

The Justice System Perspective in Criminal Law Policy on the Obligations and Responsibilities of Parents to Prevent Child

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Abstract

Crimes committed by children need to be addressed through legal obligations and responsibilities in the care, guidance, and supervision of children. Criminal law policies for crimes committed by children need to be made an integral part of the criminal justice system. Therefore, an in-depth legal study is needed to understand the Criminal Law Policy on Parental Obligations and Responsibilities in Preventing Child Crime. This study uses a normative legal research method with a legal approach, a review of the National Criminal Code and the Child Protection Law. The results of the study indicate that the regulation of parental obligations and responsibilities in criminal law policies has not been formulated systematically and integrated, so its effectiveness is limited in preventing child crime. It is concluded that the importance of reformulating criminal law policies oriented towards a preventive and restorative approach, prioritizing the principle of the child's best interests. This study is limited to criminal law threats related to parental obligations and responsibilities in preventing child crime.

INTRODUCTION

Families, especially parents, are the primary environment that shapes a child's character, behavior, and morals. Therefore, the phenomenon of criminal law policies regarding parental responsibility in preventing juvenile crime is a major problem in the legal and social systems. The increase in cases of juvenile delinquency and crimes committed by children demonstrates that family supervision and guidance often fail to function effectively in modern society. In this context, criminal law policies must be formulated that position children as perpetrators and parents as responsible for preventing juvenile crime.

Several Indonesian laws, such as Law Number 35 of 2014 concerning Child Protection and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), regulate parental responsibility towards children. These laws emphasize that parents have an obligation to care for, educate, protect, and instill moral and social values in their children to prevent them from engaging in deviant behavior. However, in practice, these laws emphasize child protection, while parental responsibility to prevent juvenile crime has not been explicitly regulated in the form of criminal sanctions.

Children are a vital national asset with great potential as the next generation¹. However, in reality, there are quite a few children who fall into deviant behavior and even criminal acts due to a lack of attention from their parents.²⁻³ Children hold a strategic position as valuable assets that determine human survival and the sustainability of a nation. However, children are not immune to the possibility of committing acts that are categorized as wrongdoing. These wrongdoings can be actions that harm themselves or others, and even have the potential to disrupt social order in community life. Criminal law is a legal regulation that functions to regulate and define criminal acts or behavior and determine the penalties for perpetrators.⁴⁻⁵

Any act classified as a crime under statutory provisions may be subject to criminal sanctions. In this regard, explained that criminal sanctions are sanctions imposed on

¹ Arafat, M. Y., & Fahmida. (2026). A new vista on social capital: its types and role in sustainable governance and democracy. *International Review of Sociology*, 1-19. doi:<https://doi.org/10.1080/03906701.2026.2615676>

² Damaiyanti, G., Nofrial, R., & Erniyanti, E. (2023). Analisis Yuridis Penerapan Diversi dan Keadilan Restoratif dalam Sistem Peradilan Pidana Anak pada Tingkat Penyidikan Demi Mewujudkan Perlindungan Anak. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 2(2), 93-98. doi:<https://doi.org/10.35912/jihham.v2i2.1674>

³ Hasanah, R. (2021). Kenakalan remaja sebagai salah satu bentuk patologi sosial (penyakit masyarakat). *Jurnal Cakrawala Ilmiah*, 1(3), 343-354. doi:<https://doi.org/10.53625/jcijurnalcakrawalaIndonesia.v1i3.614>

⁴ Babanina, V. (2018). Definition of the Criminal Legislation and its Correlation with Criminal Law. *Науковий вісник Національної академії внутрішніх справ*(4), 133-145.

⁵ Riza, F. S. C. M., & Asmadi, E. S. (2023). *Hukum Pidana Indonesia*: umsu press

perpetrators of criminal acts who are proven guilty, and their implementation can only be carried out based on a court decision that has obtained permanent legal force.⁶ Children's status within the legal system is defined as legal subjects, a status determined by the legal regulations applicable to children as members of society facing legal challenges. As the nation's next generation, still in the physical and mental development stage, children often commit legal violations that result in criminal sanctions in the form of imprisonment.⁷ The phenomenon of children committing legal violations is influenced by at least three dominant factors:

1. Age, which is limited emotional and intellectual maturity, leading children to act spontaneously without considering the consequences of their actions. This condition makes children vulnerable to deviant behavior, such as frequent acts of abuse.
2. Environmental factors, including family, peers, and the surrounding community, have a significant influence on shaping children's behavior. An environment that is not conducive, full of violence, or lacks parental supervision can encourage children to commit crimes (Muladi & Nawawi, 1998).
3. Socio-economic factors, such as poverty, limited access to education, and social inequality experienced by children. These factors often drive children to commit crimes, either to meet their living needs or as a way to escape the social pressures they experience.⁸

Juvenile delinquency is a phenomenon that often occurs in society.⁹ The family plays a significant role in influencing a child's likelihood of becoming involved in crime. This is because the family is the closest environment and the primary setting for character formation. As a fundamental social institution, the family is the primary vehicle that determines a child's moral, social, and emotional development from an early age. However, disharmonious family conditions, or broken homes, are often triggers for deviant behavior in children. Parental divorce or separation can cause psychological

⁶ Hamzah, A. (2008). *Asas-asas hukum pidana edisi revisi* (3 ed.). Jakarta: Rineka Cipta.

