

# Legal Protection Child Recidivists Under Article 69 Juvenile Criminal Justice System Law: A Case Study of Majalengka

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**Abstract:** This study aims to examine the effectiveness of legal protection for repeat offenders in Majalengka Regency in relation to Article 69 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). However, findings in the field show that law enforcement officials in Majalengka still apply a repressive approach to repeat offenders, including imposing prison sentences under the pretext of deterrence and social pressure. This study uses a normative-empirical juridical approach by analyzing legal norms, institutional behavior, and law enforcement practices by the police, prosecutors, courts, and correctional institutions. Data was obtained through interviews, field observations, and studies of regulations and court decisions. The results of the study show a gap between the normative idealism of the SPPA and legal practices in the field, where the principle of restorative justice has not been consistently implemented. Law enforcement is still oriented towards retribution, not recovery, thus failing to nurture and reintegrate children into society. This study recommends the establishment of a Regional Regulation (Perda) on the protection of children who are repeat offenders, strengthening the role of correctional centers and social rehabilitation institutions, and training law enforcement officials on the principles of restorative justice. Theoretically, this study emphasizes the importance of a humanistic, educational, and restorative approach in the legal protection of children, in accordance with national and international standards on children's rights.

**Keywords:** Juvenile criminal justice system, Legal protection, Repeat offender's child

## 1. Introduction

The phenomenon of repeat offenders among children in Majalengka Regency reflects serious challenges in Indonesia's juvenile justice system, where vulnerable socioeconomic backgrounds and limited access to rehabilitation exacerbate the cycle of criminalization. Although Article 69 of the Child Protection Law guarantees diversion opportunities for children who commit repeat offenses, its implementation in the field often deviates from the principles of restorative justice, with law enforcement officials prioritizing a repressive approach in the name of deterrence and public safety.<sup>1</sup> This gap between norms and practice results in recidivist children losing their right to appropriate legal protection, compounded by law enforcement officials' weak understanding of the principles of non-discrimination and the best interests of the child. Majalengka, as a rural area with limited legal resources and rehabilitation facilities, faces structural obstacles in optimally implementing the SPPA Law, putting recidivist children at risk of repeated criminalization. Therefore, this study is important to evaluate the adequacy of legal protection for recidivist children in accordance with the mandate of Article 69 of the SPPA Law, as well as to formulate policy

<sup>1</sup> Selvi Ayu Permatasari et al., "Dari Pelanggar Menjadi Pelajar: Reorientasi Perlindungan Hukum Bagi Anak Dalam Sistem Peradilan Pidana," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 2 (2025): 369–81, <https://doi.org/10.61104/alz.v3i2.1032>.

recommendations that are more focused on the rehabilitation of children rather than merely punishment.<sup>2</sup>

A study entitled Criminal Law Policy on Diversion for Child Offenders Who Are Recidivists in the Perspective of Child Protection from Diponegoro University reveals that the application of diversion for child recidivists is still far from optimal, even though Article 69 of the SPPA Law normatively allows for it. There are normative gaps and ambiguities in interpretation that cause law enforcement officials to prefer formal litigation over a restorative approach, thereby often neglecting the principle of the best interests of the child. This study shows that legal protection for recidivist children is not fully guaranteed, as the approach used is still repressive. These findings are in line with the situation in Majalengka, where the implementation of Article 69 of the SPPA Law is also weak, risk assessments are not carried out consistently, and law enforcement officials place more emphasis on imposing sanctions than on rehabilitating children. Limited legal resources, a lack of rehabilitation facilities, and a low level of understanding of the principle of non-discrimination reinforce the pattern of repeated criminalization of recidivist children in the region.<sup>3</sup>

