

## Rehabilitation of Perpetrators of Child Sexual Violence Based on Justice and the State's Constitutional Responsibility

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### ABSTRACT

*Child sexual violence demands state responsibility that extends beyond punishing perpetrators to preventing recidivism through rehabilitation. Although offender rehabilitation has been recognized under Indonesian positive law, differences in the scope of existing regulations raise questions regarding the proportionality of rehabilitative measures and the state's constitutional responsibility to ensure child protection. This study aims to analyze the legal framework governing the rehabilitation of perpetrators of child sexual violence from the perspectives of justice and the state's constitutional responsibility. Employing normative legal research with statutory and conceptual approaches, this study qualitatively examines primary and secondary legal materials through grammatical and systematic interpretation. The findings reveal that offender rehabilitation is regulated under the Sexual Violence Crimes Law, child protection legislation, and the correctional system, each with distinct scopes, mechanisms, and implementing authorities. Rehabilitation constitutes a measure that may proportionately accompany criminal punishment based on offenders' individual needs, without eliminating criminal liability or undermining victims' rights. The*

*study concludes that the state's constitutional responsibility extends beyond punishment to ensuring the provision of lawful, proportionate, and appropriately structured rehabilitation aimed at the sustained protection of children.*

## INTRODUCTION

Child sexual violence constitutes a serious violation of human rights that demands state responsibility not only for punishing perpetrators but also for preventing the recurrence of such crimes. A global study covering 204 countries indicates that child sexual violence remains a widespread human protection concern, with varying levels of exposure according to sex, age, and geographical region (Cagney et al., 2025). This issue demonstrates that child protection cannot be based solely on a punitive orientation, since criminal punishment does not inherently guarantee changes in perpetrators' behavior or the elimination of the risk of repeated sexual violence. In this context, rehabilitation becomes relevant as part of crime prevention efforts. A meta-analysis of 27 studies found that groups of offenders who received rehabilitative interventions exhibited lower rates of sexual recidivism than comparison groups, although the effectiveness of programs varied (Schmucker & Lösel, 2017). These findings highlight the importance of incorporating rehabilitation into the criminal justice system without diminishing perpetrators' criminal liability or the protection afforded to victims.

In the Indonesian context, the rehabilitation of perpetrators of child sexual violence has constitutional significance that is inseparable from Article 28 B (2) of the 1945 Constitution of the Republic of Indonesia, which guarantees children's right to protection from violence and discrimination, and Article 28 I (4), which establishes the protection, promotion, enforcement, and fulfillment of human rights as responsibilities of the state. These two provisions provide a

basis for questioning the extent to which the state's obligation to protect children also encompasses preventive measures against the possibility of repeated offenses by perpetrators. Certainly, punishment constitutes a legal consequence for which perpetrators must be held accountable; however, punishment and rehabilitation are not necessarily two interests that must be placed in opposition. The rehabilitation of sexual offenders can produce better outcomes when interventions take into account risk levels, criminogenic needs, and offenders' responsiveness to treatment programs (Hanson et al., 2009). Therefore, the question of justice in rehabilitation concerns not only the proportional treatment of perpetrators but also the state's obligation to ensure children's safety from future threats of sexual violence.

From a normative legal perspective, Indonesia has recognized offender rehabilitation through Law Number 12 of 2022 concerning Sexual Violence Crimes. Article 3 of the law identifies law enforcement, offender rehabilitation, and guarantees of non-recurrence of sexual violence as part of its regulatory objectives. Furthermore, Article 17 provides for the possibility of imposing medical and social rehabilitation measures on perpetrators in addition to criminal punishment, with their implementation coordinated by prosecutors and periodically supervised by the ministries responsible for social affairs and health (Republik Indonesia, 2022a). Meanwhile, Government Regulation Number 70 of 2020 regulates rehabilitation within the specific scope of perpetrators of child sexual violence, including psychiatric, social, and medical rehabilitation according to the categories of measures imposed (Republik Indonesia, 2020). The existence of these two regulations demonstrates that rehabilitation has become part of Indonesia's legal policy. However, differences in the scope and structure of these regulations leave unresolved questions concerning the integration of rehabilitation measures, the standards of justice underlying them, and the limits of state responsibility in ensuring their implementation.

Several studies have examined the rehabilitation of perpetrators of sexual violence from the perspectives of legal regulation and sentencing policy. The reformulation of rehabilitation regulations for perpetrators of sexual violence crimes in Indonesia has been examined, emphasizing the need to improve existing legal provisions (Arjana et al., 2024). Meanwhile, a study on offender rehabilitation under the Sexual Violence Crimes Law indicates the need to strengthen implementing regulations and interinstitutional coordination (Aryanti & Hartono, 2026). Despite their contributions to the development of rehabilitation policy, these two studies have not specifically situated the rehabilitation of perpetrators of child sexual violence within the relationship between principles of justice, children's constitutional rights, and the state's responsibility to prevent criminal recidivism. Indeed, the fundamental issue is no longer merely the legal recognition of rehabilitation, but rather how rehabilitation is constructed as a legal measure that continues to ensure perpetrators' accountability, prioritizes victims' interests, and fulfills the state's constitutional obligations.