⁷ Ismanto, D., Alavi, I. N., & Lubis, F. (2024). Kebijakan Hukum Pidana/Penal Policy. *Innovative: Journal Of Social Science Research*, 4(4), 16351-16361. doi:<https://doi.org/10.31004/innovative.v4i4.15096>

⁸ Chandra, T. Y. (2023). Penerapan restorative justice dalam sistem peradilan pidana anak di Indonesia. *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial*, 11(01), 61-78. doi:<https://doi.org/10.30868/am.v11i01.3827>

⁹ Sarwanto, A. (2023). The Phenomenon of Juvenile Delinquency that Occurs in the Era of Globalization. *The Easta Journal Law and Human Rights*, 1(02), 45-50. doi:<https://doi.org/10.58812/eslhr.v1i02.53>

disorders that impact a child's development, both physically and mentally. Children in these situations tend to receive less attention and are often neglected.¹⁰⁻¹¹

Economic demands force parents to work from morning to night, leading them to neglect their children. In these situations, children seek attention outside the home. The family, as the closest environment, should play a primary role in shaping a child's character, morals, and personality from an early age. If the family's role weakens, for example due to a lack of supervision, affection, or guidance from parents, children tend to seek replacements for that attention outside the home. Current criminal law policies in Indonesia place a greater emphasis on children as perpetrators of crimes, through the implementation of a juvenile criminal justice system based on the principle of restorative justice.¹²⁻¹³

However, regulations regarding parental obligations and responsibilities in preventing juvenile crime remain relatively weak.¹⁴ Yet, strengthening the role of parents, both normatively and practically, has a strategic function as a preventative measure in reducing juvenile delinquency.

Children are the future of the nation. They deserve humane treatment. Thus, studies are needed that place criminal policy not only in a repressive aspect, but also in a preventive aspect by emphasizing the obligations and responsibilities of parents.¹⁵ This is in line with the aim of protecting children in order to form a generation of people with character, morals and law abiding. Islam firmly reminds parents of their responsibility towards their children to educate and care for them so that they become a strong generation. This can be seen in the Al-qu'an Surah An-Nisa Verse 9. Which means:

"And let those who fear Allah who, if they (die) leave behind them weak offspring, for whom they fear for their (welfare). Therefore, let them fear Allah and let them speak the right words (QS. An-Nisa ayat 9)."

¹⁰ Bushati, A. (2021). Neglected children within classrooms or selective-teacher-attention in Albania: A call for action addressing learning opportunity. *IOSR Journal of Humanities and Social Science*, 26(10), 46-55. doi:<https://doi.org/10.9790/0837-2610084655>

¹¹ Faisal, F., & Simatupang, N. (2021). Kebijakan Nonpenal Dalam Rangka Upaya Preventif Anak Sebagai Korban Kekerasan Fisik Dan Psikis Di Sekolah. *Jurnal Ilmiah Kebijakan Hukum*, 15(2), 287-304. doi:<http://dx.doi.org/10.30641/kebijakan.2021.V15.287-304>

¹² Cornford, A. (2024). The aims and functions of criminal law. *The Modern Law Review*, 87(2), 398-429. doi:<https://doi.org/10.1111/1468-2230.12846>

¹³ Fissell, B. M. (2019). When Agencies Make Criminal Law. *UC Irvine L. Rev.*, 10, 855.

¹⁴ Dare, T. (2016). Robust role-obligation: How do roles make a moral difference? *The Journal of Value Inquiry*, 50(4), 703-719. doi:<https://doi.org/10.1007/s10790-016-9577-2>

¹⁵ Fadjar, M., & Achmad, Y. (2010). Dualisme Penelitian Hukum Normatif dan Empiris. *Pustaka Pelajar*, Yogyakarta.

This verse reminds Muslims of the immense responsibility of preparing their children to prevent them from becoming a weak generation, both in terms of faith, morals, and the ability to face life's challenges. Parents must strive to equip their children with religious education, noble morals, and other skills so they become resilient individuals capable of living well. This verse conveys a profound message to Muslims about the importance of preparing the next generation to prevent them from becoming a weak generation. The weaknesses referred to are not limited to physical aspects, but also include weaknesses in faith, morals, mental health, and the ability to face life's challenges. Islam emphasizes that children are a trust from Allah SWT who must be properly cared for and educated. Therefore, parents have a moral, spiritual, and social responsibility to equip their children with a solid foundation of faith, noble morals, and relevant life skills.

This verse conveys a profound message to Muslims about the importance of preparing the next generation to prevent them from becoming a weak generation. The weaknesses referred to are not only limited to physical aspects, but also include weaknesses in faith, morals, mental health, and the ability to face life's challenges. Islam emphasizes that children are a trust from Allah SWT who must be properly cared for and educated. Therefore, parents have a moral, spiritual, and social responsibility to equip their children with a solid foundation of faith, noble morals, and life skills relevant to modern developments. Based on the above background, this study aims to analyze the legal regulations governing the obligations and responsibilities of parents in preventing child crimes in Indonesian legislation.