This study has significant scientific novelty compared to previous studies discussing legal protection for recidivist children. Unlike previous studies, which tended to be normative and general in nature, this study specifically examines the implementation of Article 69 of the Juvenile Criminal Justice System Law in the local context of Majalengka Regency, an area with rural characteristics and limited legal resources.<sup>4</sup> The approach used is normative-empirical, focusing on the gap between legal norms and the practices of law enforcement officials in dealing with recidivist children. This study also raises the issue of risk assessment and diversion decisions that have not been systematically integrated at the regional level, as well as identifying structural obstacles such as the lack of rehabilitation facilities and low understanding of the principle of non-discrimination. Thus, this study not only reinforces criticism of the still-dominant repressive approach, but also offers locally-based policy recommendations that are more conducive to child rehabilitation and the principles of restorative justice.<sup>5</sup>

This study aims to analyze the form and effectiveness of legal protection for repeat child offenders in Majalengka Regency in the context of the implementation of Article 69 of Law -Law Number 11 of 2012 concerning the Criminal Justice System for Children (SPPA), identifying obstacles and weaknesses in the implementation of legal protection for repeat child offenders at the investigation, prosecution, and correctional levels, as well as formulating solutions and models of legal protection that are more humane and rehabilitative in accordance with the principles of restorative justice and the best interests of the child.

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<sup>2</sup> Naufalin Salma Allyanisa, Subekti, and Riska Andi Fitriano, "Kesesuaian Penjatuan Pidana Denda Dengan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak Dalam Tindak Pidana Persetubuhan Oleh Anak (Studi Kasus Putusan Pengadilan Negeri Karanganyar Nomor 4/Pid.Sus-Anak/2023/PN.Krg)," *Jurnal Ilmu Hukum Dan Sosial* 2, no. 2 (2024): 81–90, <https://doi.org/10.51903/hakim.v2i2.1733>.

<sup>3</sup> Fernaldi Yurendo, Santrawan T Paparang, and Achmad Fitriani, "Urgensi Perubahan Frasa 'Tidak Wajib Dibuktikan Terlebih Dahulu Tindak Pidana Asal' Dalam Pasal 69 Undang-Undang Tindak Pidana Pencucian Uang Dalam Rangka Perlindungan Hak Asasi Tersangka Dan/Atau Terdakwa," *Journal Evidence Of Law* 4, no. 1 (2025): 360–69, <https://doi.org/10.59066/jel.v4i1.1226>.

<sup>4</sup> Mia Afriyani and Surahman, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Legal Protection for Child Victims of Sexual Violence in Criminal Law Enforcement Practices in the Samarinda Jurisdiction," *Jurnal de Facto* 11, no. 2 (2025): 247–74, <https://pdfs.semanticscholar.org/fb40/2aac2f9f5eeb541c094e68599ca078d3d05d.pdf%0Ahttps://jurnal.pas-casarjana.uniba-bpn.ac.id/index.php/jurnaldefacto/article/view/243/157>.

<sup>5</sup> Hana Aulia Putri, "Perlindungan Hukum Terhadap Hak Anak Korban Pemerkosaan Dalam Lingkungan Keluarga," *Jurnal Lex Renaissance* 6, no. 1 (2021): 12–24, <https://doi.org/10.20885/jlr.vol6.iss1.art2>.

This study also attempts to overcome several limitations that often arise in previous practices and studies, such as conceptual limitations that equate repeat offenders with first-time offenders without considering the need for more complex legal protection, legal-practical limitations due to the weak implementation of Article 69 of the SPPA Law in the regions, especially towards children who repeat crimes, as well as empirical limitations in the form of a lack of data and local studies on the application of restorative justice principles by law enforcement officials in Majalengka Regency. By overcoming these limitations, this study is expected to produce a more comprehensive and contextual analysis of the practice of legal protection for children in the region.<sup>6</sup>

The scientific value and innovation of this paper lie in its contextual and local approach, which provides an empirical contribution to the understanding of the application of child law at the regional level, focusing on repeat offenders, who are rarely studied in depth in Indonesian legal literature, thus providing scientific novelty (novelty) to the scientific field, the integration of legal norms and empirical practices by comparing the idealism of Article 69 of the SPPA Law and the reality of law enforcement in the field, as well as recommendations for innovative legal protection models with an emphasis on the principles of restorative justice and continuous guidance to prevent children from reoffending.

