



Legal Analysis of Criminal Sanctions Against Recidivist Children in the Perspective of the Juvenile Criminal Justice System

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Abstract: This study attempts to investigate how criminal penalties are applied to kids who commit repeat offenses (recidivism) and how well they operate in the context of child protection. The primary issue is the conflict between the state's duty to give restorative justice principles top priority and using criminal penalties to have a deterrence impact. Normative juridical research using a statutory approach is the methodology employed. According to the study's findings, repeat offenders typically face harsher penalties than first-time offenders, although they are still constrained by the best interests of the kid premise.

Keywords: Good Governance, Government Administration System, Principles.

1. Introduction

Children are the nation's assets whose rights are protected by the constitution. However, the phenomenon of children in conflict with the law (CICL) continues to experience dynamics, especially in cases where children repeat criminal acts after receiving a court verdict or previous legal action (Sudarto, 1981)(Udjari et al., 2025).

The paradigm shift from a punitive (punishment) approach to a rehabilitative and restorative approach has become a national urgency. Ayurisna (2025) This led to the enactment of Law No. 11 of 2012 on the Criminal Justice System for Children (SPPA Law), which replaced Law No. 3 of 1997. Mulyadi (2014) in his work, emphasizes that the juvenile criminal justice system in Indonesia must reflect comprehensive protection, where deprivation of liberty and imprisonment are the last resort (*ultimum remedium*). The UU SPPA explicitly requires the transfer of the use of a restorative justice approach to move the settlement of children's cases from the criminal justice system to procedures outside that system (Hestiningrum et al., 2020).

The urgency of shifting the paradigm from retributive to restorative is not merely a regulatory requirement, but an effort to mitigate the failure of the old justice system, which tends to trigger recidivism (Adhari, 2020). In practice, the *ultimum remedium* policy requires that imprisonment only be carried out if there is no other option, because prison for children often becomes a space for criminal contamination (Simatupang & Jamba, 2025). However, there is tension between the rigidity of the law and the benefits of the law, which should focus on the future of the child. This imbalance often arises when a child's right to diversion is hampered by their recidivism status, which automatically closes the door to formal reconciliation. This requires a deeper synchronization between the protection of children's constitutional rights and the reality of law enforcement in the field (Republik Indonesia).

The urgency of this research is the prevailing retributive orientation in the juvenile criminal justice system has proven ineffective in reducing juvenile recidivism rates (Triwati et al., n.d.). Although Law Number 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) normatively mandates a paradigm shift from punishment to recovery through restorative justice and the principle of *ultimum remedium*, the reality of law enforcement reveals a significant implementation gap. Children in conflict with the law, particularly those classified as recidivists, frequently lose access to diversion mechanisms

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and non-custodial sentencing alternatives, thereby becoming trapped in a cycle of systemic failure that may instead reinforce criminal behavior due to exposure to the penitentiary environment.

This research also highlights the tension between legal certainty and the principle of the best interests of the child, particularly in the context of imposing harsher sanctions on juvenile recidivists. The limited availability of rehabilitation facilities, the uneven role of probation officers and social welfare institutions, as well as the persistence of a legalistic-formalistic mindset among law enforcement officials, constitute significant obstacles to the internalization of restorative justice (Maksum & Edrisy, 2025). Therefore, this research is crucial in examining the optimization of UU SPPA implementation through the synchronization of legal norms with sociological realities, in order to ensure that sanctions imposed on juvenile recidivists remain oriented toward rehabilitation, social reintegration, and the disruption of the cycle of recidivism, rather than serving merely as instruments of punitive retribution.

Problems arise when the implementation of diversion in the field is often hampered by various obstacles. Although the SPPA is very advanced in normative terms, its effectiveness is highly dependent on law enforcement factors (Wagiman & Jubaidi, 2024). As stated by Soekanto (2010), the success of law enforcement is influenced by the law itself, law enforcement officials, resources and facilities, society, and culture. In the context of the SPPA, there is often a lack of mental preparedness among officials who are still stuck in a legalistic-formalistic mindset, as well as a lack of understanding among the community regarding the essence of peace in criminal cases involving children (Aprilianda & Krisna, 2023).

In addition, the availability of supporting facilities such as Community Guidance Officers (PK) from the National Correctional Agency (Bapas), Professional Social Workers, and Social Welfare Institutions (LPKS) is not yet evenly distributed throughout Indonesia (Kusuma, 2020). This results in the diversion process not running optimally, so that children still end up in Special Child Guidance Institutions (LPKA). In fact, imprisoning children tends to create a "school of crime" within correctional institutions (Widowati et al., 2025). Therefore, this research is important to examine the extent to which the principle of restorative justice has been internalized by stakeholders and how sociological and legal obstacles can be overcome to ensure the best interests of the child.

