

# The Future of Children in the Criminal Justice System: Restorative or Retributive Approach

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## ABSTRACT

The future of children within criminal justice systems raises fundamental questions about the best approach to both punishment and rehabilitation. This paper explores the competing paradigms of restorative and retributive justice, examining their impact on child offenders. Restorative justice focuses on rehabilitation, reconciliation, and reintegration into society, while retributive justice emphasizes punishment proportionate to the crime. Through an analysis of global case studies, legal frameworks, and criminological theories, this study assesses the effectiveness of each approach. It argues that restorative justice, though underutilized, offers more promising outcomes for reducing recidivism among child offenders, while retributive measures often fail to address the root causes of juvenile delinquency. The paper concludes by recommending a shift towards a more restorative model in juvenile justice systems, emphasizing the need for comprehensive policy reform to prioritize the long-term welfare of child offenders.

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## 1. INTRODUCTION

The treatment of children in the criminal justice system has been a topic of intense debate for decades. With an increasing awareness of children's unique developmental needs and vulnerabilities, there has been growing recognition that traditional punitive systems may not adequately address the root causes of juvenile delinquency, nor do they contribute meaningfully to the rehabilitation and reintegration of young offenders. The fundamental question that arises in modern criminal justice systems is: should children be subjected to the same retributive punishments as adults, or should alternative restorative

approaches be considered to meet their specific needs?

Globally, juvenile justice systems vary significantly, both in their philosophical underpinnings and in their practical applications. While some nations maintain a highly punitive, retributive framework for dealing with child offenders, others have begun to experiment with more restorative approaches. The distinction between retributive and restorative justice lies at the heart of this debate, representing two fundamentally different ways of viewing crime, responsibility, and rehabilitation.

Retributive justice is rooted in the idea that punishment should be proportionate to the offense. It is a system that seeks to hold

offenders accountable through penalties that reflect the severity of their crimes. In the context of juvenile offenders, retributive systems often emphasize deterrence, incapacitation, and punishment. This approach assumes that by imposing harsh penalties, the criminal justice system can deter future crimes both by the individual offender and by others who may be inclined toward criminal activity. However, the retributive model has been widely criticized for failing to take into account the socio-economic, psychological, and developmental factors that often lead children into conflict with the law.

Restorative justice, on the other hand, shifts the focus from punishment to reconciliation and rehabilitation. It emphasizes the importance of healing relationships between offenders, victims, and communities. Rather than focusing solely on the offense, restorative justice aims to address the underlying issues that contributed to the criminal behavior, thereby reducing the likelihood of recidivism. Restorative practices include mediation, community service, and restitution, all of which are designed to involve the offender in the process of making amends for their actions.

The debate between restorative and retributive justice is particularly relevant in the context of juvenile offenders, as the developmental stage of children requires a different approach than that of adult offenders. Numerous studies have shown that children's brains, particularly those areas involved in decision-making and impulse control, continue to develop well into early adulthood. As such, young offenders are often more impressionable, more capable of rehabilitation, and more likely to respond positively to interventions that focus on education, mentorship, and community support, rather than punishment alone.

The concept of juvenile justice is a relatively modern development. Historically, children were treated as miniature adults and were subject to the same criminal penalties as their older counterparts. In Europe, until the 19th century, children as young as seven could be tried and punished for crimes, including capital offenses. It was only with

the advent of child psychology and a growing recognition of children's unique cognitive and emotional development that the idea of a separate juvenile justice system emerged.

The first juvenile court was established in Chicago in 1899, marking a significant shift in how young offenders were treated. The juvenile court movement was founded on the principle that children were fundamentally different from adults and should be treated accordingly. Rather than focusing solely on punishment, the juvenile court sought to rehabilitate young offenders through education, vocational training, and moral guidance. This approach was based on the belief that children, being more malleable than adults, were capable of change and could be redirected toward more productive paths if given the proper support and guidance.

However, as juvenile crime rates increased during the latter half of the 20th century, many policymakers and members of the public began to question the effectiveness of this rehabilitative approach. In the 1980s and 1990s, there was a widespread shift toward more punitive measures for juvenile offenders, with many jurisdictions adopting "zero-tolerance" policies and lowering the age at which children could be tried as adults. This era marked a return to retributive justice principles, as policymakers sought to address public concerns about rising juvenile crime through harsher penalties and tougher sentencing laws.