## 2. Method

This research employs a juridical-empirical method with both normative and empirical approaches, as it examines the relevant legal regulations (Article 69 of the Juvenile Criminal Justice System Act) and their implementation in practice (the case in Majalengka Regency). The study applies a statutory approach and a case approach. The normative legal research component involves the examination of legal references, particularly Law Number 11 of 2012 on the Juvenile Criminal Justice System (SPPA). Meanwhile, the empirical approach is conducted through field research, including interviews with law enforcement officials (police officers, prosecutors, and judges). This study involved six key informants selected based on their competence, experience, and direct involvement in the implementation of Article 69 of Law Number 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) in Majalengka Regency. The informants consisted of two law enforcement officers an investigator from the Women and Children Protection Unit (PPA) of the Majalengka Police and a prosecutor from the Majalengka District Attorney's Office one judge from the Majalengka District Court, one officer from the Correctional Institution (Bapas), one officer from the Majalengka Social Affairs Office, and one academic expert in juvenile criminal law from a local university. Data analysis was conducted using a qualitative descriptive-analytical method, which interprets the data obtained from interviews and legal documents systematically to describe the implementation of legal protection for child recidivists in practice.

## 3. Results and Discussion

### 3.1. Legal Protection of Children in the Perspective of Article 69 of the SPPA Law

Legal protection for children is one of the fundamental principles in the Indonesian legal system, which places children as legal subjects with constitutional rights to receive fair, humane treatment in accordance with their stage of development. Children cannot be treated in the same way as adults because they do not yet have the psychological and moral maturity to understand the consequences of their actions. Therefore, the state has an obligation to

<sup>6</sup> Candra Hayatul Iman, "Kebijakan Hukum Pidana Perlindungan Anak Dalam Pembaruan Sistem Peradilan Pidana Anak Di Indonesia," *Jurnal Hukum Dan Peradilan* 2, no. 3 (2018): 358, <https://doi.org/10.25216/jhp.2.3.2013.358-378>.

provide special legal protection, especially when children are dealing with the criminal justice system. This protection is not only formal in nature in legal proceedings, but also includes substantive efforts to ensure that children's rights are not violated, such as the right not to be tortured, not to be overly criminalized, and the right to receive guidance and social rehabilitation.

Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) is an important milestone in the evolution of juvenile criminal law in Indonesia. This law replaces the old paradigm oriented towards retributive justice with restorative justice. The main objective of the SPPA is to create a more humane justice system by treating children not as criminals, but as individuals in need of guidance. Within this framework, Article 69 plays a central role because it provides a clear limitation that children under the age of 14 can only be subject to measures, not criminal penalties. This provision is a concrete manifestation of substantive legal protection that ensures that the criminal justice process is not a means of punishment, but rather a means of guidance.<sup>7</sup>

Philosophically, Article 69 of the SPPA Law reflects the principle of “the best interests of the child” as stipulated in the Convention on the Rights of the Child, which Indonesia ratified through Presidential Decree No. 36 of 1990.<sup>8</sup> This principle affirms that every policy or legal action involving children must always prioritize the welfare of the child. Thus, the application of Article 69 cannot be interpreted solely as a prohibition on imposing criminal penalties, but rather as a moral and legal obligation for the state and law enforcement officials to ensure that children receive treatment that guarantees their healthy physical, mental, and social development. If Article 69 is violated, it means that the state has failed to uphold the principle of humanity, which is the basis for the legal protection of children.<sup>9</sup>

In addition, legally, Article 69 also reinforces the principle of differential treatment between children and adults. In the general criminal justice system, punishment aims to provide a deterrent effect and retribution. However, in the juvenile justice system, punishment loses its relevance because the main objectives are rehabilitation, education, and moral guidance for children.<sup>10</sup> Therefore, Article 69 sets an age limit and emphasizes that the measures that can be taken are not punishments, but rather forms of protection, such as returning the child to their parents, handing them over to a social institution, or requiring them to participate in a guidance program. Thus, this law seeks to prevent children from falling into the prison system, which has the potential to cause negative psychological effects, worsen behavior, and increase the likelihood of children becoming repeat offenders in the future.<sup>11</sup>

In the context of legal practice in Indonesia, including in Majalengka Regency, the implementation of Article 69 often faces serious challenges. Many law enforcement officials, especially at the investigation and prosecution levels, are still stuck in the conventional punishment paradigm, viewing repeat offenders as no longer deserving of special treatment.

