

## CRIMINAL LIABILITY OF FOREIGN NATIONAL CHILDREN WITHIN INDONESIA'S JUVENILE JUSTICE SYSTEM FRAMEWORK

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### Abstract:

This article examines the criminal liability of foreign national children within Indonesia's juvenile justice system, focusing on legal regulation and judicial application in criminal proceedings involving children of foreign nationality. The study addresses the core issue of how Indonesian positive law applies criminal responsibility to foreign national children while ensuring equal legal protection and child-centered justice. The Research employs a normative legal method, drawing on statutory, conceptual, and case approaches, with court decisions as the primary reference for examining judicial practices. The findings reveal that Indonesian law applies the principle of territoriality consistently, allowing foreign national children to be held criminally responsible under the same legal framework as Indonesian children, while prioritizing rehabilitative measures and restorative justice principles. The analysis also demonstrates that judicial authorities emphasize child protection, proportional sanctions, and the best interests of the child in sentencing decisions involving foreign national children. These findings indicate that the juvenile justice system in Indonesia has accommodated foreign national children as legal subjects without discrimination based on nationality. The study concludes that although the existing legal framework sufficiently supports equal treatment and child protection, further institutional coordination and policy refinement are necessary to strengthen rehabilitation-oriented justice for foreign national children within the juvenile justice system.

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## INTRODUCTION

The governance of juvenile justice represents a critical component of public legal administration, particularly in ensuring fairness, accountability, and protection of vulnerable groups within the justice system. In jurisdictions with high international mobility, such as Indonesia – especially Bali, a global tourism destination – the presence of foreign nationals introduces complex governance challenges for law enforcement and judicial decision-making. These challenges become more pronounced when criminal cases involve children of foreign nationality, requiring the legal system to balance state sovereignty, child protection principles, and equal treatment before the law (Putro and Bedner, 2023). Despite the existence of a comprehensive juvenile justice framework, questions remain regarding how effectively governance principles are translated into judicial practice when nationality intersects with child criminal liability. This issue highlights the importance of examining juvenile justice not merely as a legal mechanism, but as part of broader governance accountability in public service delivery within the justice sector. Previous studies on foreign nationals in criminal law have primarily focused on adult offenders or administrative violations related to immigration status (Fridayani and Putri, 2023). Other strands of Research emphasize child protection within the juvenile justice system, predominantly addressing children as victims or



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focusing exclusively on domestic citizens. These studies contribute valuable insights but leave a significant gap regarding foreign national children positioned as criminal offenders within domestic juvenile justice systems. The lack of focused analysis of this intersection leads to a limited understanding of how governance principles such as non-discrimination, proportionality, and restorative justice are operationalized in practice. Consequently, the treatment of foreign national children remains underexplored in the context of judicial accountability and public legal governance (Wahyudi *et al.*, 2025).

The legal framework in Indonesia formally guarantees equal treatment before the law through the application of territorial jurisdiction and child-centered justice principles. However, the practical implementation of these principles in court decisions involving foreign national children raises essential governance questions (Záhora, 2025). Differences in language, cultural background, and diplomatic considerations may influence judicial processes, potentially affecting consistency and fairness. This condition creates a regulatory and institutional gap between normative legal provisions and their application in real cases. Identifying this gap is essential for strengthening the integrity of juvenile justice governance and ensuring that public legal institutions fulfill their protective and rehabilitative mandates (Luhamaa, Markina and Paron, 2024). This study addresses the following Research questions: how is criminal liability for foreign national children regulated within Indonesia's juvenile justice system, and how is such regulation implemented in judicial practice? By focusing on court decisions as expressions of institutional governance, this Research examines whether the juvenile justice system consistently applies restorative and rehabilitative approaches regardless of nationality. The relevance of this inquiry lies in its contribution to evaluating the quality of governance in legal institutions tasked with child protection and criminal adjudication (Golonka, 2021; Pérez Salom, 2023).

Using a state-of-the-art approach, this article positions itself within contemporary discussions on juvenile justice governance by integrating child protection norms with principles of territorial jurisdiction and non-discriminatory law enforcement. Unlike prior studies that isolate either immigration law or juvenile justice doctrine, this Research bridges both dimensions to demonstrate its scientific novelty (Maxey *et al.*, 2025). The analysis of judicial practice provides empirical grounding to normative debates, offering insights into how governance values are enacted within the juvenile justice system. Ultimately, this study contributes to advancing accountable and inclusive legal governance, particularly in addressing the complexities posed by foreign national children in conflict with the law.

The practical implications of this issue extend beyond doctrinal legal analysis and enter the realm of institutional governance and public accountability. Juvenile justice institutions function as public service providers whose performance reflects the state's commitment to protecting children's rights while maintaining legal order. When foreign national children are involved, the governance of these institutions is tested on procedural fairness, transparency, and responsiveness. Judicial discretion, coordination among law enforcement agencies, and the availability of rehabilitation mechanisms become indicators of governance quality. Examining court decisions, therefore, provides an opportunity to assess how governance principles are operationalized in sensitive legal contexts (Rap and Zlotnik, 2018; Rochaeti and Pujiyono, 2018). This perspective reinforces the study's relevance for evaluating justice-sector governance as part of broader public administration responsibilities.

Furthermore, the findings of this study have implications for policy development and institutional reform within the juvenile justice system. By identifying patterns and considerations in judicial decision-making involving foreign national children, the Research offers insights into areas



requiring regulatory clarification and capacity enhancement. These insights are valuable for policymakers, judicial institutions, and social service agencies responsible for child rehabilitation and protection. Strengthening governance mechanisms in juvenile justice contributes to legal certainty, public trust, and the effective delivery of justice as a public service. This article, therefore, not only addresses a legal Research gap but also supports improvements in governance practices within the justice system. In this way, the study aligns legal analysis with governance-oriented evaluation, reinforcing its relevance and contribution to contemporary legal scholarship (Duca, 2012; Hughes *et al.*, 2020).