Based on these issues, this article aims to analyze the legal provisions governing the rehabilitation of perpetrators of child sexual violence based on the principles of justice and the state's constitutional responsibility, particularly in ensuring child protection and preventing the recurrence of sexual violence crimes. Specifically, the study focuses on the relationship between rehabilitation provisions in legislation, the proportionality of perpetrators' accountability, and the state's obligation to ensure the sustained protection of children. Accordingly, the contribution of this article lies in positioning rehabilitation not as a reduction of punishment or a form of justification for perpetrators, but as part of the state's constitutional responsibility to realize justice that does not end with punishment but is also oriented toward preventing the emergence of new victims.

## **RESEARCH METHOD**

This study employs prescriptive normative legal research to analyze the legal provisions governing the rehabilitation of perpetrators of child sexual violence based on the principles of justice and the state's constitutional responsibility. Normative legal research examines legislation, legal principles, and legal doctrines to address legal issues through systematic legal reasoning (Hutchinson & Duncan, 2012). A normative research design was selected because this study does not seek to empirically measure the effectiveness of rehabilitation programs or criminal recidivism rates, but rather to assess the conformity of existing rehabilitation regulations with the state's obligation to ensure child protection. The study employs a statutory approach and a conceptual approach. The statutory approach is used to examine the interrelationships, consistency, and scope of legal provisions governing the rehabilitation of perpetrators of child sexual violence within the Indonesian legal system, while the conceptual approach is employed to analyze the principles of justice, rehabilitation within the sentencing system, and the state's constitutional responsibility as the basis for evaluating these regulations (Negara, 2023). The analytical framework is grounded in the principles of justice in sentencing, particularly the proportionality of punishment and the fair treatment of offenders as discussed in sentencing literature (Tonry, 2021), as well as the state's constitutional obligation to protect children under Articles 28B(2) and 28I(4) of the 1945 Constitution of the Republic of Indonesia. These two foundations are employed to assess rehabilitation as part of criminal accountability while continuing to prioritize victims' rights, child protection, and the prevention of repeated sexual violence offenses.

The legal materials examined in this study consist of primary and secondary legal materials collected through library research and the examination of legal documents. Primary legal materials include the 1945 Constitution of the Republic of Indonesia; Law Number 23 of 2002 concerning Child Protection, as amended, most recently by Law Number 17 of 2016; Law Number 12 of 2022 concerning Sexual Violence Crimes; Government Regulation Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Monitoring Devices, Rehabilitation, and Disclosure of the Identities of Perpetrators of Child Sexual Violence; and Law Number 22 of 2022 concerning Corrections. This study also examines Law Number 1 of 2023 concerning the Criminal Code, as amended by Law Number 1 of 2026 concerning the Adjustment of Criminal Penalties, to assess the position of rehabilitation within the objectives of sentencing and to consider changes in the legal validity of relevant criminal provisions. Secondary legal materials include books, scholarly journal articles, and previous studies addressing the rehabilitation of sexual offenders, principles of justice in sentencing, child protection, and the state's constitutional responsibility. Legal materials were selected based on their substantive relevance, the authority of their sources, and the currency of the literature, with priority given to legislative documents obtained from official legal documentation sources. Through a doctrinal approach, these legal materials are used to identify relationships between legal norms and evaluate the legal arguments underlying rehabilitation regulations, rather than to describe their implementation in empirical practice (Smits, 2017).

The legal materials are analyzed qualitatively through grammatical and systematic interpretation, together with prescriptive legal reasoning, following analytical stages aligned with the research objectives. The first stage identifies the constitutional foundations of child protection and the legal position of rehabilitation for perpetrators of child sexual violence within the existing legislative framework. The second stage examines the relationships and consistency among rehabilitation provisions under the Sexual Violence Crimes Law, child protection regulations, and the national sentencing system, particularly regarding the scope of rehabilitation, the

discretionary nature of its imposition, and the allocation of responsibilities among state institutions. The third stage assesses the conformity of these regulations with the principles of justice and the state's constitutional responsibility by considering the proportionality of offenders' criminal accountability, the fulfillment of victims' rights, child protection, and the prevention of criminal recidivism as the basis for normative evaluation. The analysis aims to provide a legal assessment of the conformity and coherence of existing rehabilitation regulations without presupposing the existence of a legal vacuum or the necessity of establishing new legislation. The methodological limitation of this study lies in its normative nature; consequently, its findings are not intended to draw empirical conclusions regarding the effectiveness of rehabilitation programs or their success in preventing criminal recidivism. To maintain the accuracy of the legal arguments, the analysis involves cross-examination of statutory provisions, legal doctrines, and relevant previous studies. Accordingly, the findings are presented as a prescriptive legal assessment of the regulations governing the rehabilitation of perpetrators of child sexual violence based on the principles of justice and the state's constitutional responsibility.