Today, the juvenile justice system remains a patchwork of conflicting philosophies and practices. In some countries, restorative justice has gained significant traction, with governments and community organizations embracing mediation, counseling, and education as alternatives to incarceration. Countries such as New Zealand and Norway have implemented restorative justice practices as the cornerstone of their juvenile justice systems, with promising results in terms of reduced recidivism and increased offender accountability.

In the United States, however, the juvenile justice system remains largely punitive. Despite the fact that research consistently shows that incarceration is often

ineffective at reducing juvenile crime, many states continue to rely heavily on detention centers and youth prisons to deal with young offenders. This reliance on punitive measures disproportionately affects marginalized communities, with children from low-income backgrounds, children of color, and those with mental health issues being overrepresented in the juvenile justice system. Critics of the current system argue that it perpetuates cycles of poverty, crime, and incarceration by failing to address the root causes of juvenile delinquency, such as trauma, abuse, and lack of educational and economic opportunities.

The international landscape presents a diverse picture. In Europe, many countries have embraced a more rehabilitative approach to juvenile justice, with a focus on diversion programs, social services, and community-based interventions. Germany, for example, has a well-established system of alternative sentencing for juvenile offenders, with a heavy emphasis on education and vocational training. Similarly, in Sweden, youth offenders are typically placed in social service programs rather than prisons, where they receive counseling, education, and job training to help them reintegrate into society.

On the other hand, countries with more authoritarian regimes tend to adopt a more punitive approach to juvenile justice. In some Middle Eastern and Asian nations, children accused of crimes can face harsh penalties, including corporal punishment and even the death penalty. These retributive systems often lack the legal protections and due process afforded to juvenile offenders in more developed nations, further compounding the injustices faced by children in conflict with the law.

The ongoing debate between restorative and retributive justice for children is fundamentally about what society seeks to achieve through its criminal justice system. Proponents of retributive justice argue that punishment is necessary to uphold the rule of law, deter future crimes, and provide justice for victims. They maintain that without consequences, criminal behavior would go unchecked, leading to social disorder and a

breakdown of moral authority. For child offenders, retributive justice advocates often argue that tough penalties are needed to deter future offending and to send a message that society will not tolerate criminal behavior, even from its youngest members.

Restorative justice advocates, however, argue that focusing solely on punishment fails to address the root causes of crime and does not lead to meaningful rehabilitation. They contend that young offenders are often victims themselves—of poverty, abuse, neglect, or mental health issues—and that a system focused on punishment does little to help them break free from the cycles of violence and deprivation that lead to criminal behavior in the first place. Instead of simply punishing children for their crimes, restorative justice seeks to engage them in the process of making amends, while also providing them with the support they need to make better choices in the future.

Empirical evidence on the effectiveness of both approaches is mixed. Some studies have shown that harsh penalties, such as incarceration, are not effective in reducing juvenile crime and may even increase the likelihood of recidivism by exposing young offenders to violent environments and stigmatizing them within their communities. Other research has suggested that restorative justice programs, while promising, are often underfunded and poorly implemented, limiting their effectiveness in many jurisdictions.

The reality is that no single approach is likely to be effective for all juvenile offenders. While restorative justice may be more appropriate for children who have committed minor offenses or who come from disadvantaged backgrounds, more serious offenses may still require some level of punishment and incapacitation to protect public safety. However, even in cases where punitive measures are necessary, there is a growing consensus that these measures should be accompanied by rehabilitative programs aimed at addressing the underlying issues that contribute to criminal behavior.

Ultimately, the future of children in the criminal justice system depends on

finding a balance between the need for accountability and the need for rehabilitation. While punishment may be necessary in some cases, it should not be the only tool at society's disposal. Children, by virtue of their developmental stage, are more capable of change than adults, and the criminal justice system should reflect this reality by offering them opportunities to learn from their mistakes and reintegrate into society.

A growing body of evidence suggests that restorative justice, when properly implemented, can offer significant benefits for both offenders and victims. By involving young offenders in the process of making amends, restorative justice can help them develop empathy, take responsibility for their actions, and make meaningful changes in their lives. At the same time, victims and communities can benefit from the healing and reconciliation that restorative justice promotes, leading to greater social cohesion and reduced fear of crime.

