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The Shift from the Death Penalty to Imprisonment for Juveniles: An Analysis of Injustice from the Perspective of Existentialist Philosophy

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ABSTRACT
This study examines procedural failures in the imposition of the death penalty on a child, which was later commuted to imprisonment, as reflected in the Decision of the Gunungsitoli District Court Number 8/Pid.B/2013/PN-GST and the Supreme Court Judicial Review Decision Number 96 PK/Pid/2016. The central issue of this research lies in the erroneous verification of the defendant's age, which resulted in a child being treated as an adult and sentenced to death, contrary to Law Number 11 of 2012 on the Juvenile Criminal Justice System and the principles of child protection. This research aims to analyze the procedural failure, explain its juridical and ethical implications, and critically assess practices of dehumanization in juvenile criminal law through the existentialist perspectives of Jean-Paul Sartre and Albert Camus. The study employs a normative legal research method with a qualitative approach, utilizing statutory, case, and legal philosophy approaches, supported by library research on court decisions and existentialist literature. The findings indicate that an excessively formalistic and positivistic application of law has negated the recognition of children as human subjects in the process of becoming, resulting in procedural and existential injustice. This research concludes that child protection in criminal law cannot be understood merely in normative terms but must be grounded in ethical and existential awareness to realize a more humanistic juvenile criminal justice system.

INTRODUCTION

Indonesia's criminal justice system still faces fundamental problems in providing effective protection for children facing the law (Nugroho & Prabowo, 2021). Data from the Public Correctional Database System (SDP) as of June 3, 2025, shows that there are 2,018 children in the criminal justice system (Kementerian Hukum dan HAM RI, 2025). Of these, 449 children are still in custody and undergoing judicial proceedings, while 1,569 children are serving sentences in correctional institutions (Yulianto et al., 2020). Such a large number indicates that the involvement of children in the criminal justice process is not a sporadic phenomenon but a serious and recurring problem in the Indonesian legal system (Sutrisno & Irawan, 2022; Winanti & Ginting, 2021).

This data shows that the criminal justice system is not fully able to function as a protection mechanism but rather reveals the structural vulnerability experienced by children when dealing with law enforcement officials and the criminal process. This condition underscores the urgent need to re-evaluate the normative framework, law enforcement practices, and philosophical foundations that underlie the criminalization of children. At the same time, Amnesty International noted that by (2024), courts in Indonesia had imposed 85 death sentences. In a system that still maintains the death penalty, the risk of mistakes—such as misidentification of

the accused's age—becomes crucial and has the potential to lead to gross human rights violations.

This phenomenon shows that the issue of child protection in criminal law is not just a technical problem but a structural and philosophical one in the way the law views human beings (Tawil & Azhar, 2020). One of the clearest illustrations of this failure can be seen in the Gunungsitoli District Court Decision Number 8/Pid.B/2013/PN-GST, where the court sentenced the defendant—who was later proven to be factually still classified as a child—to death (Siahaan, 2021; Sumarni, 2022). This decision was upheld at the appeal and cassation levels (Rahim & Hidayat, 2020). However, after a lengthy process, through a Review, the sentence was corrected to a prison sentence of five years (Sihombing, 2021; Putra, 2021).

The dynamics of this change in the decision show that there is a gap between *das sollen* and *das sein* (Bersier Ladavac, 2019; Engelking, 2025). Normatively (*das sollen*), Indonesia's positive law—through Article 81 paragraph (6) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (*SPPA Law*)—emphasizes that if a child is sentenced to death or life imprisonment, the sentence must be replaced with a maximum prison term of ten years.

However, factually (*das sein*), there was an error in verifying the defendant's age, so the child was treated as an adult and sentenced to death. Therefore, the imposition of the death penalty on children—due to age data errors or administrative negligence—is clearly a serious violation of applicable legal norms. This gap is the main foundation for this research (Ardman, 2025; Mustafa & Darmawan, 2024; Rene et al., 2024).

The error in recording the defendant's age cannot be considered a mere technical error but rather a fundamental one in the way the law treats humans (Bai, 2025; de Queirós Campos & Bedê Jr, 2024; LePage, 2025). Children, who should be recognized as growing persons, are instead reduced to mere objects of rules. When the system fails to distinguish that what is being tried is a subject still in the process of becoming, the law has lost its ethical function as the protector of human existence.