Literature Review

Children are the next generation who are expected to help the country in the future. Law No. 4 of 1979, Article 1, paragraph 2 concerning Child Welfare states that: "A child is someone who has not reached the age of 21 (twenty-one) years and has never been married." Talking about children's rights is interesting because children are unique and parents must pay attention to many things about fulfilling children's rights, especially basic rights. Parents must fulfill what is part of their obligations.¹⁶⁻¹⁷ So that a child can develop and obtain welfare rights as seen by law in Indonesia.

¹⁶ Fitri, A. N., Riana, A. W., & Fedryansyah, M. (2015). Perlindungan hak-hak anak dalam upaya peningkatan kesejahteraan anak. *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat*, 2(1), 45-50. doi:<https://doi.org/10.24198/jppm.v2i1.13235>

¹⁷ Xu, H. (2021). What Should Parents Do for Their Children – A Philosophical View of Parental Obligation. *Open Journal of Philosophy*, 11(04), 427-443. doi:<https://doi.org/10.4236/ojpp.2021.114029>

The fulfillment of all basic needs and rights is a prerequisite for being treated well. Furthermore, children have the opportunity to develop within their social environment. If children are well cared for, their well-being will be easily achieved. Conversely, if violence occurs against children, the state protects them, as stipulated in the criminal law on violence against children.¹⁸⁻¹⁹ This includes criminal acts and sanctions for violence against children, as outlined in Law Number 35 of 2014 concerning Child Protection. Law No. 35 of 2014 concerns legal protection for children's rights, particularly for child victims of criminal acts of violence. Article 1 of Law No. 35 of 2014 concerning Child Protection defines Child Protection as all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and dignity, and receive protection from violence and discrimination.

Empirically, various studies have shown that family factors are the primary determinants of juvenile criminal behavior. Children who grow up in families with weak supervision, family conflict, or a lack of parental attention tend to be at higher risk of juvenile delinquency and crime. Some countries have even enacted parental responsibility laws that allow parents to be sanctioned if they are found to have failed to adequately supervise their children. For example, if a parent's child commits certain crimes, the parent can be fined or required to participate in a family counseling program in some states in the United States. The goal of these policies is to raise parental awareness and their responsibility to supervise their children's behavior.

In Indonesia, Law Number 35 of 2014 concerning Child Protection and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System regulate parental responsibilities, but these laws place greater emphasis on the care and protection of children. Therefore, empirical studies on the role of parents in preventing juvenile crime remain crucial to determine the effectiveness of current policies.

In a study, they emphasized that criminal law policy is part of criminal policy, aiming to combat crime through penal and non-penal approaches.²⁰ In their study of criminal policy, they explained that social institutions such as the family also play a role in crime prevention. According to this study, families, especially parents, play a strategic role in preventing their children from engaging in crime. However, this study is more

¹⁸ Brank, E. M., & Weisz, V. (2004). Paying for the crimes of their children: Public support of parental responsibility. *Journal of Criminal Justice*, 32(5), 465-475. doi:<https://doi.org/10.1016/j.jcrimjus.2004.06.010>

¹⁹ Feeley, M. M. (2020). Criminal justice as regulation. *New criminal law review*, 23(1), 113-138. doi:<https://doi.org/10.1525/nclr.2020.23.1.113>

²⁰ Andhini, A. S. D., & Arifin, R. (2019). Analisis perlindungan hukum terhadap tindak kekerasan pada anak di Indonesia. *Jurnal Ilmu Hukum*, 3(1).

conceptual in nature and does not specifically address parental legal responsibility for children's violations.

Comparison with previous research shows that most research still focuses on how to protect children and handle children who commit crimes. On the other hand, there is little research that examines parental accountability from a criminal law policy perspective. Therefore, this research holds an important position in the academic world. Therefore, this research is expected to help develop a more comprehensive criminal law policy concept that not only focuses on the punishment of children as perpetrators, but also emphasizes the important role of families, especially parents, in preventing child crime. Furthermore, this research is also expected to provide recommendations for policymakers to create better regulations to address child crime.

METHODS

A comparison with previous research shows that most research still focuses on how to protect children and handle children who commit crimes. On the other hand, there is little research that examines parental accountability from a criminal law policy perspective. Therefore, this research holds an important position in the academic world. Therefore, this research is expected to help develop a more comprehensive criminal law policy concept that not only focuses on the punishment of children as perpetrators, but also emphasizes the important role of families, especially parents, in preventing child crime. Furthermore, this research is also expected to provide recommendations for policymakers to create better regulations to address child crime. In this normative legal research, of course, through an analysis of legal norms contained in relevant laws and court decisions. The stages of normative legal analysis include identifying legal problems related to child violence, conducting an inventory and collection of legal materials, classifying and systematizing legal materials related to criminal law policies on parental obligations and responsibilities, analyzing and interpreting the law, and drawing conclusions.

RESULT AND DISCUSSION

1. Criminal Law Policy Regulates the Role of Parents in Preventing Child Crime

Criminal law policy is essentially a subset of legal policy that specifically addresses efforts to utilize criminal law as a means to combat crime. Criminal law policy is "an effort to create criminal legislation that meets the needs of society in order to combat crime and

protect the public."²¹ Criminal law policy is a crucial part of the state's efforts to systematically and systematically combat crime. From a modern criminal law perspective, this policy is not simply defined as the application of criminal sanctions, but encompasses the entire process, from rule formulation and implementation to evaluation of the penal system itself.

