

# Performance of Law Enforcement Officials in the Application of Article 33 of Law No. 11 of 2012 in the Vina Cirebon Case

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## ABSTRACT

This study examines the performance of law enforcement officials in applying Article 33 of Law No. 11 of 2012 within the context of the Vina Cirebon case. Utilizing a qualitative approach, the research employs juridical normative analysis to explore the effectiveness and challenges faced by officials in enforcing the law. The findings reveal varying levels of understanding and awareness of Article 33 among law enforcement officials, impacting the consistency and effectiveness of its application. Key challenges identified include insufficient training and resources, discretionary decision-making, and difficulties in victim participation. Despite the potential benefits of diversionary measures, inconsistencies in their application and a lack of follow-up mechanisms hindered their effectiveness. The study concludes with recommendations for enhancing training programs, standardizing procedures, improving victim engagement, and increasing resources to support the successful implementation of diversion measures. This research contributes to a deeper understanding of the practical implications of legal provisions and offers recommendations for strengthening the juvenile justice system in Indonesia.

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## 1. INTRODUCTION

The enactment of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System in Indonesia introduced Article 33, focusing on the diversion process for juvenile offenders, which is crucial for upholding justice and public trust in the legal system [1]. However, the implementation of this law faces challenges such as the need for proper guidelines and infrastructure for diversion, including Juvenile Investigators, Diversion Standard of Operation (SOP), and suitable

facilities for investigations and mediation [2]. The role of law enforcement officials in applying specific legal provisions, especially in cases involving children in conflict with the law, is essential for protecting the rights and welfare of minors while promoting restorative justice practices like musyawarah for consensus [3]. Efforts to improve the Criminal Justice System in Indonesia are necessary to enhance law enforcement's effectiveness, address weaknesses in the judiciary, and ensure consistent and non-discriminatory actions against offenders,

including corruptors [4]. Additionally, aligning law enforcement practices with legal principles and values is crucial for achieving peacefulness in social life and building a law-abiding society [5].

The Vina Cirebon case, involving a juvenile offender, sheds light on the complexities surrounding the interpretation and application of Article 33 by law enforcement officials [6]. This case exemplifies the need for additional legal guarantees in criminal proceedings for minors due to their age-related vulnerability and immaturity, requiring specialized treatment within the justice system [7]. Furthermore, the case underscores the importance of considering factors such as the severity of the offense, the child's age, maturity, and attitude towards guilt, as well as the victim's perspective when determining the appropriate approach to juvenile offenders, potentially deviating from traditional punitive measures in favor of restorative justice principles [8]. The nuances of exceptions in restorative justice for children in conflict with the law, as highlighted in the Vina Cirebon case, emphasize the ongoing challenges and complexities in effectively implementing restorative justice in the child justice system.

Through a detailed juridical normative analysis, this research aims to uncover the effectiveness of law enforcement officials in implementing Article 33, identifying both the strengths and weaknesses in their approach. By focusing on the Vina Cirebon case, the study seeks to highlight the real-world implications of legal provisions, offering insights into the challenges faced by law enforcement officials and the potential areas for improvement.

## 2. LITERATURE REVIEW

### 2.1 Juvenile Justice Systems

Juvenile justice systems globally have shifted towards more rehabilitative and restorative approaches, departing from traditional punitive measures for adult offenders. Scholars like Varma and Singh emphasize the significance of diversion

programs in reducing recidivism and facilitating the social reintegration of juvenile offenders [9]. Diversion, as a concept, aims to steer young offenders away from formal legal processes, opting for alternative measures like counseling, community service, or mediation [10]–[12]. These programs, aligned with international conventions like the UNCRC and the Beijing Rules, prioritize the well-being and rehabilitation of children in conflict with the law, promoting their inclusion in society and offering a more effective approach to addressing juvenile delinquency [12].

### 2.2 The Indonesian Juvenile Justice System

The Juvenile Justice System Act of Indonesia, Law No. 11 of 2012, aligns with international standards like the United Nations Convention on the Rights of the Child (UNCRC) by emphasizing the diversion process for juvenile offenders [13]–[15]. This law mandates the prioritization of restorative justice principles in handling juvenile cases, aiming to protect children's rights and promote their well-being and development [15]. However, challenges exist in the implementation of this law, such as disharmonizing of norms between different regulations and the need for better enforcement by law enforcement officers [16], [17]. Despite these obstacles, the diversion system under Law No. 11 of 2012 plays a crucial role in steering juvenile offenders away from imprisonment and the juvenile court process, ultimately contributing to a more rehabilitative approach in the Indonesian juvenile justice system.