## **RESULT AND DISCUSSION**

### **Rehabilitation of Perpetrators of Child Sexual Violence Based on Justice and the State's Constitutional Responsibility**

Justice in the rehabilitation of perpetrators of child sexual violence cannot be separated from the question of whose interests the state must protect. If justice is understood solely as the imposition of punishment proportionate to the perpetrator's culpability, rehabilitation tends to be regarded as a secondary concern that has no direct relationship with victims' rights. Conversely, if justice is understood merely as an opportunity for perpetrators to reform themselves, the recovery of victims and the protection of children risk losing their primary importance. Both perspectives reveal their limitations when applied independently. In cases of child sexual violence, the state must ensure that criminal accountability is enforced, victims' rights are fulfilled, and the protection of children does not end with the resolution of an individual case. Proportionality is an important principle in sentencing that seeks to prevent punishment from exceeding its legitimate justification (Ashworth, 2017). However, proportionality is relevant not only to the severity of punishment but also to the legal measures accompanying sentencing. Therefore, rehabilitation can be considered consistent with justice when its imposition serves a legitimate purpose, is based on relevant needs, and neither imposes disproportionate restrictions on perpetrators' rights nor disregards victims' rights.

In the context of child sexual violence, proportionality has a meaning distinct from the reduction of punishment. The proportionality of rehabilitation does not require the state to reduce a prison sentence merely because a perpetrator is willing to undergo therapy, since willingness to participate in an intervention is not equivalent to accountability for the criminal act committed. Conversely, rehabilitation measures cannot be treated as instruments for imposing unnecessary suffering simply because the offense has provoked public outrage. This means that decisions concerning sentencing and rehabilitation are based on different considerations, although they must remain interconnected. Criminal punishment is oriented toward accountability for acts already committed, whereas rehabilitation is intended to address intervention needs relevant to preventing future violations. This distinction allows the state to continue imposing punishment in accordance with legal provisions while simultaneously applying rehabilitative measures where sufficient grounds exist. Therefore, rehabilitation cannot be understood as a form of forgiveness, an elimination of culpability, or a reduction of the legal

consequences that perpetrators should bear. Interventions targeting sexual offenders may be associated with reduced recidivism, although the strength of the evidence concerning their effectiveness still requires assessment based on the methodological quality of the research (Soldino & Carbonell-Vayá, 2017).

Rehabilitative justice also requires treatment that takes into account differences in offenders' individual needs. A meta-analysis of 37 research samples involving 30,394 individuals with histories of sexual offending found that risk levels and the specialization of interventions were important factors in explaining variations in rehabilitation outcomes (Holper et al., 2024). These findings support the relevance of the *risk, need, and responsivity* principles in the administration of rehabilitation. The risk principle emphasizes adjusting the intensity of interventions according to the likelihood of recidivism, the need principle directs interventions toward factors associated with criminal behavior, while the responsivity principle considers individual characteristics to ensure that programs are implemented appropriately. These considerations are relevant to assessing the proportionality of rehabilitation under Indonesian law because rehabilitation provisions should not be applied on the assumption that all perpetrators require identical measures. However, these principles do not imply that perpetrators assessed as presenting a low risk of recidivism may be justified in avoiding criminal punishment. The risk of recidivism and criminal culpability constitute two distinct subjects of assessment. Therefore, fair rehabilitation regulations must accommodate assessments of individual needs without allowing their results to replace criminal accountability.

Furthermore, adjusting the intensity of rehabilitation is also related to preventing the excessive use of rehabilitative measures. Applying interventions of equal intensity to sexual offenders without considering their risk levels may produce consequences that are inconsistent with the objectives of rehabilitation (Lovins et al., 2009). This finding is important because it demonstrates that more intensive rehabilitative measures are not necessarily more appropriate for every offender. From a legal perspective, excessive interventions may raise concerns regarding proportionality, while inadequate interventions may fail to address the need for public protection. Accordingly, the imposition of rehabilitation requires consideration of the suitability of the measures, the extent of the restrictions imposed, and the relationship between those measures and their legitimate objectives. Particularly when rehabilitation involves medical interventions, respect for human dignity and professional standards cannot be disregarded merely because an individual has been convicted of a sexual offense. The state remains obligated to ensure that the legal measures imposed have a lawful basis, follow clear procedures, and are not used as instruments of additional punishment beyond the provisions established by law.