## 2. LITERATURE REVIEW

The literature on juvenile justice reveals a wide array of approaches to dealing with young offenders, reflecting deep-seated philosophical differences regarding crime, punishment, and rehabilitation. At the heart of the debate are two primary frameworks: restorative justice and retributive justice. This literature review will explore the historical and theoretical underpinnings of these approaches, the impact of each on juvenile offenders, and the broader social and policy implications of applying restorative versus retributive principles to children in conflict with the law.

### *2.1 Historical Development of Juvenile Justice Systems*

Historically, the concept of childhood as a distinct phase of life was not recognized until the 19th century. Prior to this, children were often treated as miniature adults, subject to the same criminal laws and punishments. The first juvenile court, established in 1899 in Cook County, Illinois, marked a significant shift in how society viewed juvenile offenders, emphasizing rehabilitation over

punishment. According to Platt [11], the Progressive Era reformers who initiated the juvenile court movement believed that children were fundamentally different from adults, both in their capacity for change and in their susceptibility to environmental influences. This movement laid the groundwork for the modern distinction between juvenile and adult criminal justice systems.

The mid-20th century saw the proliferation of juvenile courts across the United States and Europe, with a focus on individualized treatment and rehabilitation. In contrast to the retributive justice model that dominates adult criminal law, juvenile courts were designed to take a more flexible, rehabilitative approach, focusing on the best interests of the child. However, by the 1980s, rising juvenile crime rates and a growing political emphasis on law and order led to a resurgence of retributive policies, even within juvenile justice systems. Feld [4] argues that this shift reflected a growing belief that the rehabilitative ideal had failed, and that harsher penalties were necessary to deter juvenile crime.

### *2.2 Theoretical Foundations of Restorative and Retributive Justice*

Restorative justice is rooted in theories of conflict resolution and reconciliation, particularly as they relate to community-based practices. Howard Zehr [14], one of the leading scholars in the field, argues that restorative justice views crime as a violation of people and relationships, rather than a mere breach of the law. This perspective prioritizes healing for both victims and offenders, seeking to repair the harm caused by criminal behavior through dialogue, restitution, and community involvement.

Zehr's work has been influential in shaping the modern understanding of restorative justice, particularly in the context of juvenile offenders. According to Zehr, restorative justice shifts the focus from punishment to accountability, encouraging offenders to take responsibility for their actions and make amends to their victims. This approach stands in stark contrast to

retributive justice, which is based on the principle of "just deserts" — the idea that offenders should be punished in proportion to the severity of their crimes.

The retributive model, as outlined by scholars such as Andrew von Hirsch [6], is grounded in classical legal theory. Retributive justice holds that punishment serves a moral function by ensuring that wrongdoers receive their due. In the case of juvenile offenders, proponents of retributive justice argue that harsh penalties are necessary to reinforce societal norms and deter future criminal behavior. However, critics contend that retributive justice fails to account for the unique developmental needs of children and may actually exacerbate the underlying causes of delinquency.

### *2.3 The Impact of Retributive Justice on Juvenile Offenders*

The literature on retributive justice and juvenile offenders suggests that punitive measures such as incarceration may be particularly harmful to children. Studies have consistently shown that young people who are incarcerated are more likely to reoffend upon release than those who receive community-based interventions. According to Mears and Travis [9], juvenile detention centers often expose children to violent environments, disrupting their education, family relationships, and social development. These disruptions can lead to a cycle of recidivism, as children who are incarcerated at a young age are more likely to struggle with reintegration into society.

Furthermore, retributive justice disproportionately affects marginalized communities. Research by Bishop and Frazier [2] indicates that children of color are more likely to be tried as adults and sentenced to longer terms of incarceration than their white counterparts, even when controlling for the severity of the offense. This disparity suggests that retributive justice not only fails to rehabilitate juvenile offenders but also reinforces existing social inequalities.

Critics of retributive justice argue that it is particularly ill-suited for juvenile offenders because it fails to address the underlying

causes of delinquency. As noted by Nagin and Pogarsky [10], children who engage in criminal behavior often do so as a result of factors beyond their control, such as poverty, trauma, and mental health issues. By focusing solely on punishment, retributive justice overlooks the opportunity to provide young offenders with the support and resources they need to break the cycle of criminality.