Therefore, criminal law policy is viewed as a strategic instrument for achieving public order and protection within the context of a state governed by the rule of law.²²⁻²³ This opinion emphasizes that criminal law policy has a scientific orientation and is not solely repressive. Therefore, criminal law enforcement must consider the principles of justice, utility, and the social goals it seeks to achieve. Theoretically, criminal law policy is closely related to criminal policy, namely the rational efforts of society to overcome crime. Criminal law policy states that criminal law policy is a rational regulation of social reactions to crime.²⁴⁻²⁵

Criminal law policy has a scientific orientation and is not solely repressive. Therefore, criminal law enforcement must consider the principles of justice, utility, and the social goals to be achieved. Criminal law is dynamic and must always adapt to social, cultural developments, and community needs. Therefore, opening up space for criminal law reform is a necessity for the national legal system.²⁶⁻²⁷ Legal changes always follow the dynamics of societal development. In reality, law is not simply a collection of standard rules, but rather a constantly changing reflection, reflecting evolution, particularly the relationship between the diversity of social characteristics in modern and traditional societies. Legal changes, whether rapid or slow, reflect the idea that law reflects various

²¹ Corda, A. (2020). The transformational function of the criminal law: In search of operational boundaries. *New criminal law review*, 23(4), 584-635. doi:<https://doi.org/10.1525/nclr.2020.23.4.584>

²² Faisal, Yanto, A., Rahayu, D. P., Haryadi, D., Darmawan, A., & Manik, J. D. N. (2024). Genuine paradigm of criminal justice: rethinking penal reform within Indonesia New Criminal Code. *Cogent Social Sciences*, 10(1), 2301634. doi:<https://doi.org/10.1080/23311886.2023.2301634>

²³ Hopwood, S. (2017). Clarity in criminal law. *Am. Crim. L. Rev.*, 54, 695.

²⁴ Nurmalia, L. D., & Hanapi, Y. (2023). Kajian Perlindungan Hukum terhadap Anak yang Berkonflik dengan Hukum dalam Sistem Peradilan Pidana Anak. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 3(1), 1-7. doi:<https://doi.org/10.35912/jihham.v3i1.1801>

²⁵ Rajper, M. A., Korai, A. G., Samad, A., Ghaffar, A., Ahmed, J., & Korai, M. B. (2021). Objectives and Elements of Criminal Law and Role of Executive Organ of State. *GISRAS Journal of Management & Islamic Finance (GJMIF)*, 1(3).

²⁶ Baranyanan, S. D. (2021). Simplification of law regulations in copyright criminal act settlement. *Journal of Human Rights, Culture and Legal System*, 1(2), 80-91. doi:<https://doi.org/10.53955/jhcls.v1i2.9>

²⁷ Noor, M. S., Munawar, A., & Rahmathon, L. Y. (2024). Paradigma baru hukum acara pidana: Rekonstruksi perlindungan hak asasi tersangka dalam proses peradilan. *Jurnal Hukum Lex Generalis*, 5(12), 1-22. doi:<https://doi.org/10.56370/jhlg.v5i12.821>

social characteristics, meaning that no law is static, and these changes are often triggered by other conflicts, economic conditions, high unemployment rates due to limited job opportunities, and practices of abuse of power.

Criminal law policy is not only related to the imposition of sanctions on perpetrators of criminal acts, but covers a much broader and multidimensional scope. Referring to the latest studies, the scope of criminal law policy consists of three main areas, namely: (1) material criminal law which regulates the elements of criminal law criminal acts and types of sanctions, (2) formal criminal law relating to the procedures for the criminal justice process, and (3) the implementation of criminal penalties or executions, including regulations regarding the criminal policy it self.²⁸ The term Criminal Law Policy can also be referred to as 'criminal law politics'. In foreign literature, the term "criminal law politics" is often known by various terms, including "penal policy", "criminal law policy" or "strafrecht politiek".

Criminal law politics or what is called "penal policy" according to Marc Angel has the meaning of a science and art that aims to enable positive legal regulations to be formulated better. Thus, what is meant by "positive legal regulations" (the positive rules) in the definition is clearly criminal law legislation. Thus, the term "Penal Policy" is the same as the term "Criminal Law Policy". Criminal law policy can be defined as a general principle that serves to direct the state/government to fulfill the public interest in realizing the welfare or prosperity of the community (citizens).²⁹⁻³⁰

Policy is a program chosen by an individual or group of individuals that can be implemented and influence a number of individuals in order to achieve a goal. Based on this foreign term, the term criminal law policy can also be referred to as "criminal law politics." Criminal law policy aims to protect society from crime, uphold justice, and regulate behavior in accordance with legal norms. Furthermore, criminal law policy aims to impose appropriate sanctions or punishments on perpetrators, as well as provide guidance and rehabilitation so that perpetrators can reintegrate into society. Criminal law

²⁸ Farhani, S., Rifai, A., Firmantoro, Z. A., & Fachri, M. R. (2025). Kebijakan Hukum Pidana dalam Implementasi Budaya Anti Korupsi di Indonesia. *Krisna Law: Jurnal Mahasiswa Fakultas Hukum Universitas Krisnadwipayana*, 7(2), 1-11. doi:<https://doi.org/10.37893/krisnalaw.v7i2.1228>

