “quality prevention programs that”—

(i) “work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether or not juveniles have been the victims of family violence (in-cluding child abuse and neglect); and”

(ii) “are designed to reduce risks and develop com- potencies in at-risk juveniles that will prevent, and re- duce the rate of, violent delinquent behavior; and”

(B) “programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed juveniles for their acts.”

(11) “Coordinated Juvenile criminal justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter can help prevent juveniles

from becoming delinquent and help delinquent youth return to a productive life."

The Juvenile criminal justice and Delinquency Prevention Act of 1974 amended in 2018 is a federal law that provides funds to states that follow a series of federal protections, known as the core protections, on the care and treatment of youth in the justice system.[11] The provisions of the Juvenile criminal justice and Delinquency Prevention Act (JJDPA) are adaptive to the evolving nature of juvenile delinquency while simultaneously maintaining a strong emphasis on child protection and preventive measures.

Unlike Indonesia, there are several mechanism within the United States legal system, including juvenile waiver which allows courts to transfer the juvenile offenders from juvenile criminal justice system to adult criminal justice system based on the perspective of child's capability.

Juvenile criminal acts constitute a form of criminal juvenile delinquency, meaning they are acts that would also be considered criminal if committed by an adult. The threat of sanctioning measures under the SPPA Act indicates that there are alternative mechanisms, beyond traditional criminal penalties, for addressing and preventing such offenses.[12] Sanctioning measures focus on how society provides protection, guidance, and care for the offender, emphasizing not merely punitive responses but also the promotion of rehabilitation, social reintegration, and the overall

[11] Https://Ojjdp.Ojp.Gov/Library/Publications/Juvenile-Justice-And-Delinquency-Prevention-Act-Reauthorization-2018, Accessed On October 9th 2025

[12] Nur, dkk, "Model of Punishment: Juvenile criminal justice system Systems", *JALREV: Journal of Asian Legal Studies*, Vol. 3 Special Issue, Universitas Negeri Gotontalo, 2021.

well-being of the juvenile within the community. At the same time, sanction fraction stems from the basic idea of community protection and the formation or care of the maker or as J.E said. Jonkers, those criminal sanctions are emphasized on crimes that are applied for crimes committed, while sanctions actions have a social purpose.[13]

The juvenile criminal justice system plays a critical role in prioritizing the rehabilitation and reintegration into society rather than solely punishment.[14] Thus, this approach reflects a paradigm shift from a predominantly retributive system toward one oriented on the protection and rehabilitation of children. The need for special handling arises not only from the increasing number of the juvenile crimes, but also from the quality and effectiveness of the legal system itself.

The Juvenile criminal justice system must determine the legal capacity of a child to commit an offense, as a conduct considered criminal for an adult may not necessarily be attributable to a child in the same manner. The issues concerning children who engage in unlawful acts should be adjudicating not only by system functioning as a punitive mechanism but also as means of protection, guidance, and rehabilitation. This raises the legal discussion within Juvenile criminal justice policy regarding how the legal system balances child protection with the need to attribute responsibility when a juvenile consciously commits a criminal act. The

[13] *Ibid*

[14] Vasanthan A.A. & Yogesh Kumar Wamankar, "Juvenile criminal justice system across borders: A Comparative study of India and the United States", *IJISR: International Journal of Innovative Scientific Research*, Vol. 3, 2025, p. 19.

interpretation of a child's awareness and capacity therefore becomes a crucial thing in determining the appropriate legal response to juvenile delinquency.

Both countries have established Juvenile criminal justice system and policies for delinquency prevention. However, a significant issue arises regarding how each system assesses a child's subjective condition and their capacity to understand and be held accountable for their actions. The United States is selected for comparison in this study because it maintains a comprehensively regulated Juvenile criminal justice system under Juvenile criminal justice and Delinquency Prevention Act of 1974 (JJDPA) emphasize in child protection and the flexibility in assessing child's legal capacity to allow determinate adjudication. The difference highlights how criminal legal protection and accountability are balanced within each country's system reflect to the child protection.