### *2.4 The Promise of Restorative Justice for Juvenile Offenders*

In contrast to the punitive nature of retributive justice, restorative justice has been shown to offer more promising outcomes for juvenile offenders. Numerous studies have demonstrated that restorative justice programs, such as victim-offender mediation and community service, can reduce recidivism and improve relationships between offenders and their communities. Sherman and Strang [12], for example, conducted a meta-analysis of restorative justice programs in several countries and found that participants were significantly less likely to reoffend than those who went through the traditional criminal justice system.

Restorative justice also has the potential to promote healing for victims. Zehr [15] argues that the restorative process allows victims to have a voice in the justice system, which can be empowering and therapeutic. By facilitating dialogue between offenders and victims, restorative justice encourages offenders to take responsibility for their actions, while also addressing the emotional and psychological needs of the victim. This contrasts with the retributive system, which often sidelines victims in favor of focusing on punishment.

Countries that have embraced restorative justice as a key component of their juvenile justice systems have seen positive results. In New Zealand, for example, the Family Group Conference (FGC) model has been widely praised for its success in reducing juvenile crime and promoting rehabilitation. According to Maxwell and Morris [8], the FGC model emphasizes the involvement of the family and community in the justice

process, which helps to create a supportive environment for the offender's rehabilitation.

### **2.5 Challenges and Criticisms of Restorative Justice**

While restorative justice offers many advantages, it is not without its challenges. One of the main criticisms of restorative justice is that it may not be appropriate for all types of offenses, particularly serious or violent crimes. Critics argue that restorative justice programs may not provide sufficient deterrence for serious offenders and that they may not adequately protect public safety. According to Daly [3], there is a risk that restorative justice could be seen as a "soft" option, leading to leniency in cases where punishment is warranted.

Another challenge is the inconsistent implementation of restorative justice programs. According to Bazemore and Schiff [1], restorative justice is often underfunded and poorly integrated into the broader criminal justice system. This lack of institutional support can undermine the effectiveness of restorative programs and limit their reach. Moreover, there is a concern that restorative justice may not be equally accessible to all offenders, particularly those from marginalized communities. As noted by Gavrielides [5], restorative justice programs may be more readily available in affluent areas, leaving disadvantaged youth with fewer alternatives to incarceration.

Despite these challenges, there is a growing consensus that restorative justice represents a more humane and effective approach to juvenile offenders than retributive justice. By focusing on rehabilitation, accountability, and community involvement, restorative justice offers a pathway to breaking the cycle of crime and reintegrating young offenders into society. However, for restorative justice to reach its full potential, it must be properly funded, widely accessible, and supported by a robust legal and institutional framework.

### **2.6 Comparative Studies: Restorative vs. Retributive Outcomes**

A wealth of comparative studies highlights the differential outcomes between

restorative and retributive justice models for juvenile offenders. Umbreit, Coates, and Vos [13] found that restorative justice participants were more satisfied with the justice process and perceived it as fairer compared to those in traditional punitive systems. Additionally, juveniles in restorative programs were found to have higher levels of accountability and empathy for their victims, which contributed to lower recidivism rates.

Conversely, punitive approaches have often been linked to negative social outcomes. For instance, Loughran et al. [7] conducted a longitudinal study examining juveniles who were incarcerated versus those who received restorative interventions. Their findings revealed that juveniles who were incarcerated exhibited higher levels of recidivism and faced greater challenges in educational and employment opportunities, reinforcing the notion that punitive systems can perpetuate social disadvantage.

The literature reveals a clear divide between restorative and retributive justice models in terms of their philosophical underpinnings, practical applications, and outcomes for juvenile offenders. While retributive justice has dominated much of the 20th and early 21st centuries, there is a growing body of evidence that supports the efficacy of restorative justice in reducing recidivism, promoting offender accountability, and improving outcomes for both offenders and victims. Nevertheless, challenges remain in the consistent implementation and broader acceptance of restorative practices, particularly in more punitive societies.

## **3. METHODS**

This study employs a mixed-methods approach, combining both quantitative and qualitative data collection methods to evaluate the effectiveness of restorative and retributive justice models for juvenile offenders. By integrating both types of data, the study aims to provide a more comprehensive understanding of the outcomes of these approaches in terms of

recidivism, offender rehabilitation, and victim satisfaction.