In practice, legal procedures in Indonesia still operate within a paradigm of legal positivism that emphasizes formal legality over substantive justice. This paradigm has its roots in the thought of John Austin, Auguste Comte, and Hans Kelsen, who viewed law as a system of norms that is autonomous, neutral, and value-free. As a result, human beings are no longer understood as living subjects but are reduced to objects of mechanistic and impersonal legal mechanisms.

This paradigm contributes to the negligence of law enforcement officials, whose attention focuses on fulfilling formal procedures without regard for the human dimension behind the case. In the case of a child sentenced to death, for example, errors in age verification reflect challenges in implementing legal procedures that negate the empathy and social context of the perpetrator.

In such a system, procedure becomes the primary measure of legal correctness, while the suffering, consciousness, and dignity of the individual are often overlooked. As a result, children as a vulnerable group are not seen as intact subjects with a growing existential existence but only as lawbreakers who must submit to rigid normative structures.

In the midst of the complexity of the criminal justice system, national law has established a strong normative framework to ensure child protection. The Constitution—through Article

28B paragraph (2) and Article 28D paragraph (1) of the 1945 Constitution—affirms that every child has the right to fair legal protection and treatment. In the more specific national legal system, it has been affirmed that children cannot be subjected to the death penalty, and the maximum penalty that can be imposed on children is limited to at most half of the criminal threat aimed at adult offenders.

This provision reflects the principle of special protection for children in the criminal justice process and is part of the principle of differentiated treatment based on the perpetrator's age. This protection is further strengthened by the provisions in Law Number 35 of 2014 concerning Child Protection, especially Article 17 and Article 59 paragraph (2) b, which expressly guarantee the right to life and protection of children from various forms of threats, including those that could eliminate lives.

The death penalty sentence against children due to normative procedural errors carries an extraordinary psychological burden. Living in the shadow of death for years not only generates anxiety and trauma but also places the child in extreme existential situations: hopeless, without control, and without meaning. Formal correction through a *Review* does not necessarily remove this suffering.

It is in this context that existentialist philosophy provides a critical reading tool. Albert Camus, in *Le Mythe de Sisyphe*, highlights the absurdity of life when humans crave meaning but the world remains silent. In these conditions, Camus offers an attitude of *révolte*—a conscious rebellion to stay alive and create meaning amid absurdity. However, a child lacks the strength, psychological resilience, or existential capacity to revolt against the oppressive legal system. Children are in a position of utter helplessness in the face of bureaucratic, formalistic, and impersonal legal forces.

Jean-Paul Sartre, meanwhile, emphasized the importance of viewing humans as conscious and free beings. In a legal context, this means that every individual, including children, must be recognized as a subject with awareness and potential for development. When the legal system fails to recognize this, it commits a structural lie in which the law pretends to be fair while secretly being oppressive.

Through a combination of normative legal approaches and existential reflection, this research aims to encourage the procedural transformation of criminal law from a mere formal mechanism to a humanizing process that does not stop at legality but is rooted in ethical awareness of the existence of the human being on trial.

This study examines the procedural failure of the law in recognizing children as human subjects, as reflected in the shift from the death penalty to imprisonment in Decision No. 8/Pid.B/2013/PN-GST and Decision No. 96 PK/Pid/2016, and criticizes it through the perspective of existentialist philosophy from Jean-Paul Sartre and Albert Camus to expose the practice of dehumanization in juvenile criminal law.

This research aims to analyze these procedural failures, explain their ethical and juridical implications for the protection of children as growing subjects, and make theoretical contributions to the development of legal philosophy as well as practical contributions to the reform of children's criminal justice procedures that are more humanistic. The method used is qualitative with a normative-juridical approach and legal philosophy, based on a literature study

of court decisions, laws and regulations, and existentialist literature, limited to the analysis of the two decisions and the thinking of Sartre and Camus as the main framework of criticism.

METHOD

This research is a normative legal research with a qualitative approach that is explanatory-philosophical and evaluative. The research focuses on the analysis of legal norms, principles, doctrines, and court decisions related to the death penalty against children, which are critically examined through a legislative approach, a case approach, and enriched with the perspective of the existentialist legal philosophy of Jean-Paul Sartre and Albert Camus.

Since this study is normative, it does not use populations and samples in an empirical sense. The object of study is focused on legal materials in the form of District Court Decision Number 8/Pid.B/2013/PN-GST and Supreme Court Review Decision Number 96 PK/Pid/2016, as well as relevant laws and regulations and existentialism philosophy literature.