The difference between Indonesia and the United States demonstrate contrasting approaches in balancing child protection and criminal accountability. Therefore, this study aims to compare the juvenile criminal justice system in Indonesia and United Sates, particularly regarding the mechanisms for determining juvenile criminal responsibility and the sanctioning approaches applies to juvenile offense. This comparative analysis seeks to examine hoe each legal system balanve child protection, rehabilitation, and criminal accountability based on child's capacity and awareness in committing criminal acts.

B. PROBLEM FORMULATION

1. What are the mechanisms of the juvenile criminal justice system in Indonesia and The United States?
2. How are the sanction systems applied in juvenile justice in Indonesia and The United States?

C. RESEARCH OBJECTIVE

1. To examine the mechanisms of Juvenile criminal justice system in Indonesia and The United States.
2. To analyse how sanctions are enforced on children in conflict with the law within the Juvenile criminal justice system in Indonesia and The United States

D. RESEARCH ORIGINALITY

Based on the results of literature review conducted by the author entitled "*Comparative Study of Juvenile criminal justice and Delinquency Prevention in Indonesia and The United States*," There is a correlation between this research and the previous studies related to the regulation of Juvenile criminal justice systems and imposition of sanction on children in conflict with the law. However, there are differences with prior research regarding the main issues discussed. This study specifically examines how each system assesses children's legal capacity and determines sanctions based on different policy

orientations, in this study between Indonesia and the United States which distinguishes it from prior research. The author has identified several researches that differ from the research conducted by the author, as follows:

No	Author Name	Title	The element of difference
1	Chepi Mandala Putra (2019)	Studi Komparatif Tindak Pidana Anak Menurut Qanun Aceh No 6 Tahun 2014 Tentang Hukum Jinayat dan Undang-Undang No 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak	Analyzing the comparison between two distinct legal systems requires a comprehensive examination of their fundamental principles and practical applications. This study specifically focuses on comparing the legal frameworks established under the Qanun of Aceh and the law on the Juvenile criminal justice system (SPPA Law). The analysis centers on three key aspects: the age criteria that determine a child's criminal responsibility, the types and nature of sanctions imposed upon juvenile offenders, and the mechanisms of resolution available within each system. Through this comparative approach, the study seeks to reveal how both legal systems conceptualize justice for children, the extent to which they prioritize protection and rehabilitation over punishment, and how their distinct cultural and normative foundations shape the treatment of juveniles in conflict with the law.
2	Nur Azhari Mahmudah (2025)	Pengaturan Tindak Pidana Pembunuhan oleh Anak di Indonesia, Amerika, dan Iran.	This study examines the regulation of homicide committed by minors in Indonesia, the United States, and Iran, focusing on legal

			provisions, criminal sanctions, and age limits in each country. The analysis highlights the differences and similarities in how these jurisdictions address juvenile offenders while balancing justice and child protection.
3	Sarah Aulia Rahmatika (2018)	Batasan Umur Anak Terkait Dengan Pertanggungjawaban Pidana (Studi Komparasi Hukum Pidana Indonesia dengan Inggris)	This study analyses a comparative legal perspective on age limits for criminal responsibility under the Indonesian and English legal systems, examining the legal basis for age restrictions as well as their similarities and differences.

E. THEORETICAL REVIEW

1. JUVENILE CRIMINAL JUSTICE SYSTEM

Legal regulations yield meaningful benefits only when supported by a judiciary that stands firm and independent from any external influence. Such a judiciary provides substance and authority to the legal norms enshrined in statutes and other legal instruments.[15] The Juvenile criminal justice system provides protection for children who are in conflict with or subject to legal proceedings. The Juvenile criminal justice system operates under the jurisdiction of the general court system.[16] In its definition, the Juvenile criminal justice system establishes certain material limitations, particularly concerning the age threshold for criminal responsibility. This provision emphasizes

[15] Candra H. I., "Kebijakan Hukum Pidana Perlindungan Anak dalam. Pembaruan Sistem Peradilan Pidana Anak di Indonesia", *Jurnal Hukum dan Peradilan*, Vol. 2 No. 3, 2013, p. 358–378.
[16] Nafi' Mubarok, *Sistem Peradilan Pidana Anak*, Insight Mediatama, Mojokerto, 2022.

the fulfilment of children's rights by ensuring that the administration of justice avoids any form of discrimination against minors.