²⁹ Hafid, N. S., Rusmana, D., & Shaleh, C. (2025). Penerapan teori pidana dalam pencegahan dan penanggulangan kriminalitas: Studi kasus dan tantangan implementasi. *Legalite: Jurnal Perundang Undangan dan Hukum Pidana Islam*, 10(1), 85-104. doi:<https://doi.org/10.32505/legalite.v10i1.10435>

³⁰ Judiasih, S. D., & Fakhriah, E. L. (2018). Inheritance law system: Considering the pluralism of customary law in Indonesia. *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)*, 5(2), 315-330. doi:<https://doi.org/10.22304/pjih.v5n2.a6%0D>

policy does not stand alone; it encompasses the selection of values to prevent crime. In other words, criminal law policy is a rational effort to regulate social responses to crime.³¹

This clearly demonstrates that this legal regulation is one option for addressing criminal acts and improving public welfare. Therefore, Criminal Law is an element of criminal policy, representing a logical societal effort to confront crime. The position of parents in the Indonesian legal system is fundamental because it is directly related to the formation, maintenance, and protection of the family, the smallest social unit in society.³² The state, through various legal instruments, positions parents as legal subjects with rights and obligations towards children from birth. This principle aligns with the objectives of Indonesian family law, which not only regulates private relationships but also encompasses social dimensions and the protection of human rights, particularly children's rights.

This is evident in Law Number 35 of 2014 concerning Child Protection. In terms of child protection, parents are positioned as the primary and primary parties responsible for fulfilling children's rights, including the right to life, growth, and development, as well as the right to protection from violence and discrimination. The state only takes an active role if parents are negligent or unable to fulfill their obligations, thus emphasizing the principle of subsidiarity of state responsibility. Parents' legal obligation to care for, protect, and educate their children is both a legal and moral obligation, the violation of which can result in criminal consequences. In the Indonesian legal system, this obligation is not only regulated by family law but also has direct relevance in criminal law, particularly when parental negligence results in physical or psychological suffering or harm to the child.

Thus, parents are not merely viewed as having authority over their children but also as legal subjects who can be held criminally accountable.³³⁻³⁴ Parents are obligated to meet their children's basic needs, provide protection from violence and discrimination, and

³¹ Aryanti, N. L. S., & Hariyanto, D. R. S. (2026). Peran Kriminologi Dalam Memahami Fenomena Kejahatan Terorganisir Lintas Negara. *Jurnal Media Akademik (JMA)*, 4(1). doi:<https://doi.org/10.62281/ptqphz80>

³² Aji, P. K., Adicahya, A., & Aji, D. S. N. (2025). The Impact of The Shifting Meaning of Parental Authority in The Family Law System in Indonesia. *Fundamentum: Journal of Legal and Judicial Reform*, 1(2), 86-107. doi:<https://doi.org/10.70992/k8rpn440>

³³ Duff, R. (2019). Moral and Criminal Responsibility. *Oxford Studies in Agency and Responsibility Volume 5: Themes from the Philosophy of Gary Watson*, 5, 165.

³⁴ Masyithoh, N. D., & Habib, M. A. (2024). Sacralism of Customary Law in Marriage: Local and National Legal Contestation in Indonesia. *Walisongo Law Review (Walrev)*, 6(1), 42-55. doi:<https://doi.org/10.21580/walrev.2024.6.1.22670>

ensure their proper education and development.³⁵⁻³⁶ This obligation is active and ongoing, so neglecting or allowing a child to experience a dangerous situation can be considered a violation of the law. In the context of criminal law, this obligation serves as the basis for assessing whether a parent is at fault.³⁷

The element of fault (*schuld*) in criminal law is a primary requirement for criminal liability, encompassing intent (*dolus*) and negligence or omission (*culpa*). Negligence occurs when a person fails to do something legally required, even though they are capable and obligated to do so. In the parent-child relationship, the legal obligation inherent in parents creates a guarantor position (*garantenstellung*), a legal position that obliges parents to prevent adverse consequences for the child. Parental negligence that results in physical or psychological suffering or loss for a child can be classified as a criminal offense in the form of omission (omission).

This offense occurs not because of an active act, but because of the failure to fulfill a legal obligation. Examples include neglecting children to tolerate violence, neglecting basic needs, or failing to provide adequate protection, which can lead to children engaging in actions that could harm themselves and others, ultimately resulting in serious consequences for the child.³⁸ In such circumstances, parental neglect can be equated with active conduct prohibited by criminal law.³⁹ Parents' legal responsibility to care for, protect, and educate children has a direct impact on their criminal liability. In Indonesian criminal law, parental negligence is not only seen as a moral failure but also as an act that can fulfill the elements of a criminal offense if it results in consequences prohibited by the regulations.

This approach reflects the nature of modern criminal law, which emphasizes the importance of protecting children as a vulnerable group and encourages parents to truly

³⁵ Cortés-Morales, S., & Main, G. (2022). Needs or wants? Children and parents understanding and negotiating needs and necessities. *Childhood Vulnerability Journal*, 4(1), 13-36. doi:https://doi.org/10.1007/s41255-021-00020-5

³⁶ Masten, C., Lombardi, J., & Fisher, P. (2021). *Helping families meet basic needs enables parents to promote children's healthy growth, development*: Center on Budget and Policy Priorities.