Research data is collected through library research by tracing and examining primary, secondary, and tertiary legal materials, which include laws and regulations, court decisions, legal textbooks, scientific journals, and original French-language philosophical works by Jean-Paul Sartre and Albert Camus as the main sources of philosophical analysis.

Data analysis was carried out qualitatively using deductive and inductive methods. The deductive method is used to assess the suitability of the application of positive legal norms to the principle of child protection, while the inductive method is used to examine the facts and reality of decisions through existentialism concepts to reveal forms of dehumanization and procedural failures in the practice of child criminal law.

RESULTS AND DISCUSSIONS

Overview of Cases and Shifts in Criminal Verdicts

Chronology of Cases and Judicial Processes

The criminal incident that became the object of this research occurred at the end of 2012 in the Gunungsitoli area, Nias Island, North Sumatra. Based on the results of the reconstruction of the facts revealed in the legal process, the crime began with a plan to kill three victims, which was triggered by personal conflicts and economic motives. The perpetrators, consisting of several young men, including a teenager of about sixteen, planned the murder by picking up the victims at night, taking them to a remote location, then committing violence to take the victims' lives. The bodies of the victims were found a few days later in a miserable condition in a hilly area with sharp object injuries.

After the incident, the investigation began in early 2013 by the local police. In the examination process, one of the main perpetrators was determined as a suspect based on the confession of his colleagues and supporting evidence. However, there was an administrative error in recording the age, where the age data of the perpetrator was recorded as nineteen years old, even though he was born in 1996 and was only sixteen years old at the time of the incident. This mistake was ignored during the investigation and was never further verified by law enforcement officials, so the entire process subsequently treated the perpetrator as an adult.

The case file was handed over by the police to the Gunungsitoli District Prosecutor's Office in early 2013, and the public prosecutor drafted an indictment using Article 340 of the

Criminal Code concerning premeditated murder jo. Article 55 paragraph (1) 1 of the Criminal Code concerning participating in criminal acts. The judicial process at the Gunungsitoli District Court proceeded quickly, with the main focus on proving the elements of planning and joint involvement. There is no record of any special examination of the child's psychological condition or identity, as required by the juvenile criminal procedure law.

On May 21, 2013, the Gunungsitoli District Court sentenced the defendant to death. This decision marks the culmination of the application of formalistic legal logic that focuses on as long as the elements of the offense are fulfilled and the trial process is considered legitimate, then there is no need for social, moral, or psychological considerations. None of the judges or officials at this level questioned the incompatibility between the administrative age and the biological age of the defendant.

The appeal was then submitted to the Medan High Court, which in 2014 decided to uphold the District Court's decision. The panel of judges at the appellate level considered that the previous decision was juridically correct, emphasizing the severity of the consequences caused by the act. Even at this level, the issue of age is not a substantive consideration.

Furthermore, in 2015, the defendant filed an appeal to the Supreme Court. However, the Supreme Court also rejected the appeal and still maintained the death penalty. The reasons put forward by the legal counsel regarding the possibility of age data errors are considered not strong enough, because they are considered not to be included in the realm of the wrong application of the law. Thus, up to three levels of justice, legal practice has formally justified the death penalty verdict against a person who is factually still classified as a child.

In 2016, legal counsel applied for a Review (PK) by bringing new evidence (*novum*), which is religious documents and witness statements that show the true age of the defendant at the time of the event. This evidence convinces the Supreme Court that there has been an error of the judge in assessing the identity of the subject of the law. Through Decision Number 96 PK/Pid/2016, the Supreme Court annulled all previous decisions and replaced the death penalty with a prison sentence of five years.

Thus, the time span from the occurrence of the events in 2012 to the PK decision in 2016 shows the dynamics of a long complex legal journey. For four years, the law has been based on erroneous data, confirming how dominant formalistic thinking is in Indonesia's criminal justice system. The correction that occurred in the final stage did restore justice in a positive legal way, but it did not erase the fact that the subject of the law had undergone a profound dehumanization process of being treated not as a developing child, but as a juridical entity that had to bear the moral burden of adults.

The Basis of Judges' Considerations at Every Level of Justice: Between Legality and Existence

The decisions in this case show an interesting legal epistemological journey from law as a text to law as a moral consciousness that is too late to realize. Each level of justice differs not only in results, but also in the way of viewing human beings whether as living and conscious subjects, or simply objects of the application of norms.