The Juvenile criminal justice System encompasses all activities and judicial decisions related to matters concerning the rights and interests of children.[17] Its establishment was carried out as an effort to address and prevent various forms of prohibited conduct and delinquent behaviour. According to Jaap E. Doek[18], the Juvenile criminal justice system must be on children's rights based on Convention on the Rights of the Child (CRC), require separation between children and adults in criminal law, and focus on children's accountability while protecting their development and ensuring dignity, protection, and justice for children.

The Juvenile criminal justice system was established as an effort to guide and rehabilitate children toward better behaviours and personal development. This approach is grounded in the understanding that, from a psychological perspective, children possess emotional and mental conditions that are not yet fully stable or mature, making them more vulnerable to external influences from their surrounding environment.[19]

[17] R. Wiyono, *Sistem Peradilan Pidana Anak di Indonesia*, Sinar Grafika, Jakarta, 2021, p. 4.
[18] Jaap E. Doek, *Juvenile criminal justice system: International Rights and Standards,* 1st Edition, Routledge, London, 2008.
[19] Nafi' Mubarok, *Loc Cit*.

At the core of Juvenile criminal justice theory are two competing models: retributive justice and restorative justice.[20]

According to Hadi Supeno,[21] Juvenile criminal justice system must be based on a child centered perspective. Children should not be subjected as criminal offenders. The judiciary must focus on protection, guidance, and accountability appropriate to the child's age and development.

The explanation of Law No. 11 of 2012 on the juvenile criminal justice system stated that juvenile courts aim to provide protection and guidance to children in conflict with the law through rehabilitative measures.

The Juvenile criminal justice system emphasizes child must retain their basic right and receiving the same treat as well-being to support their development in act. There are several conditions that explain why children engage in criminal behavior. This condition is based on psychological, social, and biological. By that, it can lead children to commit crimes that caused by emotions, impulsivity, environmental influence, or genetic factors. This is showing that juvenile crimes doesn't arise in isolation but develops through continuous interaction between the child and social environment.

[20] Widowati, "Justice for Children: Exploring Juvenile Criminal Law in Indonesia", *West Science Law and Human Rights*, Vol. 2 No. 04, 2024, p. 367-378.
[21] Hadi Supeno, *Kriminalisasi anak*, Gramedia Pustaka Utama, Jakarta, 2013, p. 194.

2. JUVENILE CRIMINAL JUSTICE SYSTEM IN INDONESIAN AND UNITED STATES

International child protection instruments are contained in the United Nations Convention on the Rights of the Child (CRC) of 1989, which Indonesia ratified through Presidential Decree Number 36 of 1990. These reforms aim to ensure that the principle of the best interests of the child, applied in juvenile criminal justice policies and practices. This proven that the convention has been implemented and binding to Indonesian law.[22]

The enactment of Law Number 11 of 2012 amending Law Number 3 of 1997 concerning the Juvenile criminal justice system concerning the Juvenile criminal justice system was established as follows:[23]

a. A child is a mandate and a blessing from Almighty God, possessing inherent dignity and worth as a complete human being.
b. To preserve that dignity and worth, every child is entitled to special protection, particularly legal protection within the justice system.
c. As a State Party to the Convention on the Rights of the Child, Indonesia bears the obligation to provide special protection to children in conflict with the law, in accordance with the principles of legal protection established under the Convention.

Through Law Number 11 of 2012 of Juvenile Criminal Justice System (UU SPPA), diversion became a legal obligation for law enforcement in handling juvenile cases, supported by clearer implementation guidelines. The implementation in Indonesia has

[22] Maryani, "Politik Huum perlindungan Anak di Indonesia", *Jurnal Hukum Sehasen*, Vol. 1, No. 2, 2017.
[23] R. Wiyono, *Op.Cit*, p. 8.

contributed to a reduction in juvenile recidivism rates.[24] The effectiveness of diversion upholds values such as deliberation, forgiveness, and social harmony which strengthen the legitimacy of mediation-based resolution.

In US, the authorities do not intervene in individual juvenile cases, but act when they identify systemic patterns or practices that harm children. If such problems are found, they require state or local government to correct and may pursue legal action of compliance is not achieved.