Diversion provisions, which require criminal offenses with a prison sentence of less than 7 years and are not repeat offenses, are often debated when faced with the victim's sense of justice (Faisal & Ogli, 2025). This is where the urgency lies in examining the synchronization between legal certainty and the benefits of law for the future of children. Through this paper, it is hoped that a more effective formulation will be found in applying restorative justice that not only protects children's rights but also restores social relations in society (Felisitha & Aven, 2025).

2. Materials and Methods

This study analyzes positive legal norms and rules using a normative juridical approach. The methods used include a conceptual approach using Soekanto (2010) philosophy of law enforcement and the idea of restorative justice, as well as a legislative approach to investigate laws and regulations related to restrictions on transfer and sanctions for repeat offenders. The legal materials used include primary materials (the 1945 Constitution, the SPPA Law, the Child Protection Law, and the Criminal Code), secondary sources (journals and legal literature), and tertiary sources (legal dictionaries). Data collection techniques were applied through a literature review, which was then processed using qualitative descriptive analysis methods to interpret the synchronization between regulations and sociological facts in the field (Republik Indonesia, 1945.).

3. Results and Discussion

3.1. How is the legal construction of imposing criminal sanctions on repeat offenders according to Law No. 11 of 2012 and its implications for the effectiveness of rehabilitation in the perspective of the juvenile criminal justice system?

An analysis of the imposition of sanctions on repeat offenders under Law UU No 11 Tahun 2012 on the Juvenile Criminal Justice System (SPPA Law) shows a complex paradigm shift between the spirit of rehabilitation and legal certainty. Legally, the status of repeat offenders carries significant legal implications, especially in relation to the exclusivity of diversion. Based on Article 7 paragraph (2) of the UU SPPA, diversion can only be pursued if the crime committed is not a repeat offense. This causes repeat offender children to lose their right to settle cases outside of the judicial process, thus automatically entering into a formal adjudication process (Atmasasmita, 1996).

During the trial stage, although the SPPA Law does not explicitly regulate the one-third increase in the sentence as stipulated in Putra (2021) of the Criminal Code, judges have the discretion to use the repetition of criminal acts as a reason for increasing the sentence to a maximum of half of the sentence for adults. This condition often poses a dilemma for judges, who must ensure the best interests of the child on the one hand, but on the other hand face pressure to provide a deterrent effect through retributive justice (Sari, 2021).

The effectiveness of rehabilitation for repeat offenders is highly dependent on the availability of adequate support facilities. To date, the existence of Social Welfare Institutions (LPKS) and the role of Community Counselors (PK) from the National Agency for the Protection of Children (Bapas) has not been evenly distributed throughout Indonesia (Ramadhan, 2019). This limitation hinders the rehabilitative process for children, often resulting in them ending up in Special Child Guidance Institutions (LPKA) due to the lack of alternative facilities (Mahendra, 2019).

The effectiveness of law enforcement against these repeat offenders is greatly influenced by five main factors, as described in Soerjono Soekanto's theory: (a) Apparatus Factors, a legalistic-formalistic mentality often fails to understand child psychology, leading to a tendency to punish physically rather than restore psychologically. (b) Facilities, the lack of facilities such as Social Welfare Institutions (LPKS) makes rehabilitation less than optimal. (c) Community, the labeling or negative stigma attached to children who have been convicted of crimes becomes a criminogenic factor that pushes children back into criminal communities.

This condition is exacerbated by the mentality of law enforcement officials who are still stuck in a legalistic-formalistic mindset. Instead of looking at the psychological aspects and social background of the child, officials tend to prioritize formal procedures that lead to physical punishment. The failure of the system to provide post-rehabilitation supervision is often the root cause of children reoffending, rather than solely the child's own malicious intent (Gultom, 2014).

From a child protection perspective, placing juvenile recidivists in correctional facilities carries significant criminogenic risks (Dwijayanti, 2017). The correctional environment may function as a space for "criminal contamination," as children interact with more experienced offenders, leading to the learning and internalization of criminal values and techniques. In addition, placement in correctional institutions attaches stigma and negative labeling to children as "criminals," which restricts their access to education, employment, and social acceptance (Triwati et al., n.d.). This condition often drives children back into criminal communities as a form of escape and identity-seeking, thereby reinforcing cycles of recidivism.