1) Legal Rationality Closed in the Court of First Instance

In the 2013 Gunungsitoli District Court decision, the judge assessed the case purely from the perspective of the construction of the crime whether the elements of Article 340 of the

Criminal Code were met, whether the evidence was sufficient, and whether the perpetrator played an active role in planning the murder. This logic is in line with the spirit of legal positivism as formulated by John Austin and Hans Kelsen that legal validity is measured by procedures and norms, not by the humanity of the perpetrator.

Judges place the law as a closed system that is autonomous to moral values. In the existentialist view, this is the initial form of dehumanization of the law working without awareness of the existence of the concrete human being it judges. Children who are before the law should be seen as *être-en-devenir*, creatures who are growing and looking for meaning but are instead reduced to criminals with full awareness. This process reflects what Sartre called "*mauvaise foi*", the lie of one's own existence: the law pretends to be neutral, whereas in that neutrality lies structural violence against human beings.

2) Affirmation of Certainty, Neglect of Humanity at the Appellate and Cassation Levels

When the case was submitted to the Medan High Court (2014) and the Supreme Court (2015), the legal way of thinking was increasingly confined in the space of formalism. The appellate judge only reaffirmed the principle of legal certainty *nullum crimen sine lege* without opening room for reflection on the fundamental error related to the defendant's age. Similarly, at the cassation level, the Court only examines the aspect of the application of the law, not the essence of justice itself.

In the framework of legal philosophy, it describes a failed shift of law from *logos* to *ethos*: law stops at the text (*logos*), but does not penetrate its moral and existential meaning (*ethos*). This process of extreme rationalization corresponds to Max Weber's critique of juridical rationality that legal modernity gets rid of empathy and replaces it with procedural calculations. In Albert Camus's view, this state of affairs is pure absurdity when man demands meaning (justice), but the law answers with procedural silence.

3) Review: A Moment of Existential Awareness

It was only in the 2016 Review Decision that the Supreme Court reopened the horizon of humanity in law. By accepting the novum in the form of proof of the defendant's age, the Court not only corrects the factual error, but also implicitly recognizes that the law without human consciousness is only a mechanism without a soul.

This PK decision is a reflective moment in which the law "realizes itself" an existential awakening within the institutional framework. In Camus' terms, it is an act of revolt of rejection of the absurdity of a system that has denied life. The law, through this correction, seems to remember that its duty is not only to punish, but to maintain human existence.

4) The Tension between Law and Humanity

From the whole process, it appears that the legal journey in this case is not only about right or wrong, but about "loss of consciousness". For three years, the law operated in a moral vacuum, judging man without looking at man himself. The system that is supposed to protect actually treats children as instruments to enforce norms.

Within the framework of existentialism, this is the most obvious form of structural dehumanization when human beings (children) are no longer recognized as conscious and free beings, but rather are forced to bear the meaning determined by the system. The PK decision is the antithesis of this condition, an attempt, albeit belated, to restore the humanitarian dimension to the law.

Thus, the basis of judges' considerations at each level of the judiciary not only illustrates the difference in interpretation of norms, but also shows the evolution of legal awareness from a mere formalistic to a reflective one. This event reflects the more fundamental question of whether the law in Indonesia really understands human beings as existential subjects, or is still trapped in soulless positivism.

Sentencing Shift: From the Death Penalty to the Prison Sentence

The shift in sentences from the death penalty to imprisonment does not merely indicate a change in the type of sanction, but rather indicates a shift in the way the law views human beings. In the first degree, the defendant is seen as a guilty *être*, a guilty being whose entire existence is reduced to his actions. Meanwhile, at the stage of Review, the court began to recognize the human dimension of the subject, that he was not just a perpetrator, but also a child who was still in the process of becoming (*être-en-devenir*).

This change seems simple in the legal text, but it has a profound philosophical significance that marks a shift from objectivist logic to existential consciousness. Within the framework of legal positivism, human beings are treated as entities that can be classified and measured, perpetrators or victims, adults or children, guilty or not. This view negates the complexity of human existence, as Jean-Paul Sartre criticized in *L'Être et le Néant*, that man is not merely *être objet* (considered an object), but *être-pour-soi*, a being who is aware of himself and responsible for his existence.