On the other hand, rehabilitation cannot be separated from victims' rights, as victims constitute the primary subjects of legal protection. Under the Sexual Violence Crimes Law, victims' rights encompass assistance, protection, and recovery, including physical and psychological recovery, as well as the right to restitution or compensation in accordance with applicable legal provisions. These rights constitute legal obligations that must not be diminished merely because the state provides rehabilitation for perpetrators. The regulation and implementation of restitution for crime victims in Indonesia face various legal challenges, including the relationship between the punishment of perpetrators and the fulfillment of victims' rights (Ali et al., 2022). This research highlights that an offender-oriented approach may become problematic when the state's attention to victims' recovery does not receive substantively balanced consideration. In the context of this article, offender rehabilitation must not be treated as a substitute for restitution, healthcare recovery, or protection against future threats. Even successful completion of a rehabilitation program does not automatically eliminate victims' rights

to recovery under applicable legal provisions. Thus, the measure of justice is not determined by the extent of opportunities afforded to perpetrators, but by whether all state measures can be implemented without diminishing the position of victims as rights holders entitled to legal protection.

The relationship between offender rehabilitation and victim protection becomes particularly important when sexual violence occurs within the family or is perpetrated by someone who holds a position of power and trust over a child. Under such circumstances, improvements in the perpetrator's behavior cannot automatically justify restoring a relationship that previously enabled the violence to occur. Child protection holds a more fundamental position than the interest in preserving family relationships that, in practice, pose risks to children's safety. Regardless of the rehabilitation that a perpetrator may have undergone, decisions concerning relationships between perpetrators and victims must consider children's safety, psychological condition, and right to freedom from coercion. This principle is consistent with Article 23 of the Sexual Violence Crimes Law, which prohibits the settlement of sexual violence cases outside judicial proceedings, except in cases involving child offenders as provided by law. Therefore, rehabilitation must not be interpreted as legitimizing forced family reconciliation, the withdrawal of criminal complaints, or encounters between perpetrators and victims without considering the best interests of the child. Distinguishing rehabilitation from case settlement constitutes an important safeguard to prevent rehabilitative approaches from becoming mechanisms that instead place the burden of recovery on victims.

The constitutional foundation for addressing these issues can be found in Article 28B(2) of the 1945 Constitution of the Republic of Indonesia, which guarantees every child's right to protection from violence and discrimination. This guarantee must be read alongside Article 28I(4), which establishes the protection, promotion, enforcement, and fulfillment of human rights as responsibilities of the state, particularly the government (Republik Indonesia, 1945). These provisions demonstrate that child protection is not merely a policy objective that the government may consider or disregard at its discretion, but rather an obligation with constitutional standing. However, this protective obligation must be understood accurately. The Constitution does not explicitly stipulate that every perpetrator of child sexual violence must undergo rehabilitation of a particular form and duration. Therefore, an individual obligation to undergo rehabilitation cannot be derived directly from Article 28B(2) without considering the relevant statutory provisions. A more legally defensible constitutional interpretation is that the state is obligated to establish an adequate child protection system, while rehabilitation constitutes one of the legal instruments that may be employed, provided that it has a lawful basis and is relevant to preventing sexual violence.

The state's constitutional obligation to protect children is not limited to measures taken after violence has occurred but also encompasses preventive efforts against potential future violations of children's rights. From the perspective of the state's positive obligations, human rights protection requires appropriate and justifiable measures to reduce threats against individuals in vulnerable positions. The state's positive obligation to prevent violence cannot be understood solely through the deterrent capacity of criminal law but must also encompass broader preventive measures (Grans, 2018). Although this study addresses a particular form of gender-based violence, its arguments concerning preventive obligations remain conceptually relevant to explaining state responsibility for child protection. In the context of rehabilitating sexual offenders, this does not mean that the state can absolutely guarantee that an offender will never reoffend. Rather, the state's obligation is more appropriately understood as the responsibility to provide a legal and institutional framework through which the risk of repeated

sexual violence can be addressed by lawful, proportionate, and evaluable measures. Thus, the state's constitutional accountability should not be assessed solely through the existence of criminal sanctions, but also through the consistency of available legal instruments with the protective objectives they are intended to achieve.

Under international human rights law, the obligation to protect children from all forms of violence has been affirmed through the Convention on the Rights of the Child. The United Nations Committee on the Rights of the Child, in *General Comment No. 13*, identifies the prevention, identification, response, and follow-up of violence against children as essential components of the state's responsibility to provide comprehensive protection (Committee on the Rights of the Child, 2011). This framework demonstrates that child protection should not be oriented exclusively toward immediate responses following the commission of a criminal offense. The state must also consider the continuity of relevant measures to reduce the likelihood that children will experience violence again. In the Indonesian context, offender rehabilitation may be positioned as one component of these preventive efforts, but it must not be regarded as the sole instrument of child protection. Rehabilitation must remain connected to victims' recovery, legally necessary restrictions on contact, and the supervision of measures that have been imposed. Therefore, the constitutional orientation of rehabilitation is not to grant privileges to perpetrators but to ensure that their treatment also takes into account its consequences for children's safety.