³⁷ Milanović, N. M. (2021). Involvement of Parents in School Obligations of Children of Younger School Age. *European Journal of Education and Pedagogy*, 2(6), 95-99. doi:https://doi.org/10.24018/ejedu.2021.2.6.245

³⁸ Nurmala, L. D., & Hanapi, Y. (2023). Kajian Perlindungan Hukum terhadap Anak yang Berkonflik dengan Hukum dalam Sistem Peradilan Pidana Anak. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 3(1), 1-7. doi:https://doi.org/10.35912/jihham.v3i1.1801

³⁹ Kesuma, D. A. (2023). Penguatan Gugatan Citizen Lawsuit/Action Populer sebagai Upaya Perlindungan Hak Konstitusional atas Jaminan Penegakan Hak-Hak Konstitusional Warga Negara terhadap Perbuatan Melawan Hukum oleh Negara. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 3(1), 43-52. doi:https://doi.org/10.35912/jihham.v3i1.2312

carry out their legal responsibilities.⁴⁰ Modern criminal law policy not only regulates the enforcement of criminal acts against perpetrators but also places prevention as a crucial component of the juvenile criminal justice system.⁴¹⁻⁴² Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), as the primary legal instrument, emphasizes that the purpose of the juvenile criminal justice system is to protect children's rights and prevent the negative impacts of criminal law on child development, as well as to provide children with the opportunity for rehabilitation rather than conventional punishment.

The role of parents in the context of preventing juvenile crime includes care, supervision, moral development, and the formation of social values that act as protective factors against deviant behavior in children. Empirical studies show that parenting style, family communication, and parental control over children's activities are strongly correlated with children's tendency to engage in deviant behavior or crime; parents who are less involved or who are permissive tend to increase the risk of children becoming involved in criminal activity. In the context of criminal law policy, although there are no explicit criminal provisions that impose criminal responsibility on parents for criminal acts committed by their children, regulations such as Law Number 35 of 2014 concerning Child Protection provide administrative and criminal legal consequences for parents who neglect or ignore their childcare obligations.

Because the family is a crucial component in shaping children's behavior, including preventing or triggering criminal behavior, the relationship between family criminology theory and criminal law policy requires in-depth study. In contemporary criminology, the family is considered the primary social environment that shapes values, norms, and social control for children. Therefore, family dysfunction is often associated with an increased likelihood of juvenile delinquency and criminal activity.⁴³

Travis Hirschi offers the social control theory of criminology, which states that individuals who have strong social bonds with their environment, especially family, are less likely to commit crimes. Emotional closeness, parental supervision, involvement in positive activities, and internalization of moral values are all characteristics of these

⁴⁰ Ramadhani, D. A. N., Shafira, M., Dewi, E., Jatmiko, G., & Warganegara, D. (2024). Implementasi Perluasan Makna Asas Legalitas Berdasarkan Kitab Undang-Undang Hukum Pidana (KUHP) Nasional. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 3(2), 65-74. doi:<https://doi.org/10.35912/jihham.v3i2.2529>

⁴¹ Katz, E. D. (2019). Criminal law in a civil guise. *The University of Chicago Law Review*, 86(5), 1241-1310.

⁴² Smit, D. v. Z. (2000). The place of criminal law in contemporary crime control strategies. *Eur. J. Crime Crim. L. & Crim Just.*, 8, 361. doi:<https://doi.org/10.1163/15718170020519247>

⁴³ Nurmi, M., Najemi, A., & Rapik, M. (2021). Studi komparasi perihal perumusan tindak pidana kekerasan terhadap anak. *PAMPAS: Journal of Criminal Law*, 2(3), 1-11.

bonds. Social control over children also decreases when these bonds are weak, increasing the likelihood of deviant behavior. Therefore, parents are crucial in supervising and educating children.

Furthermore, Edwin H. Sutherland's theory of differential association states that social interaction with one's environment is the basis for the study of criminal behavior. Children who grow up in families with a lack of supervision, or who are even accustomed to deviant behavior, may be more likely to imitate such behavior. Therefore, the family plays a crucial role in shaping children's behavior through socialization and teaching positive social values.

The concept of criminal policy, or criminal policy, demonstrates the relationship between family criminology theory and criminal law policy. This concept emphasizes the importance of a preventive approach in crime prevention. Criminal law policy not only functions as a repressive measure to punish those who commit crimes but also serves as a deterrent by strengthening social institutions. Therefore, the obligation of parents to guide and supervise their children can be incorporated into criminal policy, which aims to prevent crime within the family.⁴⁴

This relationship in Indonesian criminal law is reflected in various regulations that emphasize the role of the family in protecting and fostering children. However, current regulations emphasize the protection of children as legal subjects, while parental responsibility in preventing child crime has not been comprehensively regulated in criminal law policy.⁴⁵ Therefore, conducting a more in-depth analysis of how criminal law policy and family criminology theory interact is crucial for developing better policies to prevent juvenile crime.