The Juvenile criminal justice system in the United States is governed primarily by state laws, under which each state possesses its own Juvenile code that regulates the procedures, principles, and mechanisms applicable to juveniles within its jurisdiction. The system handles minors who have committed offenses that would be crimes if committed by adults, focusing on rehabilitation rather than punishment.[25]

Juvenile criminal justice system in the United States aims to protect public safety while prioritizing the rehabilitation of youth through education, treatment, and supportive services, with the goal of

[24] D. S. Aulia & I. P. Hapsari, "From Punitive to Rehabilitative: Transformation of Juvenile criminal justice system through Evidence-Based Diversion Models in Indonesia, Malaysia and Vietnam", *Jurnal Mahkamah: Kajian Ilmu Hukum dan Hukum Islam*, Vol. 10 No. 2, 2025.

[25] Zishan Khan, dkk., "Legislative Framework The Evolution of Juvenile criminal justice system in The United States: Assessing the impact of Legislative changes on Juvenile delinquency, Rehabilitation, and Human Rights", *International Journal of Legal Science and Innovation (IJLSI)*, Vol. 7 No. 2, 2025, p. 337.

reducing recidivism and ensuring those children's legal rights are upheld throughout the justice process.

3. CHILD

Child protection is evidence that the state guarantee the right of every child to survive, row, and develop without violence or discrimination. The definition of a child in Indonesian positive law is generally defined as a minor, a person who is still under supervision by parent or guardian and is not legally competent to perform any legal action.[26] The legal protection for children is an effort to provide legal protection for various *fundamental rights and freedoms of children* as well as various interest related to the children's welfare.[27]

According to the Convention on the Right of the Child (CRC), a child is defined as a person under 18 (eighteen), provided that if applicable laws exists for children, the age of majority may be reached earlier. This instrument establishing their rights such as right to survive, and participating in social growth and development movement.

The United States has their own definition of a child. Under the Immigration and Nationality Act (INA) Section 101 (b) (1) and 8 U.S.C. §1101(b) (1), a child is defined as an unmarried person under 21 (twenty one) years old who is biological child, adopted child, or

[26] Lilik Mulyadi, *Op.cit*, p. 3.
[27] Barda Nawawi, *Beberapa aspek kebijakan penegakkan hukum pidana*, PT. Citra Aditiya Bakti, Bandung, 2006, p. 155.

stepchild. The difference is defined a child for immigration purposes based on factors such as family relationship, age, and marital status.

The state is obliged to protect children's rights because they're highly vulnerable to exploitation. Children's rights are crucial, as the highest institution, state must protect child to fulfilling the developmental needs. Therefore, child protection is complementary to ensure children's survival and well-being.

F. TERMS OF DEFINITION

1. DELINQUENT CHILD

The definition of a child is also stated in Article 1 paragraph (1) of Law Number 35 of 2014 concerning Child Protection, which stipulates that a child is a person under the age of 18 years old. Within the framework of human rights, children are recognized as legal subjects who possess fundamental rights that must be protected and fulfilled by the state as well as by their surrounding environment.

Meanwhile, under the Juvenile criminal justice and Delinquency Prevention Act (JJDPA), a child is defined as an individual who has not reached the age of 18 (eighteen). This definition is applied uniformly across all provisions of the Act, encompassing areas such as detention, deprivation of liberty, and access to social services. The application of this standard reflects a protective and welfare-based approach that emphasizes

rehabilitation and the safeguarding of minors within the Juvenile criminal justice system.

2. JUVENILE CRIMINAL JUSTICE SYSTEM

The Juvenile criminal justice system is a specialized branch of the judiciary that exclusively adjudicates criminal cases involving minors and operates as an integral component of the broader legal system.[28] The Juvenile criminal justice system serves as a comprehensive legal framework aimed at safeguarding children from actions that may endanger their physical, psychological, or social well-being. It embodies the principle of justice that seeks not only to ensure fairness but also to guarantee that every child is treated equally before the law without any form of discrimination. This system emphasizes a child-cantered approach in which the enforcement of justice prioritizes protection, welfare, and rehabilitation rather than punishment. Furthermore, the Juvenile criminal justice system consists of interrelated subsystems that operate on both substantive and procedural legal foundations, ensuring that the implementation of law reflects the balance between legal certainty, justice, and the best interests of the child.