The principle of the best interests of the child provides clearer boundaries for the relationship between perpetrators' rights and the state's obligation to administer rehabilitation. *General Comment No. 14* emphasizes that the best interests of the child constitute a substantive right, a principle of legal interpretation, and a procedural rule that must be a primary consideration in every decision affecting children (Committee on the Rights of the Child, 2013). In the context of rehabilitation, this principle requires that policies with consequences for children's safety should not be based solely on perpetrators' needs but must also assess their potential impact on victims and other children who may be exposed to violence. For instance, when a perpetrator is declared to have completed a rehabilitation program, completion of that program must not automatically be regarded as evidence that all potential risks to children have been eliminated. Instead, child protection must take into account a justifiable assessment of the perpetrator's condition and the legal measures that remain relevant. The principle of the best interests of the child also requires the state to avoid policies that prioritize perpetrators' rehabilitation interests over children's right to safety. Thus, rehabilitation can acquire legitimacy as part of justice only when it does not conflict with the priority of child protection guaranteed by the Constitution.

Although children's safety must remain a priority, respect for human dignity continues to constitute a limitation on the administration of rehabilitation. A perpetrator who has been sentenced may legitimately be subjected to restrictions on certain rights based on a court judgment and statutory provisions, but such restrictions do not eliminate all rights that remain inherent to the individual. Discussions of the *Good Lives Model* explain that the rehabilitation of sexual offenders should consider the development of individuals' capacities to lead lives free from criminal behavior, rather than focusing exclusively on controlling risks through restrictions (Willis et al., 2013). This perspective can be used to explain that rehabilitation has a behavioral improvement dimension distinct from punishment. However, an approach oriented toward improving offenders' lives must not be used to place their subjective desires or interests above children's rights. Within the framework of the rule of law, respect for human dignity and child protection must be translated into legally justifiable measures. Therefore, rehabilitation must be administered within the limits of lawful authority, take professional needs into account, and must

not use a convicted person's condition as grounds for imposing medical interventions or restrictions without a valid legal basis.

The state's constitutional responsibility can also be examined in terms of continuity between the execution of criminal sentences, rehabilitation, and perpetrators' lives after completing their sentences. While individuals are serving prison sentences, the state has the authority to provide rehabilitation and guidance through the correctional system. However, once perpetrators have completed their sentences, the relationship between state authority and individual liberty undergoes a legally significant change. The state cannot arbitrarily continue restricting an individual's liberty without a clear legal basis, even if that individual has previously committed a serious criminal offense. On the other hand, the completion of a sentence does not eliminate the state's general obligation to protect society from the possibility of sexual violence. This issue demonstrates that continuity in child protection does not necessarily have to be achieved through additional restrictions on former prisoners, but may instead be pursued through services, guidance, and supervisory measures that have a lawful basis and correspond to individual needs. Therefore, state responsibility must be situated within a proportionate relationship between public protection and respect for the rights of individuals who have completed their sentences. A systematic review of *Circles of Support and Accountability* programs indicates the potential benefits of social reintegration support and reductions in sexual recidivism, although the quality and limitations of the available research must still be considered (Clarke et al., 2017).

In this regard, risk assessment constitutes a relevant instrument for bridging the needs of child protection and the proportionality of rehabilitation measures. A meta-analysis of 118 research samples examining sexual recidivism risk assessments found that empirically developed actuarial assessment instruments demonstrated greater predictive accuracy than unstructured professional judgments (Hanson & Morton-Bourgon, 2009). Nevertheless, risk assessment remains limited because it generates probabilistic estimates rather than certainty regarding an individual's future behavior. In normative legal research, these findings cannot be used to establish that a particular instrument must automatically be implemented in Indonesia. Rather, the relevant consideration is the importance of providing a rational and justifiable basis for assessment when the state uses recidivism risk as one of the grounds for administering rehabilitation. Such assessments must also remain within the limits of applicable legal authority. Thus, risk cannot be used to justify unrestricted limitations on individual liberty, but it may serve as a professional consideration in selecting interventions appropriate to the objectives of child protection.

The next issue concerns how the state can ensure that rehabilitation, which has already been recognized in legislation, is genuinely directed toward legally assessable objectives. At this point, a distinction must be made between the obligation to provide rehabilitation and the obligation to guarantee its success. The state may be required to establish a regulatory framework, implementation mechanisms, competent personnel, and supervision in accordance with legal provisions, but the success of every program in eliminating the possibility of recidivism cannot be guaranteed absolutely. Therefore, state accountability should not be based on the assumption that an individual who has completed rehabilitation will never commit sexual violence again. Instead, the assessment of state responsibility should focus on whether rehabilitation has clear objectives, is administered by competent authorities, considers relevant needs, and provides mechanisms for supervision and evaluation. This distinction is important to prevent constitutional obligations from being interpreted excessively as guarantees of outcomes that the law cannot ensure. Thus, the state's constitutional responsibility constitutes an

obligation to provide appropriate protection through legally justifiable instruments. In the context of offender reintegration, the importance of linking social support with supervision and accountability, so that reintegration remains connected to the interests of public safety, has also been discussed in previous research (Wilson et al., 2007).