By deepening the relationship between family criminology theory and criminal law policy, this study demonstrates that strengthening the role of parents is not merely a social or moral issue, but also part of a preventive criminal law policy strategy in addressing juvenile crime.⁴⁶ It is hoped that this approach will result in the formulation of more comprehensive legal policies, which focus not only on law enforcement related to juvenile crime but also on law enforcement related to

⁴⁴ Maswandi, M., & Kartika, A. (2019). Perlindungan Hukum Bagi Anak Dalam Tindak Pidana Pencurian Dengan Kekerasan Yang Mengakibatkan Matinya Korban (Studi Putusan No. 37/Pid. Sus-Anak/2017/PN. Mdn). *JUNCTO: Jurnal Ilmiah Hukum*, 1(2), 183-192.

⁴⁵ Priambada, B. S. (2025). *Kejahatan Dan Keadilan: Studi Kriminologi, Viktimologi, Dan Hukum Pidana Anak*. YPAD Penerbit.

⁴⁶ Ananda, D. F. (2025). *Analisis Kriminologi Tindak Pidana Kekerasan Terhadap Anak Yang Dilakukan Oleh Anak Hingga Menyebabkan Kematian Berdasarkan Hukum Positif Indonesia* (Doctoral dissertation, Universitas Malikussaleh).

2. Factors that Obstacle Parents to Carrying Out Legal Obligations and Responsibilities to Prevent Criminal Acts by Children

Strengthening the role of parents in preventing juvenile crime is firmly grounded in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), which prioritizes the best interests of children and a restorative justice approach. The SPPA Law emphasizes that the handling of children in conflict with the law must prioritize fostering and returning them to their family environment through diversion mechanisms and sanctions, including restitution to their parents. This provision demonstrates that criminal law policy implicitly recognizes parents as key actors in efforts to prevent the recurrence of juvenile crime.

Furthermore, from the perspective of the National Criminal Code, as stipulated in Law Number 1 of 2023, criminal policy prioritizes the principle of balance between legal certainty, justice, and social benefits, while strengthening preventive and rehabilitative orientations. Within this framework, the role of parents in raising and supervising children can be viewed as part of a criminal policy aimed at preventing crime from its initial causative factors. Thus, the integration of the SPPA Law and Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) emphasizes that preventing child criminal acts is not only the responsibility of the state, but also places parents as strategic subjects in criminal law policies that are oriented towards the prevention and protection of children.⁴⁷⁻⁴⁸

From the perspective of family criminology theory, particularly trauma theory, family dysfunction is viewed as a criminogenic factor contributing to the emergence of deviant behavior and juvenile delinquency. Traumatic experiences resulting from family conflict, divorce, or parental absence can disrupt a child's psychological development and influence the process of personality formation.⁴⁹⁻⁵⁰ This theory has gained normative legitimacy in the Indonesian legal system through the provisions of Law Number 11 of

⁴⁷ Mugiono, M., Indradewi, A. A., & Boong, V. R. (2025). Aspek Hukum Tanggung Jawab Orang Tua Terhadap Tindak Kejahatan Dan Perilaku Kriminal Anak Bawah Umur. *Esensi Hukum*, 7(1), 62-71. doi:<https://doi.org/10.35586/esensihukum.v7i1.426>

⁴⁸ Sumardi, D., Lukito, R., & Ichwan, M. N. (2021). Legal pluralism within the space of Sharia: Interlegality of criminal law traditions in Aceh, Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 5(1), 426-449. doi:<https://doi.org/10.22373/sjhk.v5i1.9303>

⁴⁹ Brunton-Smith, I., & McCARTHY, D. J. (2016). Explaining young people's involvement in online piracy: An empirical assessment using the offending crime and justice survey in England and Wales. *Victims & Offenders*, 11(4), 509-533. doi:<https://doi.org/10.1080/15564886.2015.1121943>

⁵⁰ Burlakova, I., Koval, V., & Brui, O. (2024). The psychological impact of traumatic experiences on family perceptions among youth. *Public Administration and Law Review*, 3(19), 75-90. doi:<https://doi.org/10.36690/2674-5216-2024-3-75-90>

2012 concerning the Juvenile Criminal Justice System, which emphasizes the principle of the best interests of the child and a restorative justice approach involving the family as the primary environment for child development.

Furthermore, the National Criminal Code reinforces the preventive and rehabilitative orientation of criminal law policy, so that the prevention of juvenile crime is not solely directed at the child as the perpetrator⁵¹⁻⁵², but also at the initial causal factors originating from the family environment. Thus, the role of the family meets positive legal norms in developing preventive criminal law policies that position parents as strategic subjects in preventing juvenile crime. Preventing juvenile crime is not only the responsibility of the state through the juvenile criminal justice system, but also lies with parents as the smallest unit of society who play a role in care and supervision.