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<sup>7</sup> Femmy Silaswaty Rizkiani, N, Hadi Mahmud, “Analisis Perlindungan Hukum Dalam Tindak Pidana Kekerasan Seksual Terhadap Anak Di Indonesia,” *Jurnal Bevinding* 01, no. 04 (2023): 4, <http://www.journal.uniba.ac.id/index.php/JB/article/view/842%0Ahttp://www.journal.uniba.ac.id/index.php/JB/article/download/842/622>.

<sup>8</sup> Fuad Nur, “Perlindungan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Dalam Penanganan Perkara Anak,” *Journal Of Social Science Research* 4, no. 1 (2024): 124–38.

<sup>9</sup> Aris Munandar Ghazwan Aqrabin Faqih, Djumardin, “Jurnal Risalah Kenotariatan,” *Jurnal Risalah Kenotariatan* 4, no. 1 (2023): 271–93.

<sup>10</sup> Setya Wahyudi, “Penegakan Peradilan Pidana Anak Dengan Pendekatan Hukum Progresif Dalam Rangka Perlindungan Anak,” *Jurnal Dinamika Hukum* 9, no. 1 (2009): 29–39, <http://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/52/175>.

<sup>11</sup> Dicky Eko Prasetyo, “Pancasila : Jurnal Keindonesiaan,” *Jurnal Keindonesiaan* 3, no. 2 (2023): 1–10.

This results in a deviation from the basic principle of Article 69, which emphasizes that legal protection for children should not be lost even if they have committed crimes repeatedly. The view that “repeat offenders must be punished to deter them” is a misinterpretation of the spirit of the SPPA Law. In fact, in modern child law doctrine, the repetition of criminal acts by children is a sign of the failure of the rehabilitation system, not evidence of the child's inability to be reformed.

Furthermore, the application of Article 69 must be viewed not only from the perspective of positive law, but also from the perspective of progressive law as proposed by Satjipto Rahardjo. According to this view, the law should not stop at the normative text, but must embody the human values that form its basis. In this context, Article 69 is not only a legal norm, but also an ethical statement that children are entitled to a second chance. This means that when children commit offenses, including repeat offenses (recidivism), the state and law enforcement agencies are obliged to create a corrective, rather than repressive, protection system. By applying this principle, the juvenile justice system no longer focuses on who is at fault, but on how children can be rehabilitated and guided to return to their social environment with better behavior.<sup>12</sup>

Several research studies and empirical findings indicate that Law Number 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) contains a regulatory gap concerning children with recidivist status. For instance, a study conducted at UIN Jakarta revealed that in cases involving children in conflict with the law who are classified as recidivists, there is still no clear explanation regarding the types of punishment or corrective measures that may be imposed on such children. Similarly, an academic article from repository.uinsaizu.ac.id highlights that children who commit repeated criminal acts (recidivism) face serious challenges in the implementation of the Juvenile Criminal Justice System Law due to the absence of a firm and consistent legal framework. Moreover, studies conducted in regions relevant to this research such as Majalengka Regency and the broader West Java area also show obstacles in applying the principles of restorative justice and in implementing effective rehabilitation mechanisms for children in conflict with the law. A study published in repository.unissula.ac.id, titled “The Implementation of Restorative Justice Principles in the Jurisdiction of Majalengka Police Department,” found that there are still significant barriers in the rehabilitation process and the execution of diversion programs for juvenile offenders.