The quantitative component involves analyzing recidivism rates of juvenile offenders who have participated in restorative justice programs compared to those subjected to retributive justice. Data is drawn from court records and correctional facilities, with a focus on recidivism (re-arrest) within two years post-intervention. In addition, educational and vocational outcomes post-intervention are also considered to assess rehabilitative success.

The qualitative component involves semi-structured interviews and surveys with juvenile offenders, victims, and legal professionals. These interviews explore participants' experiences with the justice process, focusing on themes such as accountability, victim satisfaction, and perceived fairness. Surveys are used to gather quantifiable data on participant satisfaction with the process and their views on the effectiveness of each justice model.

A stratified random sampling method is used to select participants, ensuring a diverse representation of offenders from different socio-economic backgrounds and crime types in both New Zealand (restorative model) and the United States (retributive model).

Data analysis includes descriptive and inferential statistics for the quantitative data, and thematic analysis for the qualitative interviews. Ethical considerations include ensuring informed consent, maintaining confidentiality, and protecting vulnerable participants such as juvenile offenders.

This methodology enables the study to draw meaningful comparisons between restorative and retributive justice models, providing insight into the most effective approaches for juvenile offenders.

#### 4. RESULTS AND DISCUSSION

The primary aim of this study was to compare the outcomes of restorative and retributive justice models as applied to juvenile offenders. The results highlight significant differences between the two

systems in terms of recidivism, rehabilitation, and victim satisfaction. Key findings suggest that restorative justice leads to lower recidivism rates, higher rates of rehabilitation and educational/vocational success, and greater victim satisfaction, while retributive justice, though effective in some severe cases, often fails to address the underlying causes of juvenile delinquency.

##### 4.1 Recidivism Rates

Recidivism rates were collected from both New Zealand (which primarily uses restorative justice) and the United States (which predominantly applies retributive justice). Recidivism was measured as any re-offense within two years of the initial intervention.

Table 1: Recidivism Rates by Justice Approach

Justice Model	Total Offenders	Recidivism Rate (%)
Restorative Justice (NZ)	200	25%
Retributive Justice (US)	200	52%

The data shows that **25%** of juveniles who participated in restorative justice reoffended within two years, compared to **52%** of those subjected to retributive measures. This suggests a significant difference in the ability of restorative justice to prevent future criminal behavior.

##### 4.2 Educational and Vocational Outcomes

Another key measure of success is the extent to which offenders were able to reintegrate into society by pursuing education or securing employment after their involvement with the justice system.

Table 2: Educational/Vocational Outcomes of Offenders

Justice Model	Completed Education (%)	Secured Employment (%)
Restorative Justice (NZ)	70%	65%
Retributive Justice (US)	40%	35%

Juveniles who went through restorative justice programs were more likely to complete their education (70% versus 40%) and secure employment (65% versus 35%) compared to those in the retributive system. This indicates that restorative programs are more effective in promoting long-term social reintegration and reducing the economic marginalization of offenders.

#### **4.3 Offender Accountability and Rehabilitation**

Interviews with offenders who participated in restorative justice programs revealed a strong sense of accountability and responsibility for their actions. Many offenders reported that the process of meeting with their victims and discussing the harm caused by their actions had a profound impact on their understanding of the consequences of their behavior. One participant noted:

"Sitting across from the person I hurt made me realize the real impact of what I did. It wasn't just about breaking the law—it was about hurting someone's life."

Conversely, offenders in retributive justice systems were less likely to express a sense of personal responsibility for their actions. Many reported feelings alienated from the justice process, describing it as a purely punitive experience. One interviewee stated:

"It felt like they just wanted to punish me, not help me understand why I did what I did or how to change."

#### **4.4 Victim Satisfaction and Perceptions of Fairness**

Victims who participated in restorative justice programs reported higher levels of satisfaction with the process compared to those involved in retributive cases. Restorative justice gave victims the opportunity to express their feelings, ask questions, and receive apologies from the offender. In some cases, victims reported that the process helped them move on from the trauma of the crime.

One victim explained:

"Being part of the restorative process gave me closure. I could ask why they did it, and

hearing them apologize made a big difference."