Contemporary criminological literature shows that appropriate parenting patterns such as consistent monitoring, open communication, and modeling normative values are correlated with lower rates of deviant behavior in adolescents. However, various studies also confirm that ineffective parenting patterns and low parental involvement are significant risk factors for children's involvement in criminal behavior or juvenile delinquency.⁵³⁻⁵⁴ These factors include authoritarian, permissive, or even neglectful parenting of the child's life dynamics, which reduces parental social control and increases the child's chances of engaging in deviant behavior.⁵⁵⁻⁵⁶

⁵¹ Siregar, K. A. A., Monica, D. R., & Susanti, E. (2024). Analisis Penerapan Asas Ultimum Remedium terhadap Anak Pelaku Tindak Pidana Persetubuhan: Studi Putusan Nomor: 15/Pid.Sus Anak/2022/PT.Sby. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 4(1), 1-9. doi:<https://doi.org/10.35912/jihham.v4i1.3006>

⁵² Sanusi, S., Roy, D., & Yanti, D. (2025). Determinasi Pelayanan : Kepatuhan Pajak Perspektif Sosiologi Hukum. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 5(1), 21-31. doi:<https://doi.org/10.35912/jihham.v5i1.4141>

⁵³ Aazami, A., Valek, R., Ponce, A. N., & Zare, H. (2023). Risk and protective factors and interventions for reducing juvenile delinquency: A systematic review. *Social Sciences*, 12(9), 474. doi:<https://doi.org/10.3390/socsci12090474>

⁵⁴ Bertolini, A., & Arian, S. (2022). Automated care-taking and the constitutional rights of the patient in an aging population *Law and Artificial Intelligence: Regulating AI and Applying AI in Legal Practice* (pp. 297-321): Springer

⁵⁵ Junus, I., & AM, M. A. A. (2025). Criminological review of juvenile delinquency in society due to parenting in the Gen Z era. *Journal of Law and Legal Reform*, 6(1), 481-498. doi:<https://doi.org/10.15294/jllr.v6i1.14467>

⁵⁶ Siregar, K. A. A., Monica, D. R., & Susanti, E. (2024). Analisis Penerapan Asas Ultimum Remedium terhadap Anak Pelaku Tindak Pidana Persetubuhan: Studi Putusan Nomor: 15/Pid.Sus Anak/2022/PT.Sby. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 4(1), 1-9. doi:<https://doi.org/10.35912/jihham.v4i1.3006>

The internal challenges parents face in fulfilling their parenting responsibilities cannot be ignored. Empirical research in local communities shows that parents' busy work schedules, economic challenges, and daily life stress often reduce the time available for active supervision and quality communication with their children.⁵⁷⁻⁵⁸ This is exacerbated by a lack of understanding of how to implement adaptive parenting styles that meet children's developmental needs, as well as parents' limited knowledge of contemporary issues such as the influence of social media and promiscuity, which can trigger deviant behavior in children.⁽¹⁾ This situation creates a gap between the demands of parents' legal responsibilities and the socio-economic realities they face, thus limiting the effectiveness of their preventive role.

In addition to internal constraints, external factors also influence parents' ability to fulfill their preventive role. Complex social environments, including negative peer relationships, a permissive community culture toward deviant behavior, and a lack of cross-sectoral support from education, the community, and child protection agencies, make parental prevention efforts more fragile. This challenge demonstrates that parents' legal responsibility to prevent juvenile crime is not simply an individual or family issue, but also relates to the need for policy and program support that strengthens parental capacity, such as parenting training, legal counseling, and access to social resources that can support effective supervision. Thus, the obstacles faced by parents include internal and external aspects which are interrelated and need to be integrated into a comprehensive preventive criminal law policy.

Based on this description, it can be concluded that many interrelated factors, such as economics, education, social environment, legal awareness, parenting patterns, technological advances, and family conditions, can cause parents to fail to carry out their legal obligations and responsibilities to prevent children from committing crimes. Therefore, preventing child crime does not only depend on the role of parents; it also requires support from the community, educational institutions, and government policies to increase the role of families in fostering and supervising children.

⁵⁷ Cha, S.-E., & Papastefanou, G. (2020). Understanding the time pressure of working parents: How parents' childcare time impacts the diurnal organization of activities and the sense of feeling rushed. *Journal of Comparative Family Studies*, 51(1), 110-130. doi:<https://doi.org/10.3138/jcfs.51.1.006>

⁵⁸ Ratriningtyas, G. N. (2024). Peran orang tua untuk mencegah terjadinya kenakalan remaja di desa nyamat. *Indonesian Journal of Muhammadiyah Studies (IJMUS)*, 5(1), 15-22. doi:<https://doi.org/10.62289/ijmus.v5i1.339>

CONCLUSION

Indonesian criminal law policy fundamentally recognizes the crucial role of parents in preventing juvenile crime, particularly through a protection and restorative justice approach. Through diversion mechanisms and sanctions in the form of returning children to their parents, criminal law policy implicitly positions parents as strategic actors in fostering and preventing the recurrence of juvenile crime. However, the regulation of parental legal obligations and responsibilities within criminal law policy remains fragmented and has not been systematically formulated. The National Criminal Code, as stipulated in Law Number 1 of 2023, has shifted the focus of punishment toward a more preventative and rehabilitative approach, but does not explicitly regulate the legal consequences for parental negligence in carrying out their childcare and supervision functions.

This situation has resulted in the role of parents in preventing juvenile crime being positioned more as a moral and social responsibility than as a legal obligation with normative coercive force. For criminal law policy recommendations on the role of parents in preventing juvenile crime to be more effective, they must be normative and accompanied by clear accountability, implementation procedures, and steps for implementing the recommendations. Effective policies will facilitate implementation at the community, government, and law enforcement levels.

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