When a court of first instance imposes the death penalty on a child, the law philosophically commits what Sartre calls *mauvaise foi*, which is an existential lie in which a person (or system) denies his or her freedom to act humanely. Law in this case hides behind texts and procedures, as if subject to normative imperatives, whereas law in practice can choose to exercise its freedom of conscience. This is where the philosophy of existentialism reminds us that legal freedom is not only the freedom to make norms, but the responsibility to recognize other human beings as human beings.

In this context, the 2016 Review decision was an important turning point. The Supreme Court, through the recognition that the defendant is a child, actually not only corrected the legal error, but also took an existential action, namely re-recognizing the existence of human beings that were previously erased by the system. In Albert Camus' terms, this action is a form of *révolte*, a conscious rebellion against the absurdity of the law that has rejected human meaning.

Camus, in *Le Mythe de Sisyphe*, states that absurdity is born when man demands meaning, but the world (or system) responds with silence. Something similar happens in this legal process: the child on trial demands recognition of his humanity, but the law is initially silent in its formal mechanism. Correction carried out through PK is a form of resistance to absurdity, indicating an awareness that justice cannot be upheld only by normative logic, but through the recognition of concrete human existence.

From the point of view of legal theory, this shift also contains an ethical dimension as argued by Simone de Beauvoir in *Pour une morale de l'ambiguïté*: that true morality arises when a person (or institution) recognizes the freedom and existence of others. In the legal context, the recognition of the defendant as a child is not just an administrative act, but a moral action that restores human dignity that had been reduced by the system.

However, it is undeniable that this shift also leaves existential wounds. The change of sentence occurred after four years of the defendant living under the shadow of death and with no hope of living in the future, an experience that, in Camus' terms, placed man "on the edge of absurdity," between life and nothingness. The process shows that the law, although it is finally realized, is too late to return to its human nature.

This, the main problem does not lie in the final outcome (prison sentence), but in the existential process in which a child loses his or her meaning under an inhumane legal mechanism. From the perspective of existentialism, this change in verdict is symbolic of two things: 1 (*l'éveil moral du droit*, the moral awakening of the law to recognize human beings as the center of values. 2) The realization that just law must always be rooted in the recognition of the unique, limited, and infallible existence of human beings. A law that refuses to acknowledge the existence of man will end up like Sisyphus' stone, continuing to roll meaninglessly, because it loses its own ethical orientation.

Normative Analysis of the Application of Juvenile Criminal Law

The Duty of Child Protection in Positive Law

Normatively, the Indonesian legal system has placed children as legal subjects who must receive special protection. This principle is affirmed in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) which replaces Law Number 3 of 1997. This law departs from the view that children are not miniature adults, but individuals who are still in the process of moral, social, and psychological growth.

Article 3 of the SPPA Law affirms the principle of the best interest of the child and respect for the dignity of children in all stages of the legal process. In this context, child punishment is not intended to retaliate for acts (retributive), but to repair and return children to society (rehabilitative). This principle is in line with Article 28B paragraph (2) of the 1945 Constitution, which affirms that every child has the right to survival, growth, and development as well as to protection from violence and discrimination.

Indonesia has also ratified the Convention on the Rights of the Child (CRC) through Presidential Decree No. 36 of 1990, which in Article 37(a) expressly prohibits the application of the death penalty or life sentence to children under the age of eighteen. This norm is *jus cogens*, meaning that it cannot be overridden by the rule of national law. Therefore, the imposition of the death penalty on children is not only an administrative error, but a violation of the principles of international law that are imperative.

One of the conceptual breakthroughs of the SPPA Law is the concept of diversion, which is the transfer of the settlement of children's cases from the formal judicial process to a non-litigation mechanism with a restorative justice approach. Article 7 paragraph (1) of the SPPA Law requires law enforcement officials, investigators, public prosecutors, and judges to seek diversion at every stage of the judicial process, as long as the criminal act committed is threatened with a penalty of less than seven years and is not a repetition.

This concept of diversion marks a shift in the paradigm of criminal law from retribution to restoration. The principle is that child crime is not solely seen as an offense against the state, but as a disturbance to social relations that needs to be restored. This approach is rooted in the

view that true justice is not just punishing, but restoring a balance between perpetrators, victims, and society.

Philosophically, the concept of restorative justice is rooted in humanistic thinking that is in line with existentialism, which is to return human beings to their ability to take responsibility and choose consciously. In the context of the child, the process of diversion allows the young individual to experience an existential reflection of being aware of the consequences of his actions without losing his dignity as a human being.