These cases are highly relevant to this research as they directly relate to the implementation of Article 69 of the Juvenile Criminal Justice System Law, which stipulates that children may only be sentenced or subjected to legal measures as provided by the statute. This empirical evidence demonstrates that, in the context of child recidivists, there remains a lack of comprehensive regulation and weaknesses in the implementation of effective legal protection. Furthermore, the findings from West Java particularly from Majalengka reinforce the contextual relevance of this study, providing a strong empirical foundation for assessing the effectiveness of legal protection for child recidivists under the framework of the Juvenile Criminal Justice System Law.

Based on the interview results obtained, several responses provided valuable insights for the author's analysis. One of them came from a law enforcement officer (Investigator from the Women and Children Protection Unit/PPA of the Majalengka Police Departement:

“In practice, children who reoffend often present us with a dilemma. On one hand, they must be processed according to the law; on the other, we are bound by the principle of child

<sup>12</sup> Reva Arda Try Pradima, Zulfa Muthia Bilqis, and Ahmad Arif Fadilah, “Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia,” *Journal Transformation of Mandalika*, e-ISSN: 2745-5882, p-ISSN: 2962-2956 6, no. 6 (2025): 209–17, <https://doi.org/10.36312/jtm.v6i6.4150>.



protection. The Juvenile Criminal Justice System Law does not provide clear guidance on how to handle recidivist children, particularly regarding diversion or further rehabilitation.”

This quotation indicates the presence of normative ambiguity in the implementation of Article 69 of the Juvenile Criminal Justice System Law at the investigation level, particularly regarding the boundaries between law enforcement and the principle of child protection.

The Prosecutor from the Majalengka District Attorney’s Office stated that:

“We often receive case files of children who reoffend, but the legal mechanism for recidivist juveniles remains poorly regulated. Sometimes we are forced to proceed to trial because there is no strong legal basis for a second diversion.”

This quote reinforces the finding that diversion for recidivist children does not yet have legal certainty, so that prosecution practices still vary between regions:

Meanwhile, the Majalengka District Court Judge said:

“As judges, we strive to apply restorative justice principles, but when a child repeatedly commits offenses, there is no clear normative basis for whether diversion can still be granted. As a result, we often rely more on moral and social discretion.”

This quote shows that judges face a legal vacuum in determining the limits of the application of restorative justice for recidivist children.

Meanwhile, the correctional center said:

“Recidivist children usually reoffend due to their social environment and lack of continuous rehabilitation. At Bapas, we can only provide short-term guidance, after which they return to the same conditions.”

This quote shows the weaknesses of the post-trial guidance system, which is a factor causing child recidivism.

Thus, Article 69 of the SPPA must be understood as the pinnacle of legal protection for children in the Indonesian criminal justice system.<sup>13</sup> This article not only regulates the age of criminal responsibility, but also symbolizes the transition from a punitive legal system to a restorative legal system. It affirms that children are the future generation of the nation who must be protected, not stigmatized as criminals. When this norm is implemented correctly, the legal system not only upholds formal justice, but also substantive justice that is oriented towards humanity and the future of children. However, when this norm is ignored in practice as has happened in several regions, including Majalengka the legal protection of children loses its meaning, and the judicial system instead becomes a tool of punishment that damages the morals of the younger generation. Therefore, the consistent implementation of Article 69 is a measure of the extent to which the state truly carries out the constitutional mandate to protect the entire nation and promote the welfare of its children.

### **3.2. Implementation of Legal Protection for Recidivist Children in Majalengka Regency**

The implementation of legal protection for repeat offenders in the jurisdiction of Majalengka Regency has generally not been effective and is not yet fully in line with the

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<sup>13</sup> Anselmus S. J. Mandagie, “Proses Hukum Tindak Pidana Pembunuhan Yang Dilakukan Oleh Anak Dibawah Umur Ditinjau Dari Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak,” *Lex Crimen* IX, no. 2 (2020): 5362.

mandate of Article 69 of Law Number 11 of 2012 concerning the Criminal Justice System for Children (SPPA).