These risks are further exacerbated by limited rehabilitative facilities and weak post-release support, including sustained psychological assistance, education, and vocational training. A repressive correctional environment may also cause psychological trauma and hinder children's social and emotional development (de Valk et al., 2016). Moreover, law enforcement approaches that remain oriented toward procedures and punishment, without adequately considering the child's needs and social background,

fail to address the root causes of juvenile criminal behavior. As a result, placing juvenile recidivists in correctional facilities not only hampers social reintegration but also risks prolonging and deepening patterns of future criminality.

In addition, there is the possibility of criminal contamination when repeat offenders in Special Child Rehabilitation Institutions (LPKA) receive prison sentences. Longer periods of detention due to recidivism can turn training facilities into “crime schools,” where children actually hone their criminal skills if strict supervision is not implemented (Sudarto, 1981).

Apart from internal institutional factors, community factors play a crucial role through the imposition of stigma or negative labeling (Maulana, 2021). The stigma of being a “former convict” often closes opportunities for children to reintegrate into their social environment normally, which ultimately pushes them back into the criminal community as a form of escape. Therefore, quality social reintegration is the key to breaking this chain of recidivism (Safitri, 2020).

Therefore, a reinterpretation of restorative justice for juvenile recidivists is needed. Even though the opportunity for diversion is formally closed, the spirit of restorative justice must still underpin the judge's decision. Judges should continue to prioritize sanctions in the form of actions rather than imprisonment as the *ultimum remedium* (last resort). Quality social reintegration and synchronization between legal sanctions and sociological support from the environment are the main keys to breaking the chain of recidivism for the future of the nation's generation.

4. Conclusions

Legally, Law No. 11 of 2012 on the Criminal Justice System for Children (SPPA Law), which imposes sanctions on children who commit repeat offenses, is still torn between upholding the best interests of the child and ensuring legal clarity. This is because Article 7 paragraph (2) of the Juvenile Criminal Justice System Law (SPPA Law) limits the right to diversion and directly closes the door to out-of-court settlements for children who repeatedly commit crimes, so that they must undergo a formal adjudication process with the risk of increased penalties. The implementation of these sanctions ultimately tends to be retributive or punitive in nature, exacerbated by structural factors such as the legalistic-formalistic mentality of officials and the lack of rehabilitation facilities such as LPKS and Community Guidance Officers, which are not evenly distributed throughout Indonesia.

The system's failure to provide post-rehabilitation supervision and the negative stigma attached by society to children who have been convicted of crimes are criminogenic factors that encourage children to return to criminal communities. This situation is very risky because placing repeat offenders in Special Child Guidance Institutions (LPKA) without strict supervision can turn these institutions into “schools of crime” due to criminal contamination during longer periods of detention. Therefore, a reinterpretation of restorative justice is needed, one that continues to prioritize sanctions in the form of actions rather than imprisonment as a last resort (*ultimum remedium*). The key to breaking the chain of recidivism for the future of the nation's generation lies in quality social reintegration and strong synchronization between legal sanctions and sociological support in the community.

To break the cycle of juvenile recidivism, future juvenile criminal law policies should prioritize a comprehensive, evidence-based, and child-centered approach by strengthening restorative justice and non-custodial sanctions. This includes expanding the application of restorative justice mechanisms—such as victim-offender mediation and family conferencing—even for juvenile recidivists, supported by multidisciplinary restorative justice panels and individualized risk assessments. Non-custodial measures must consistently be treated as *ultimum remedium*, with greater reliance on community-based rehabilitation, structured social work, electronic monitoring, and therapeutic interventions. These measures should be guided by clear sentencing guidelines that

emphasize rehabilitation, accountability, and social reintegration rather than punitive incarceration.

In addition, policies must reinforce holistic community-based reintegration by ensuring sustained post-release support through education, vocational training, mental health services, and family involvement. This requires improving the capacity and distribution of social welfare institutions and probation officers, developing alternatives to juvenile correctional facilities, and strengthening inter-agency coordination across justice, social, and child protection sectors. Equally important is transforming the mindset of law enforcement officials through mandatory training in child psychology, trauma-informed approaches, and rehabilitative justice. Public education and anti-stigma initiatives should also be promoted to foster community acceptance and participation. Collectively, these reforms aim to shift juvenile criminal law toward a humane, restorative, and preventative model capable of effectively disrupting the cycle of recidivism.

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