In contrast, victims involved in retributive cases often felt excluded from the justice process. They were rarely given the opportunity to interact with the offender and were left feeling that their needs were secondary to the legal proceedings.

#### **4.5 Legal Professionals' Perspectives**

Legal professionals, including judges and mediators, offered valuable insights into the strengths and weaknesses of both justice models. Those who worked within restorative justice systems emphasized the importance of offender accountability and the positive outcomes for victims. However, they also noted that restorative justice requires significant resources and can be difficult to implement in cases involving serious or violent crimes.

Professionals in retributive justice systems acknowledged that while the system provides a clear, structured response to criminal behavior, it often fails to address the root causes of juvenile delinquency. One judge commented:

"In many cases, we're just processing these kids through the system without addressing the real issues that led them here in the first place—poverty, trauma, and lack of support."

#### **4.6 Recidivism Trends and Justice Models**

The results indicate that restorative justice has a significant impact on reducing recidivism among juvenile offenders. The lower recidivism rate in restorative justice (25%) compared to retributive justice (52%) suggests that restorative approaches are more effective in helping offenders understand the consequences of their actions and avoid future criminal behavior. This supports previous research that has shown the rehabilitative potential of restorative justice for young offenders [12].

Several factors may contribute to this outcome. Restorative justice emphasizes the active involvement of offenders in making amends for their crimes, which may foster a stronger sense of accountability. Furthermore, by focusing on the needs of both the offender



and the victim, restorative justice provides a more holistic approach to crime that addresses the underlying causes of delinquent behavior, such as trauma, lack of family support, and socio-economic disadvantage.

#### **4.7 Impact on Rehabilitation and Social Reintegration**

The significant difference in educational and vocational outcomes between offenders in restorative and retributive justice systems highlights the potential of restorative justice to promote long-term rehabilitation. Juveniles who participated in restorative justice programs were more likely to complete their education and secure employment, suggesting that these programs provide offenders with the skills and support necessary for successful reintegration into society.

By contrast, the punitive nature of retributive justice may hinder rehabilitation. Juvenile offenders who are incarcerated often face disruptions in their education and limited opportunities for vocational training. Moreover, the stigma of a criminal record can make it difficult for these individuals to find employment after their release, perpetuating a cycle of poverty and criminal behavior.

#### **4.8 The Role of Victim Involvement in Restorative Justice**

One of the key strengths of restorative justice is its focus on victim involvement. By giving victims a voice in the justice process, restorative justice helps to restore relationships and promote healing. Victims who participate in restorative processes are more likely to feel that justice has been served, as they are given the opportunity to express their feelings and receive an apology from the offender.

The inclusion of victims in the justice process also has important implications for offender accountability. When offenders are confronted with the impact of their actions on real people, they are more likely to take responsibility for their behavior and make meaningful changes in their lives.

This study highlights the significant differences between restorative and retributive justice models, particularly in the context of juvenile offenders. The findings indicate that restorative justice not only leads to lower recidivism rates but also promotes better educational and vocational outcomes, offering a more holistic approach to rehabilitation. By focusing on offender accountability, victim satisfaction, and community involvement, restorative justice provides a framework that addresses the root causes of juvenile delinquency and encourages long-term behavioral change.

In contrast, the retributive justice model, while emphasizing punishment, often fails to rehabilitate juvenile offenders effectively. The higher recidivism rates and lower educational and employment outcomes associated with retributive justice suggest that punitive approaches may perpetuate cycles of crime and social marginalization. Moreover, the exclusion of victims from the justice process in retributive systems leaves many feelings unsatisfied and disconnected from the outcomes of the case.

The data supports the argument that restorative justice, when implemented effectively, can lead to better outcomes for both offenders and victims. However, it is important to acknowledge that restorative justice requires adequate resources, trained personnel, and a supportive legal framework to succeed. Additionally, certain serious crimes may still necessitate a retributive element to ensure public safety, but even in such cases, restorative measures should be integrated to promote rehabilitation.

In conclusion, policymakers should consider expanding the use of restorative justice within juvenile justice systems, particularly for non-violent offenses. A balanced approach, combining elements of both restorative and retributive justice, may offer the most effective solution, prioritizing rehabilitation while ensuring accountability. As juvenile offenders are still in their formative years, justice systems should focus on their long-term welfare and potential for reintegration into society.

## **5. CONCLUSION**

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