Positioning rehabilitation as part of child protection also requires recognition that preventing sexual violence is a broader issue than changing the behavior of perpetrators who have been convicted. A systematic review of interventions aimed at preventing child sexual violence in developing countries indicates that evidence concerning the effectiveness of prevention programs remains limited and requires further development and more rigorous evaluation (Russell et al., 2020). These findings demonstrate the importance of exercising caution when treating a particular intervention as the sole solution to sexual violence. In the context of this article, rehabilitation has a specific objective, namely addressing the intervention needs of perpetrators who have committed criminal offenses. Therefore, rehabilitation must not be treated as a substitute for the state's obligation to provide victim protection and prevent sexual violence through other legal instruments. Nevertheless, the limitations of rehabilitation as a single instrument do not diminish its relevance within the framework of state responsibility. Precisely because prevention requires several complementary measures, rehabilitation can occupy a proportionate position, provided that its regulation does not displace the priority of child protection.

Based on the interpretation of the principles of justice and constitutional responsibility, several normative criteria can be used to assess the rehabilitation of perpetrators of child sexual violence. First, rehabilitation must have a clear legal basis so that it cannot be imposed or implemented solely on subjective considerations beyond the authority granted by law. Second, the determination of rehabilitation measures must consider proportionality between the types of intervention, the needs being addressed, and the protective objectives to be achieved. Third, rehabilitation must preserve perpetrators' criminal accountability without diminishing victims' rights to recovery and protection. Fourth, its implementation must operate within mechanisms of authority and supervision that can be legally justified. Fifth, assessments of rehabilitation outcomes must remain connected to preventive objectives but must not be based on the assumption that every rehabilitative intervention necessarily eliminates the risk of recidivism. These five criteria do not constitute a proposal to establish entirely new legal norms, but rather analytical parameters derived from the relationship between rehabilitation regulations, principles of justice in sentencing, and the state's constitutional obligation to protect children. Applying these criteria, rehabilitation regulations under Indonesian law can be considered to have a normative basis relevant to the principles of justice and the state's constitutional responsibility, particularly through the recognition of rehabilitation as a measure that may accompany criminal punishment and the allocation of implementation authority to institutions designated by law. Nevertheless, normative conformity must be distinguished from the degree of regulatory coherence and the effectiveness of implementation. Differences in scope between the Sexual Violence Crimes Law and Government Regulation Number 70 of 2020, their relationship with the correctional system, and developments under the National Criminal Code demonstrate the need for careful interpretation to prevent rehabilitation from being implemented by conflating distinct legal foundations and objectives. These issues do not automatically establish the existence of a legal vacuum, but they underscore the importance of consistency in positioning rehabilitation as part of the system of criminal accountability. The state has an obligation to protect children on an ongoing basis, but the fulfillment of this obligation must remain subject to applicable legal provisions, the authority of state institutions, and the principle of proportionality.

Thus, the rehabilitation of perpetrators of child sexual violence can be understood as one form of state responsibility that connects punishment with efforts to prevent criminal recidivism. Its legal position neither eliminates perpetrators' obligation to account for the crimes they have committed nor diminishes victims' rights to recovery, nor does it grant the state unrestricted authority to intervene in perpetrators' lives. Rather, the legitimacy of rehabilitation depends on its proportionate positioning among these three interests. Justice in rehabilitation, therefore, cannot be measured solely by the availability of rehabilitative measures for perpetrators, but must also be assessed in terms of the conformity of those measures with the law and the state's obligation to protect children. It is at this point that constitutional responsibility acquires its significance: the state is required not only to impose legal consequences for sexual violence that has already occurred but also to provide lawful and justifiable protective instruments to reduce the likelihood of new victims emerging. Criminal punishment remains a form of accountability for criminal offenses, while rehabilitation can constitute part of the effort to ensure sustained protection without obscuring the position of victims as the primary rights holders whose rights must be guaranteed by the state.