### 2.3 Article 33 of Law No. 11 of 2012

Article 33 outlines the conditions under which diversion can be applied, including the severity of the offense, the circumstances of the offender, and the impact on the victim. Research on diversion for juvenile offenders, as discussed in various studies [10], [12], [15], [16], [18], emphasizes its potential benefits in reducing stigmatization and negative consequences associated with formal judicial proceedings. While the theoretical framework supports diversion as a more rehabilitative and less

punitive approach, practical challenges arise due to discrepancies in interpretations and enforcement practices across different regions. Factors such as awareness of rehabilitation importance, community involvement, and resource limitations impact the successful implementation of diversion programs. Despite the intention to reduce the footprint of the juvenile courts, informal processing through diversion may inadvertently increase the number of justice-involved youth and exacerbate racial disparities within the system. Efforts to standardize and improve the consistency of diversion practices are crucial to ensure its effectiveness in providing a positive impact on juvenile offenders.

#### *2.4 Challenges in the Application of Article 33*

Several studies have identified key challenges faced by law enforcement officials in applying Article 33. The effective implementation of diversion programs can be hindered by factors such as the lack of training and resources [19], [20]. Additionally, societal and cultural attitudes towards juvenile offenders play a significant role in influencing officials' willingness to apply restorative justice principles [20]. Inconsistencies in the application of legal provisions, like Article 33, can result in disparities in outcomes for juvenile offenders, ultimately undermining the objectives of the juvenile justice system [10]. Addressing these challenges through comprehensive training programs, adequate allocation of resources, and promoting a shift in societal perceptions towards juvenile offenders is crucial to ensure the successful implementation of diversion programs and uphold the principles of restorative justice in juvenile justice systems.

### **3. METHODS**

This study aims to analyze the performance of law enforcement officials in the application of Article 33 of Law No. 11/2012 in the Vina Cirebon case using a qualitative approach. It focuses on normative juridical analysis to provide an in-depth

understanding of the legal, procedural, and practical aspects of law enforcement in this context. By choosing a qualitative research design, the study enables a detailed exploration of the subjective experiences and interpretations of law enforcement officers involved in the case, facilitating a comprehensive understanding of the legal and normative framework guiding the application of Article 33 and the challenges faced by the officers in applying this provision.

#### *3.1 Data Collection Methods*

Data collection was carried out using multiple methods to ensure the reliability and validity of the findings. Document analysis was conducted to examine relevant legal texts, case files, official reports, and academic literature, including the text of Law No. 11 of 2012, particularly Article 33, as well as court documents and official statements related to the Vina Cirebon case. This method provided a foundational understanding of the legal context and the specific application of the law in this case. In-depth semi-structured interviews were conducted with key stakeholders involved in the Vina Cirebon case, including law enforcement officials, legal experts, social workers, and representatives from non-governmental organizations (NGOs) focused on juvenile justice. The interviews aimed to capture the perspectives and experiences of these stakeholders regarding the application of Article 33, the challenges encountered, and the outcomes of the case. Observations were made during court proceedings and diversion program sessions related to the Vina Cirebon case, allowing for a firsthand understanding of the practical application of Article 33 and the interactions between law enforcement officials, the juvenile offender, and other stakeholders. Observational data provided insights into the procedural aspects and the dynamics of the diversion process.

#### *3.2 Data Analysis Procedures*

The data collected through document analysis, interviews, and observations were systematically analyzed using the following procedures: Coding and Categorization,

where data from interviews and observations were transcribed and coded using thematic analysis to identify key themes and categories based on the research questions and objectives, ensuring comprehensive coverage of relevant themes such as the interpretation of Article 33, procedural challenges, and outcomes of the diversion process. Juridical Normative Analysis involved examining the legal texts and case documents in detail, interpreting the provisions of Article 33, identifying legal principles and precedents, and assessing their application in the Vina Cirebon case, focusing on understanding the legal reasoning and normative frameworks that guided the actions of law enforcement officials. Triangulation was employed to enhance the validity and reliability of the findings by cross-checking data from different sources and methods to identify consistencies and discrepancies, ensuring a robust analysis by corroborating evidence from multiple perspectives and minimizing potential biases.