Any act that violates the provisions of statutory regulations may be subject to sanctions or criminal penalties as stipulated within the corresponding legal framework. Such enforcement reflects the state's authority to uphold the rule of law by ensuring that every unlawful action

[28] I. K. A. Satya Prema, dkk., "Pembatasan Usia Pertanggungjawaban Pidana Anak Dalam. Peraturan Perundang-Undangan", *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, Vol. 4 No. 2, p. 232–241.

receives appropriate legal consequences in accordance with the applicable legislation.

G. RESEARCH OF METHOD

1. TYPE OF RESEARCH

The approach used in this thesis is the normative legal research method, which is based on the study of legal norms. This research is contained in finding relevant literature and regulation as well as reviewing library materials or secondary data as the source of information.

2. METHOD OF APPROACH

This research employs both statue approach (legislation based) and comparative approach. The statue approach is conducted by examining the applicable legal provisions, while the comparative approach is carried out by exploring legal concepts, principle, and or doctrines relevant based on comparison of the Juvenile criminal justice system in Indonesia and United states.

3. OBJECT OF RESEARCH

The object of this thesis is the comparison of legal concept in Juvenile criminal justice system and juvenile delinquency prevention policies between Indonesia and the United States. It encompasses the

regulatory frameworks of the Juvenile criminal justice systems in Indonesia, namely the *Law on the Juvenile criminal justice system (*SPPA Law*)*, and in the United States, the *Juvenile criminal justice and Delinquency Prevention Act (*JJDPA*)*.

H. DATA SOURCE

1. PRIMARY LEGAL MATERIAL

a. Law Number 12 of 2012 about Juvenile criminal justice system in Indonesia (SPPA Law).
b. Juvenile criminal justice and Delinquency Prevention Act (JJDPA).
c. Indonesian Criminal Code (Kitab Undang-undang Hukum Pidana).
d. Law Number 35 of 2014 concerning Child Protection.

2. SECONDARY LEGAL MATERIAL

The legal materials related to this thesis, as well as supporting primary data, were obtained from relevant legal journals and or books related to the issues addressed in this thesis.

3. TERTIARY LEGAL MATERIALS

Supporting materials to assist in explaining primary and secondary legal sources such as legal encyclopedias and or reliable media source, are used in relation to the issues addressed in this thesis.

I. DATA ANALYSIS

The data analysis was conducted descriptively and qualitatively. This involved organizing and categorizing the data obtained from the research, and then relating it to the research problem based on its inherent qualities. The data were systematically described and presented using clear and effective language to avoid ambiguity. From this analysis, conclusions were drawn to provide answers that accurately address the research problem.

J. THESIS FRAMEWORK

Chapter I discusses the urgency of child protection within the Juvenile criminal justice system, driven by the increasing prevalence of juvenile delinquency cases. This chapter explains how the Indonesian legal system, through Law Number 11 of 2012 conerning the Juvenile criminal justice system on the Juvenile criminal justice system (SPPA Law), and the United States legal system, through the Juvenile criminal justice and Delinquency Prevention Act (JJDPA), establish two different approaches in addressing children in conflict with the law. This discussion is based on the findings presented in the introduction, covering the background of the problem, formulation of the issues, research objectives, and the applied research

method namely, a normative juridical method with statutory and comparative approaches.

Chapter II discusses on the theoretical and conceptual frameworks underpinning this research, including the theory of child protection, restorative justice theory, and comparative law theory. These theories serve as analytical tools for examining the comparative legal treatment of juvenile offenders. Furthermore, this chapter outlines the conceptual framework and hypotheses demonstrating the relationship between pardons in positive law and Islamic law.

Chapter III discusses a comparative analysis between Law Number 11 of 2012 amending Law Number 3 of 1997 concerning the Juvenile criminal justice system on the Juvenile criminal justice system (SPPA Law) and the Juvenile criminal justice and Delinquency Prevention Act (JJDPA), particularly focusing on the punitive approach and the child welfare approach. The analysis leads to a discussion on the implications of implementing both systems in achieving justice and protection for children.

Chapter IV discusses the conclusions and recommendations. The conclusion emphasizes the need for a more alternative, restorative, and equitable model of juvenile case resolution, ensuring a balance between protection and legal accountability. The recommendations highlight the importance of strengthening the implementation of the SPPA Law to prevent the criminalization of children, while drawing lessons from the flexibility and adaptive nature of the JJDPA framework in the United States