## CONCLUSION

The rehabilitation of perpetrators of child sexual violence has an established legal basis under the Sexual Violence Crimes Law, child protection legislation, and the correctional system. Therefore, the primary issue is not the absence of legal regulations but rather the appropriate alignment of existing provisions, the scope of rehabilitation, and the allocation of responsibilities for its implementation. From the perspective of justice, rehabilitation constitutes a measure that may proportionately accompany criminal punishment based on offenders' individual needs, without eliminating criminal liability or diminishing victims' rights to protection and recovery. Meanwhile, the state's constitutional responsibility lies in establishing lawful, measurable, and supervisable rehabilitation mechanisms as part of efforts to ensure the sustained protection of children. Accordingly, consistent interpretation and application of existing regulations are necessary, with particular emphasis on the best interests of the child and the prevention of repeated sexual violence.

## REFERENCES

- Agusta, D., Madjid, A., & Aprilianda, N. (2025). Reforming Indonesian criminal law: Integrating supervision, punishment, and rehabilitation for restorative justice. *International Journal of Islamic Education, Research and Multiculturalism*, 7(1), 54–68. <https://doi.org/10.47006/ijierm.v7i1.434>
- Ali, M., Mulyono, A., Sanjaya, W., & Wibowo, A. (2022). Compensation and restitution for victims of crime in Indonesia: Regulatory flaws, judicial response, and proposed solution. *Cogent Social Sciences*, 8(1), Article 2069910. <https://doi.org/10.1080/23311886.2022.2069910>
- Arjana, M. R. A., Dewi, A. A. S. L., & Wirawan, K. A. (2024). Reformulasi pengaturan upaya rehabilitasi terhadap pelaku tindak pidana kekerasan seksual di Indonesia. *Jurnal Analogi Hukum*, 6(2), 217–222. <https://doi.org/10.22225/jah.6.2.2024.217-222>
- Aryanti, N. N. A. T., & Hartono, M. S. (2026). Pengaturan rehabilitasi bagi pelaku kekerasan seksual dalam perspektif Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1), 7213–7222. <https://doi.org/10.61104/alz.v4i1.4463>
- Ashworth, A. (2017). Prisons, proportionality and recent penal history. *The Modern Law Review*, 80(3), 473–488. <https://doi.org/10.1111/1468-2230.12266>

- Birgden, A., & Cucolo, H. (2011). The treatment of sex offenders: Evidence, ethics, and human rights. *Sexual Abuse*, 23(3), 295–313. <https://doi.org/10.1177/1079063210381412>
- Cagney, J., Spencer, C., Flor, L., Herbert, M., Khalil, M., O'Connell, E., Mullany, E., Bustreo, F., Singh Chandan, J., Metheny, N., Knaul, F., & Gakidou, E. (2025). Prevalence of sexual violence against children and age at first exposure: A global analysis by location, age, and sex (1990–2023). *The Lancet*, 405(10492), 1817–1836. [https://doi.org/10.1016/S0140-6736\(25\)00311-3](https://doi.org/10.1016/S0140-6736(25)00311-3)
- Clarke, M., Brown, S., & Völlm, B. (2017). Circles of support and accountability for sex offenders: A systematic review of outcomes. *Sexual Abuse*, 29(5), 446–478. <https://doi.org/10.1177/1079063215603691>
- Committee on the Rights of the Child. (2011). *General comment No. 13 (2011): The right of the child to freedom from all forms of violence (CRC/C/GC/13)*. United Nations. <https://digitallibrary.un.org/record/711722>
- Committee on the Rights of the Child. (2013). *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) (CRC/C/GC/14)*. United Nations. <https://digitallibrary.un.org/record/778523>
- Gannon, T. A., Olver, M. E., Mallion, J. S., & James, M. (2019). Does specialized psychological treatment for offending reduce recidivism? A meta-analysis examining staff and program variables as predictors of treatment effectiveness. *Clinical Psychology Review*, 73, Article 101752. <https://doi.org/10.1016/j.cpr.2019.101752>
- Grans, L. (2018). The concept of due diligence and the positive obligation to prevent honour-related violence: Beyond deterrence. *The International Journal of Human Rights*, 22(5), 733–755. <https://doi.org/10.1080/13642987.2018.1454907>
- Hanson, R. K., Bourgon, G., Helmus, L., & Hodgson, S. (2009). The principles of effective correctional treatment also apply to sexual offenders: A meta-analysis. *Criminal Justice and Behavior*, 36(9), 865–891. <https://doi.org/10.1177/0093854809338545>
- Hanson, R. K., & Morton-Bourgon, K. E. (2009). The accuracy of recidivism risk assessments for sexual offenders: A meta-analysis of 118 prediction studies. *Psychological Assessment*, 21(1), 1–21. <https://doi.org/10.1037/a0014421>
- Harrison, J. L., O'Toole, S. K., Ammen, S., Ahlmeyer, S., Harrell, S. N., & Hernandez, J. L. (2020). Sexual offender treatment effectiveness within cognitive-behavioral programs: A meta-analytic investigation of general, sexual, and violent recidivism. *Psychiatry, Psychology and Law*, 27(1), 1–25. <https://doi.org/10.1080/13218719.2018.1485526>
- Holper, L., Mokros, A., & Habermeyer, E. (2024). Moderators of sexual recidivism as indicator of treatment effectiveness in persons with sexual offense histories: An updated meta-analysis. *Sexual Abuse*, 36(3), 255–291. <https://doi.org/10.1177/10790632231159071>
- Hutchinson, T., & Duncan, N. (2012). Defining and describing what we do: Doctrinal legal research. *Deakin Law Review*, 17(1), 83–119. <https://doi.org/10.21153/dlr2012vol17no1art70>
- Juanda, F. Y. A., & Pualillin, A. (2026). The gap between *das sollen* and *das sein* in the implementation of rehabilitation for perpetrators of sexual violence. *Adagium: Jurnal Ilmiah Hukum*, 4(2), 618–644. <https://doi.org/10.70308/7b5j9k61>
- Lovins, B., Lowenkamp, C. T., & Latessa, E. J. (2009). Applying the risk principle to sex offenders: Can treatment make some sex offenders worse? *The Prison Journal*, 89(3), 344–357. <https://doi.org/10.1177/0032885509339509>
- Mann, R. E., Hanson, R. K., & Thornton, D. (2010). Assessing risk for sexual recidivism: Some proposals on the nature of psychologically meaningful risk factors. *Sexual Abuse*, 22(2), 191–217. <https://doi.org/10.1177/1079063210366039>