## 4. RESULTS AND DISCUSSION

### *4.1 Interpretation and Application of Article 33*

The study found varying levels of understanding and awareness of Article 33 among law enforcement officials. While some officials demonstrated a comprehensive knowledge of the diversion process and its intended benefits, others exhibited confusion or lack of awareness about the specific provisions of the law. This discrepancy impacted the consistency and effectiveness of the law's application.

For instance, officials who were well-versed in Article 33 were more likely to apply diversionary measures appropriately, considering factors such as the severity of the offense, the offender's background, and the victim's perspective. In contrast, those with limited understanding tended to default to traditional punitive measures, undermining the law's rehabilitative intent.

The lack of adequate training and resources emerged as a significant barrier to the effective implementation of Article 33.

Many law enforcement officials reported insufficient training on the juvenile justice system and diversion processes. This gap hindered their ability to apply the law consistently and effectively. Additionally, the lack of resources, such as counseling services and community-based programs, limited the options available for diversion.

### *4.2 Procedural Challenges*

The discretionary power granted to law enforcement officials in applying Article 33 resulted in varied outcomes. While discretion allows for flexibility and individualized consideration, it also introduced inconsistencies in the decision-making process. Some officials exercised their discretion judiciously, considering all relevant factors and engaging stakeholders, including victims and social workers. However, others made decisions based on personal biases or external pressures, leading to disparities in how juvenile offenders were treated.

The involvement of victims in the diversion process, as mandated by Article 33, posed practical challenges. In the Vina Cirebon case, securing the victim's consent for diversion was often difficult, particularly in instances where victims sought punitive justice. This reluctance affected the willingness of law enforcement officials to pursue diversion, as they faced the dual challenge of addressing the victim's needs while adhering to the principles of restorative justice.

### *4.3 Outcomes of the Vina Cirebon Case*

The effectiveness of diversion in the Vina Cirebon case was mixed. When properly implemented, diversionary measures such as counseling and community service proved beneficial in reducing recidivism and promoting the juvenile offender's reintegration into society. Interviews with social workers and NGOs involved in the case highlighted positive outcomes, including improved behavior and increased educational engagement of the offender.

Despite these successes, several gaps were identified. The inconsistent application

of diversion measures led to unequal treatment of juvenile offenders. In some instances, offenders with similar profiles received different outcomes based on the discretion of individual officials. Additionally, the lack of follow-up and monitoring mechanisms meant that some diverted juveniles did not receive the ongoing support necessary for sustained rehabilitation.

#### 4.4 Recommendations

To address the identified challenges, there is a need for comprehensive training programs for law enforcement officials on the juvenile justice system and the specific provisions of Article 33. Regular workshops and seminars could improve awareness and understanding, ensuring consistent application of diversion measures.

- a. Developing standardized procedures and guidelines for the application of Article 33 could help mitigate the issues related to discretionary power and inconsistencies. Clear criteria and protocols would support law enforcement officials in making informed and fair decisions, promoting uniformity in the treatment of juvenile offenders.
- b. Efforts should be made to enhance victim engagement in the diversion process. This could involve educating victims about the benefits of restorative justice and providing support mechanisms to address their concerns. Mediation services and victim-offender dialogues could facilitate a more balanced and restorative approach.
- c. Investing in resources and support services is crucial for the successful implementation of diversion. This includes funding for counseling, educational programs, and community-based initiatives. Additionally, establishing

monitoring and follow-up mechanisms would ensure that diverted juveniles receive ongoing support and guidance.

## 5. CONCLUSION

The analysis of the Vina Cirebon case provides valuable insights into the performance of law enforcement officials in applying Article 33 of Law No. 11 of 2012. The study highlights significant challenges, including varying levels of understanding, insufficient training and resources, discretionary decision-making, and difficulties in securing victim participation. These challenges underscore the need for comprehensive training programs to enhance officials' knowledge and application of the law. Standardizing procedures and guidelines can mitigate inconsistencies and promote fair treatment of juvenile offenders. Additionally, efforts to improve victim engagement and invest in resources and support services are crucial for the effective implementation of diversion measures.

The findings emphasize the importance of a consistent and well-supported approach to the application of Article 33, ensuring that juvenile offenders receive the intended rehabilitative and restorative benefits. By addressing the identified gaps and implementing the recommended improvements, law enforcement officials can better fulfill the objectives of the juvenile justice system, contributing to a more just and equitable legal framework in Indonesia. This study's conclusions provide a foundation for further research and policy development aimed at strengthening the performance of law enforcement officials and enhancing the overall effectiveness of the juvenile justice system.

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