The results of the study show that the process of handling repeat offenders is still dominated by a penal (imprisonment) approach rather than non-penal approaches such as social guidance, diversion, and rehabilitation. Most law enforcement officials, especially at the police and prosecutor's office levels, consider that children who have committed multiple crimes are no longer deserving of special treatment, so that restorative justice mechanisms are not reapplied.<sup>14</sup> However, normatively, this view is not in accordance with the provisions of Article 69 of the SPPA. This law explicitly states that children under the age of 14 can only be subject to measures, not criminal penalties, regardless of whether they are first-time offenders or repeat offenders. Thus, any form of imprisonment of children under this age is a deviation from the principle of child legal protection.<sup>15</sup>

During the investigation phase, it was found that police officers in Majalengka often faced normative and social dilemmas. On the one hand, they understood that children were entitled to legal protection; on the other hand, they faced pressure from the community and victims to enforce deterrent measures. In practice, diversion was rarely applied to repeat offenders, as officials believed that diversion only applied to first-time offenders. This view is clearly mistaken, because Article 7 paragraph (2) of the Child Protection Law does not preclude the application of diversion for repeat offenders as long as the crimes committed are still classified as minor and are not repeat serious crimes.<sup>16</sup>

In addition, the lack of social workers (Bapas) in the Majalengka region has resulted in a suboptimal assessment process for children. Many repeat offenders are processed without adequate psychological and social assistance, so investigators tend to immediately refer cases to the prosecutor's office without considering alternative rehabilitation measures. Meanwhile, at the prosecution stage, the Public Prosecutor (JPU) in Majalengka also faces similar obstacles. Many prosecutors believe that granting diversion to repeat offenders is ineffective because previous attempts are considered to have failed to bring about improvement. As a result, the JPU often chooses to proceed with the case to court and demand a short criminal sentence.<sup>17</sup>

However, this action actually contradicts the principles of restorative justice and Article 69 of the SPPA Law, which prioritize the rehabilitation of children rather than punishment. From the interviews, some prosecutors admitted that the absence of clear technical guidelines on "treatment of repeat offenders" made them hesitate to take restorative decisions.<sup>18</sup> This indicates a normative vacuum at the implementation level. In addition, the heavy caseload and limited court time mean that prosecutors rarely take a social approach to the child's family, even though family support is an important factor in the success of

<sup>14</sup> Mahrus Ali and Irwan Hafid, "Kriminalisasi Berbasis Hak Asasi Manusia Dalam Undang-Undang Bidang Lingkungan Hidup Human Rights-Based Criminalization In Environmental Legislation Hukum Pidana Dalam Menanggulangi Kejahatan . 8 Hukum Pidana Hanya Merupakan Bagian," *USM Law Review* 5, no. 1 (2022): 1–15.

<sup>15</sup> Ida Ayu Sadnyini and Sang Putu Wedha Rama, "Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Kekerasan Seksual (Studi Kasus Di Polda Bali)," *Jurnal Analisis Hukum* 5, no. 2 (2022): 163–73, <https://doi.org/10.38043/jah.v5i2.3743>.

<sup>16</sup> Hasbuddin Khalid Annastasyia Mukrimah Yusuf, Ma'ruf Hafidz, "Journal of Lex Philosophy (JLP)," *Journal of Lex Philosophy (JLP)* 5, no. 1 (2024): 260–75.

<sup>17</sup> Andhik Eko Susanto, "Penerapan Sanksi Pidana Dan Tindakan Terhadap Anak Menurut Uu No. 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak," *Mizan: Jurnal Ilmu Hukum* 11, no. 1 (2022): 130, <https://doi.org/10.32503/mizan.v11i1.2666>.