- Negara, T. A. S. (2023). Normative legal research in Indonesia: Its origins and approaches. *Audito Comparative Law Journal*, 4(1), 1–9. <https://doi.org/10.22219/aclj.v4i1.24855>
- Prenzler, T., McKillop, N., Rayment-McHugh, S., & Christensen, L. (2023). Best practice in sexual offender rehabilitation and reintegration programs. *Journal of Criminological Research, Policy and Practice*, 9(3–4), 207–221. <https://doi.org/10.1108/ICRPP-07-2023-0036>
- Republik Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. <https://jdih.dpr.go.id/index/uu1945>
- Republik Indonesia. (2016). *Undang-Undang Nomor 17 Tahun 2016 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2016 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak Menjadi Undang-Undang*.
- Republik Indonesia. (2020). *Peraturan Pemerintah Nomor 70 Tahun 2020 tentang Tata Cara Pelaksanaan Tindakan Kebiri Kimia, Pemasangan Alat Pendeteksi Elektronik, Rehabilitasi, dan Pengumuman Identitas Pelaku Kekerasan Seksual terhadap Anak*. <https://peraturan.go.id/files/pp70-2020bt.pdf>
- Republik Indonesia. (2022a). *Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual*. <https://peraturan.go.id/files/uu12-2022.pdf>
- Russell, D., Higgins, D., & Posso, A. (2020). Preventing child sexual abuse: A systematic review of interventions and their efficacy in developing countries. *Child Abuse & Neglect*, 102, Article 104395. <https://doi.org/10.1016/j.chiabu.2020.104395>
- Schmucker, M., & Lösel, F. (2017). Sexual offender treatment for reducing recidivism among convicted sex offenders: A systematic review and meta-analysis. *Campbell Systematic Reviews*, 13(1), 1–75. <https://doi.org/10.4073/csr.2017.8>
- Smits, J. (2017). What is legal doctrine? On the aims and methods of legal-dogmatic research. In R. van Gestel, H.-W. Micklitz, & E. L. Rubin (Eds.), *Rethinking legal scholarship: A transatlantic dialogue* (pp. 207–228). Cambridge University Press. <https://doi.org/10.1017/9781316442906.006>
- Soldino, V., & Carbonell-Vayá, E. J. (2017). Effect of treatment on sex offenders' recidivism: A meta-analysis. *Anales de Psicología*, 33(3), 578–588. <https://doi.org/10.6018/analesps.33.3.267961>
- Tonry, M. (2021). Doing justice in sentencing. *Crime and Justice*, 50(1), 1–12. <https://doi.org/10.1086/715029>
- Ward, T., Gannon, T. A., & Birgden, A. (2007). Human rights and the treatment of sex offenders. *Sexual Abuse*, 19(3), 195–216. <https://doi.org/10.1177/107906320701900302>
- Willis, G. M., Yates, P. M., Gannon, T. A., & Ward, T. (2013). How to integrate the good lives model into treatment programs for sexual offending: An introduction and overview. *Sexual Abuse*, 25(2), 123–142. <https://doi.org/10.1177/1079063212452618>
- Wilson, R. J., McWhinnie, A., Picheca, J. E., Prinzo, M., & Cortoni, F. (2007). Circles of support and accountability: Engaging community volunteers in the management of high-risk sexual offenders. *The Howard Journal of Criminal Justice*, 46(1), 1–15. <https://doi.org/10.1111/j.1468-2311.2007.00450.x>