## METHODS

This study employs a normative legal Research method to analyze the regulation and application of criminal liability for foreign national children within Indonesia's juvenile justice system. The Research object consists of statutory rules governing juvenile justice and child protection, complemented by judicial practice as reflected in the Denpasar District Court Decision Number 17/Pid.Sus-Anak/2022/PN Dps serving as the primary case sample. The Research was conducted by examining legal materials relevant to the Indonesian legal system, particularly in Bali, a region with high international interaction. Primary legal materials include statutes and court decisions, while secondary legal materials include legal doctrines and scholarly writings. Data analysis was carried out using qualitative legal reasoning, employing deductive and interpretative approaches to assess the consistency between legal norms and judicial application. This analytical method enables a systematic evaluation of how juvenile justice principles are implemented in cases involving foreign national children.

## RESULT AND DISCUSSION

The results of this study indicate that Indonesian positive law provides a clear normative framework for imposing criminal liability on foreign national children within the juvenile justice system. The analysis of statutory regulations demonstrates that the Juvenile Criminal Justice System Law applies universally to all children who commit criminal offenses within Indonesian territory, regardless of nationality. The application of the territoriality principle ensures that foreign national children are subject to Indonesian criminal jurisdiction, while the principle of non-discrimination guarantees equal legal treatment with Indonesian children. These findings are consistent with previous studies on juvenile justice that emphasize equality before the law and child protection as fundamental principles. However, earlier Research has primarily focused on domestic children or adult foreign nationals (Kellman, 2015). The present study extends these findings by confirming that such principles are also applied in cases involving foreign national children. This result highlights the normative consistency between national law and international child protection standards. Judicial practice, as reflected in the analyzed court decision, reveals that judges prioritize rehabilitative and restorative approaches when adjudicating cases involving foreign national children. The court considered factors such as the child's age, psychological condition, and future development in determining sanctions, rather than emphasizing punitive measures. This approach aligns with restorative justice principles discussed in previous Research on juvenile justice, which stress rehabilitation and social reintegration over retribution. Unlike studies that identify inconsistencies in the treatment of foreign nationals in criminal proceedings, this study's findings demonstrate that nationality did not influence the severity or nature of the sanctions imposed on the child. The court's reasoning reflects a balanced application of legal certainty and child protection.



This finding underscores the role of judicial discretion in operationalizing juvenile justice principles within governance frameworks (Kramar and Klarić, 2017).

The discussion further shows that protecting the rights of foreign national children during the judicial process remains a central consideration in juvenile justice governance. Legal assistance and social supervision were provided to ensure procedural fairness and compliance with child protection norms. These findings correspond with prior Research emphasizing the importance of institutional support in safeguarding children's rights during criminal proceedings. However, the study also identifies practical challenges related to language barriers and inter-agency coordination, which may affect the effectiveness of rehabilitation efforts. The integration of legal norms with judicial practice illustrates Indonesia's juvenile justice system's evolving capacity to accommodate cross-national cases. Overall, the findings confirm that while the existing legal framework sufficiently supports equal treatment and restorative justice, continuous institutional improvement is necessary to enhance the effectiveness and sustainability of child-centered justice for foreign national children (Forde, 2022).

The findings also demonstrate that the implementation of diversion mechanisms for foreign national children reflects the adaptive capacity of Indonesia's juvenile justice system. Diversion was considered an integral part of the judicial process to minimize the negative impact of formal criminal proceedings on children. This practice aligns with previous studies highlighting diversion as an effective tool for protecting children's psychological and social development. The analysis shows that diversion is not restricted by nationality, indicating that foreign national children are afforded the same opportunity for alternative dispute resolution as Indonesian children. Judicial consideration of diversion reinforces the principle of the best interests of the child within criminal proceedings. This result supports the argument that restorative justice principles are increasingly embedded in judicial practice (Čamdžićová, 2019).

Furthermore, the study reveals that the involvement of multiple institutions plays a significant role in determining the effectiveness of juvenile justice outcomes for foreign national children. Coordination between courts, social workers, and rehabilitation institutions contributes to the fulfillment of child protection objectives. Prior Research has emphasized institutional coordination as a key factor in effective juvenile justice governance, and the present findings corroborate this view. However, coordination and resource availability inconsistencies may limit the optimal implementation of rehabilitation programs. These limitations highlight the need for improved governance structures within the juvenile justice system. Strengthening institutional collaboration would enhance the consistency and sustainability of rehabilitative justice for foreign national children (Le, 2016).

## CONCLUSION

This study concludes that the Indonesian juvenile justice system has established a clear and consistent legal framework for imposing criminal liability on foreign national children by applying territorial jurisdiction and non-discrimination principles. The findings demonstrate that foreign national children are recognized as legal subjects within the juvenile justice system and are afforded equal legal protection alongside Indonesian children. Judicial practice reflects an orientation toward rehabilitative and restorative justice, emphasizing the best interests of the child rather than punitive objectives. The analysis confirms that the existing legal framework adequately accommodates cross-national cases involving children, while maintaining legal certainty and child protection standards. Nevertheless, the effectiveness of rehabilitation and diversion mechanisms depends on institutional coordination and the availability of child-centered support services. Future Research may further



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explore comparative juvenile justice practices across jurisdictions or examine the long-term social reintegration outcomes of foreign national children who have undergone rehabilitative justice processes in Indonesia.

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