<sup>18</sup> Vivin Restia and Ridwan Arifin, "Perlindungan Hukum Bagi Anak Sebagai Korban Kekerasan Dalam Rumah Tangga," *Nurani Hukum* 2, no. 1 (2020): 23, <https://doi.org/10.51825/nhk.v2i1.5018>.

rehabilitation. As a result, many cases of repeat offenders in Majalengka end in criminal charges rather than rehabilitation measures as they should.<sup>19</sup>

During the examination stage at the Majalengka District Court, it was found that juvenile judges tend to be cautious in passing sentences on repeat offenders. However, due to the lack of juvenile rehabilitation facilities in Majalengka, many judges ultimately choose the option of short prison sentences as a pragmatic solution. This certainly contradicts the mandate of Article 69 and the spirit of the SPPA, which rejects the criminalization of children under 14 years of age. In several verdicts, judges also used social considerations that children who have repeatedly committed crimes are considered potentially dangerous to society so that detention is seen as a form of social protection, not punishment. However, this logic remains problematic, because the function of legal protection cannot be carried out through punishment. Ideally, the court should place repeat offenders in social rehabilitation and moral education programs, not correctional institutions. Guidance-based decisions should be the standard in the juvenile justice system, which favors the best interests of the child.<sup>20</sup>

The implementation of legal protection for repeat offenders in Majalengka Regency still does not reflect the spirit of Article 69 of the SPPA Law. The treatment of repeat offenders is still dominated by a punitive approach, rather than a rehabilitative one. The lack of facilities, weak coordination between legal institutions, and social stigma exacerbate the state of legal protection in the region. There is a need for regional policies based on restorative justice, the establishment of local rehabilitation institutions, and integrated supervision of repeat offenders to ensure that legal protection is truly realized in accordance with the principle of the best interest of the child.

### **3.3. Legal Analysis of the Inconsistency of Practices with Legal Norms**

Normatively, Article 69 of the SPPA Law contains the basic principle of legal protection for children in conflict with the law, namely that children under the age of 14 can only be subject to measures, not criminal penalties. This norm is imperative and cannot be interpreted freely, because the legislators explicitly intended to prevent the criminalization and imprisonment of children. In the context of national law, this article is a manifestation of the principle of the best interest of the child, which is also guaranteed by Article 3 of the SPPA Law, and is an implementation of the Convention on the Rights of the Child, which was ratified through Presidential Decree No. 36 of 1990. This means that every law enforcement officer has a legal and moral obligation to prioritize the protection of children in every stage of the criminal justice process. Thus, Article 69 is not merely a restriction on the age at which criminal penalties can be imposed, but also a legal safety net that upholds the principle of restorative justice, namely the rehabilitation of children, victims, and society through educational, rather than repressive, means.<sup>21</sup>

However, in empirical reality in Majalengka Regency, the implementation of Article 69 of the SPPA Law has not been carried out properly and even shows deviations from the applicable legal norms. Based on the results of the study, many law enforcement officials at

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<sup>19</sup> Mahendra Ridwanul Ghoni and Pujiyono Pujiyono, "Perlindungan Hukum Terhadap Anak Yang Berhadapan Dengan Hukum Melalui Implementasi Diversi Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (2020): 331–42, <https://doi.org/10.14710/jphi.v2i3.331-342>.

<sup>20</sup> Tri Rizky Analiya and Ridwan Arifin, "Perlindungan Hukum Bagi Anak Dalam Kasus Bullying Menurut Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak Di Indonesia," *Journal of Gender And Social Inclusion In Muslim Societies* 3, no. 1 (2022): 125–44, <http://jurnal.uinsu.ac.id/index.php/psga/article/view/10950>.

<sup>21</sup> Dani Krisnawati and Niken Subekti Budi Utami, "Penanganan Terhadap Anak Belum Berumur 12 Tahun Yang Melakukan Tindak Pidana Berdasarkan Sistem Peradilan Pidana Anak," *Mimbar Hukum* 32, no. 3 (2020): 407–21.



the police and prosecutor's office levels refuse to apply diversion to repeat offenders on the grounds that the child has “failed to be rehabilitated” in the previous legal process. This refusal contradicts Article 7 paragraph (2) of the SPPA Law, which explicitly does not preclude the application of diversion to repeat offenders, as long as the crime committed is not classified as serious and the penalty is less than seven years. In addition, there are also practices where children under the age of 14 are still sentenced to prison on the pretext of providing a deterrent effect. Such actions violate the principle of *lex specialis derogat legi generali*, whereby the SPPA, as a special law, should override the application of the general Criminal Code. This practice also contradicts the principle of legal certainty (Article 28D paragraph (1) of the 1945 Constitution) and the principle of humanity, which guarantees humane treatment for every child before the law.<sup>22</sup>