In addition to the diversion mechanism, the SPPA Law also provides limitations and criminal reductions against children. Article 81 paragraph (2) states that if a child is sentenced to a crime, then the prison sentence is a maximum of 1/2 (half) of the maximum threat to adults. Thus, if the crime of premeditated murder regulated in Article 340 of the Criminal Code threatens the death penalty, the child may not be sentenced to death or life, but to imprisonment for a maximum of ten years.

This provision is a form of recognition of the limited responsibility of children in criminal law. In the terminology of the philosophy of existentialism, the child is in the phase of "*en devenir*" not yet becoming, but is on his way to his or her full existence. Therefore, the law is obliged to treat the child not as a final subject that has been completed, but as a human being in process, who still has the possibility of change.

Although normatively the child protection framework has been robust, its implementation often fails because legal practice is still trapped in the legal-positivistic paradigm. Law enforcement places more emphasis on procedural conformity than on understanding the substance of regulated humanity. As a result, diversion mechanisms are rarely carried out, and children are often processed with adult justice standards.

In Jean-Paul Sartre's perspective, such failures show a form of *mauvaise foi institutionnelle*, which is a systemic lie in which the legal institution pretends to administer justice, while consciously ignoring the freedom and existence of the human being it judges. While Albert Camus called it a form of *absurdité juridique* when the law continues to enforce certainty, but loses the moral meaning that should be its soul.

Based on the explanation mentioned above, the fulfillment of child protection obligations is not enough to be understood only as the application of the law, but as an ethical call of law to humanize humans. The recognition of the existence of the child as a growing subject is the essence of true justice, a justice that recognizes freedom, awareness, and the possibility of change.

The tension between Formal Legality and Child Protection

Although child protection norms have been regulated, judicial practice shows that there is a tension between the principle of such protection and the paradigm of formal legality. Law enforcement officials tend to focus on proving the elements of the crime and the application of the article, but are less sensitive to the obligation to carefully examine the identity of the subject, including their actual age and psychological condition.

In the framework of positivism, as long as the formal process is considered to be fulfilled with a complete indictment, the evidence is running, and the verdict is pronounced according to the procedure, the trial is considered to have taken place correctly. In fact, from the point of view of child protection, formal legitimacy does not automatically guarantee substantive

justice. When the status of the child is not correctly identified, then the entire judicial process runs on a flawed basis, even if it formally appears legitimate.

This tension between formal legality and child protection suggests that Indonesia's positive law still holds a blank space between "what is written" and "how it is applied" to vulnerable subjects. It is this empty space that is the entry point for the analysis of existentialism: how the law treats human beings not only as objects of norms, but as concrete existences.

Procedural Justice and Substantive Justice

Theoretically, justice in law can be understood in two layers: procedural justice and substantive justice. Procedural justice demands that legal procedures be carried out consistently: the right of defence is granted, the evidentiary process is open, and the verdict is pronounced by the competent judge. Substantive justice, on the other hand, measures whether the end result of the process is truly in harmony with a sense of justice, protection of human rights, and human dignity.

In children's cases, procedural justice alone is not enough. Even if the process had followed the procedure, the inaccuracy in identifying the age and psychological condition of the defendant resulted in a substantively unfair result. Children who should be placed in the framework of protection are instead positioned as adult offenders who deserve the death penalty. At this point, substantive justice collapses, and the law seems to have failed to perform its ethical function.

This normative analysis shows that the main problem is not the absence of rules, but rather the way in which these rules are understood and applied within the framework of a legal paradigm that emphasizes formalism too much. From here this chapter turns to existential analysis, to show how such failure constitutes a deeper form of dehumanization.

Legal Injustice in the Perspective of Existentialism

Dehumanization in the Legal Positivism Paradigm

From the point of view of existentialism, dehumanization occurs when human beings are treated not as conscious, free, and responsible subjects, but as objects of impersonal structures. Legal positivism, with its claims of neutrality and certainty, tends to see human beings only as "bearers of deeds" that must be judged based on the normative categories of perpetrators, victims, witnesses, suspects, defendants, and convicts.

Within such a framework, the law operates like a machine: entering facts, applying norms, and then issuing a verdict. What is missing from this logic is the existential experience of the human being involved in fear, confusion, limitations of understanding, being trapped in social situations, and the possibility of change. When a child is treated identically with an adult without considering the dynamics of his personality development, then the law has structurally ignored his existence as *être-en-devenir*, a growing and unfinished existence.