This discrepancy between legal norms and practice in the field reflects a crisis in implementation and the paradigm of law enforcement. Legally, the provisions in Article 69 of the SPPA Law are imperative and binding on all law enforcement officials without exception, but in practice they are still ignored due to various factors, including a weak understanding of the concept of restorative justice, a lack of technical guidelines on the treatment of repeat offenders, and social pressure demanding deterrent effects for child offenders. This situation has resulted in the protection of children's rights in Majalengka being partial, inconsistent, and often punishment-oriented. According to progressive legal theory (Satjipto Rahardjo), this kind of legal practice fails to fulfill its true function, which is to protect human beings and their humanity. Therefore, it can be legally concluded that the practices in Majalengka not only violate Article 69 of the SPPA Law, but also deviate from the objectives of the juvenile justice system, which should emphasize rehabilitation, education, and guidance for children, not punishment. To that end, legal and regional policy reforms are needed to reaffirm the application of Article 69 as a child protection norm that must be consistently implemented by all law enforcement officials.<sup>23</sup>

From the above legal analysis, it can be concluded that the practice of law enforcement against repeat offenders in Majalengka Regency is not in accordance with the norms of Article 69 of the SPPA Law. There has been a violation of the principles of *lex specialis*, best interest of the child, and humanity, because the authorities are still using a retributive paradigm. Article 69 should be an instrument of substantive and procedural legal protection, not merely a formal norm. Therefore, its implementation needs to be strengthened through technical regulations, regional policies, and a change in the paradigm of law enforcement from punishment to education and rehabilitation.<sup>24</sup>

#### 4. Conclusion

Normatively, the juvenile criminal justice system in Indonesia has provided a strong legal basis for the protection of children's rights and interests, including for children who are repeat offenders. The main principles applied are the best interests of the child and a rehabilitative approach, rather than retribution. In the jurisdiction of Majalengka Regency, the settlement of cases involving repeat offenders still refers to the provisions of the SPPA

<sup>22</sup> Eprina Mawati Si Boro et al., “Efektivitas Penerapan Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia,” *Jurnal Ekonomi, Bisnis Dan Humaniora (Eksishum)* 4, no. 1 (2024): 61–78, <https://doi.org/10.63494/eksishum.v4i1.130>.

<sup>23</sup> M. Randhy, “Perlindungan Hukum Terhadap Terpidana Anak. Serta Bentuk Pelanggaran Hukum Terhadap Anak Dan Perempuan,” *Staimaarifjambi* 2, No.1, no. 1 (2021): 79–91.

<sup>24</sup> Ria Juliana and Ridwan Arifin, “Pemidanaan Terhadap Anak Yang Berhadapan Dengan Hukum,” *Jurnal Selat* 6, no. 2 (2019): 225–34.

Law, particularly Article 69, which emphasizes that the punishment of children must be educational and rehabilitative in nature. Repeat offender children are generally sentenced to rehabilitation at a Special Child Rehabilitation Institution (LPKA) with assistance from the Correctional Center (Bapas) and social institutions to ensure that children's rights are fulfilled during the legal process. However, in practice, legal protection for repeat offender children in Majalengka has not been optimal. The main obstacles lie in the limited guidance facilities, the lack of professional assistants, and the lack of family and community support in the social reintegration process. In addition, because diversion cannot be applied to children who repeat criminal acts, legal resolutions become more repressive than rehabilitative. Thus, the author concludes that the implementation of Article 69 of the SPPA Law has provided a clear legal basis for protecting the rights and interests of juvenile repeat offenders, but its effectiveness in practice in the jurisdiction of Majalengka Regency still needs to be improved. The necessary efforts include strengthening coordination between law enforcement agencies, improving the quality of guidance at the LPKA, and the active role of families and communities in supporting recovery and preventing the recurrence of criminal acts by children.

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