This dehumanization does not always appear in the form of physical violence or harsh words; It can be present in a more subtle form, which is structural indifference. When the practice of law does not want to know who the human being is being tried, and only cares about whether the elements of the crime are met, then the law has moved away from the human being who should be the center.

Reading Law through Jean-Paul Sartre's Existentialism

Jean-Paul Sartre asserted that human beings are creatures "conditioned to be free" (*condamné à être libre*), unable to escape freedom and responsibility for their actions. However, Sartre also criticized the tendency of human beings and social structures to fall into *mauvaise foi* (bad faith), i.e. the attitude of lying to oneself and refusing to acknowledge such freedom and responsibility.

In the procedural context of law, *mauvaise foi* can appear in institutional form: when law enforcement hides behind rules to avoid moral responsibility. Judges, prosecutors, or investigators may say that they are "just exercising the law," as if the law were an entity outside of themselves that is free of value. In fact, every application of the law always involves choosing what to look at, what to ignore, and how to interpret norms.

From Sartre's perspective, legal practices that marginalize the human facts of the perpetrator such as age, psychological condition, and social context have fallen into *mauvaise foi*. Law pretends to be neutral and objective, when in practice it takes a position: it favors formal order and ignores the concrete existence of man. This is where there is existential dishonesty, the law refuses to acknowledge that it works on the basis of human choices that can and should be directed to justice.

Reading the Law through Albert Camus' Existentialism

Albert Camus, through his idea of absurdity, showed that human beings are beings in search of meaning, but the world is often silent. In *Le Mithe de Sisyphe*, Camus describes a condition in which man is confronted with a cold and impersonal system. In the context of law, absurdity arises when people hope for justice, but instead encounter rigid rules, sluggish bureaucracy, and rulings that ignore suffering.

Camus does not teach an escape from absurdity, but a *révolte*, a conscious rebellion to still recognize human dignity amid an indifferent world. However, the position of the child in the law makes it almost impossible to carry out a revolt. Children do not have the symbolic power, legal knowledge, or existential ability to resist oppressive structures and are completely dependent on adults.

From the Camusian point of view, the practice of law that positions the child in extreme situations such as living under the threat of the death penalty, or being in legal uncertainty for a long period of time has placed him in a state of cruel absurdity, living in the shadow of power without space to voice his own meaning. Formal correction of the verdict does not necessarily erase the absurdity that has been experienced. Here, the injustice lies not only in the norm, but in the existential experience of humans who are hurt by the way the law works.

Existential Reflections on Children as Legal Subjects

Simone de Beauvoir refers to human beings as *l'être-en-devenir*, beings who are "becoming", whose existence is always moving and never final. This concept is very relevant to understand the position of children in criminal justice. Children are not miniature adults, but subjects who are shaping their identity, morality, and life orientation through social experiences. Thus, legal intervention not only assesses past actions, but also influences the process itself.

When procedural law treats children the same as adults, for example by ignoring age checks, not involving child psychologists, or imposing disproportionate criminal threats, the law is essentially freezing the child's developmental process. The child is reduced to a static

essence of evil, not as an existence open to the possibility of change. Within the framework of existentialism, this act is a form of ontological violence, because it rejects the recognition of the freedom and potential of the child as a subject who can determine himself or herself in the future.

Furthermore, this situation indicates the occurrence of institutional *mauvaise foinelle*, which is when the legal system pretends to be objective and neutral when it chooses to ignore the existential vulnerability of children. By imposing rigid normative categories on the growing subject, the law not only fails to protect the child, but also negates the possibility of the child establishing himself as a *être-pour-soi*, i.e. a free subject who can choose and evaluate himself. From Beauvoir's perspective, this is the most real form of existential injustice.

Existential Wounds Invisible by the Law

Positive law tends to work with visible categories: age, articles, evidence, elements of delicacy. Behind these categories, however, there are dimensions that are not always visible: fear, a sense of threat, a sense of loss of meaning, a sense of guilt, or even a sense of not being understood. This can be called an existential wound injury to one's sense of existence in the world.

In the case of a child faced with the threat of severe punishment, these existential wounds can be very deep: living in uncertainty, being objectified as a lawbreaker, and losing a sense of control over one's own life. The law, with its official language, is not always able to capture this experience. The verdict only records what is written, not what is experienced that is archived as the number of years of criminal law, not years of anxiety and existential alienation.

This reflection shows that legal injustice does not stop at the level of violation of procedural rights, but penetrates into the layers of inner experience that the text of the verdict does not have time to recognize. This is where existentialism helps to reveal the "unwritten" in the law: human suffering that is not included in the verdict, but actually haunts his life.

Towards a Legal Paradigm that Humanizes Children

Existential reflection on the position of children in the law leads to the need to shift the paradigm from a law that views the child as an object of control, to a law that views the child as a subject who must be guided in the process of becoming himself. This does not mean removing the child's responsibility for his actions, but placing that responsibility in a framework proportional to his developmental stage and potential transformation.

The paradigm that humanizes children requires that every legal decision consider at least three dimensions: 1) The normative dimension, namely conformity with laws and regulations that protect children: 2) The moral dimension, namely alignment with substantive justice and humanitarian principles; 3) The existential dimension, which is the impact on the way the child interprets himself, others, and the world. Only by paying attention to these three dimensions can the law approach its ideal function: not simply to impose sentences, but to become a space in which human beings, including children, can be acknowledged and given the opportunity to grow.

Formulation of Existentialist Criticism of the Child Criminal Justice System

Based on the previous description, it can be formulated several basic criticisms of the procedural way of law treating children in the criminal justice process. This criticism is existentialist, that is, it starts from the understanding that law must depart from the existence of

concrete human beings and not an impersonal formal mechanism. The existentialist approach views the child as *être-en-devenir*, a growing, fragile, and in the process of becoming, so that any legal interaction with him must consider that existential dignity.

Legal positivism that emphasizes formal legality causes judicial officials to judge actions solely based on written norms without taking into account the child's situation, social conditions, and existential vulnerability. In this framework, children are reduced to "perpetrators," not as subjects who have awareness, limited experiences, and the potential to change. This reduction is contrary to the basic principle of existentialism which places human beings as free and conscious beings, not objects of legal mechanisms.

Although legal tools such as the Child Criminal Justice System Law have mandated special protections, their implementation often stops at administrative procedures. The best interests of the child, sensitive examinations, and accurate identity verification are shifted to secondary aspects. As a result, the procedure is running, but justice is stopped because the substance of child protection is not made a top priority.

In Sartre's framework, *mauvaise foi* occurs when a person denies his or her own freedom and pretends to have no choice. In the context of legal institutions, *mauvaise foi institutionnelle* appears when the legal system pretends to be neutral and objective, when in fact it makes an ethical choice, namely choosing what is noticed and what is ignored. When the law refuses to acknowledge that the child on trial is a developing human being, the law has lied to itself.

Court rulings do not reflect the child's experiences of anxiety, fear, trauma, and alienation. The existential suffering experienced by children when faced with the threat of the death penalty has no articulation space in positive law. The law's inability to see this suffering suggests that the law still operates in an objective paradigm that eliminates the human side of the subject. From the perspective of existentialism, the four crises lead to one important conclusion: law must be returned to man.

The juvenile criminal justice system must be built on the awareness that what is faced is not just a violator of norms, but a conscious creature who is free, fragile, and growing into himself. Without this awareness, the law would only be a formally legitimate but existentially despotic mechanism. These normative and philosophical findings form the basis for the conclusions and recommendations in Chapter V, which affirm the need for more ethical, humanistic, and dignified legal procedural reforms as human subjects.

CONCLUSION

The procedural failures in PN Decision No. 8/Pid.B/2013/PN-GST and PK Decision No. 96 PK/Pid/2016 stemmed from inadequate age verification under the SPPA Law, leading to the wrongful treatment of a child defendant as an adult, neglect of special protections like diversion and child-friendly examinations, and an initial death sentence later corrected to imprisonment via *Review*. This not only exposed technical errors but also revealed profound dehumanization, as analyzed through existentialist philosophy: Sartre's concept of *mauvaise foi* critiques legal institutions for feigning objectivity while denying the child's status as a free, flourishing subject, and Camus's *absurdité* highlights the mismatch between extreme punishment and a child's capacity for growth and redemption. Ultimately, the process deprived the child of dignity, freedom, and future potential, underscoring that child protection in criminal law must address

existential recognition of developing human beings beyond normative fixes. For future research, empirical studies could investigate age verification practices across Indonesian courts, integrating existentialist frameworks with quantitative data on juvenile sentencing outcomes to propose systemic reforms like mandatory AI-assisted age assessment tools.

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