

The Fulfilment of The Right to Education For Children Conflict With The Law In Indonesia in The Perspective Of Regulator and Implementation

¹Bernadus Alfons Tuasela, ²Kristiawanto, ³Supot Rattanapun

^{1,2}Jayabaya University, Indonesia

³Rajamangala University of Technology Krungthep-Thailand

¹bernardtuasela0178@gmail.com, ²drkristiawantopartners@gmail.com,

³supot.r@mail.rmutk.ac.th

ABSTRACT

The right to education is a human right guaranteed nationally and internationally, including for children in conflict with the law. This study aims to analyse the legal arrangements and implementation of the fulfilment of the right to education for children in Special Development Institutions for Children (LPKA) in Indonesia, and provide recommendations for reconstructing more effective policies. A normative juridical approach is used to examine relevant regulations, such as Law No 11/2012 on the Juvenile Criminal Justice System (SPPA Law) and Law No 2222 on Corrections, with a comparison of international practices in Malaysia and Japan. The results show a significant gap between legal arrangements and implementation. Education in LPKA is still limited to non-formal programmes due to a lack of infrastructure, teaching staff, and coordination between related institutions. To overcome this, a revision of the SPPA Law, strengthening educational infrastructure, improving the competence of teaching staff, and adapting international practices integrated with skills training are needed. In addition, anti-stigma campaigns and better monitoring mechanisms are needed to support children's reintegration into society. These measures are expected to not only guarantee the right to education, but also strengthen the rehabilitation and future of children in conflict with the law..

Keywords: right to education, children in conflict with the law, rehabilitation policies, anti-stigma campaigns.

Introduction

The Republic of Indonesia is known as a state of law that places law as the main foundation in the management of the life of the nation and state (Juanda & Juanda, 2023). Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia confirms that Indonesia is a state of law, which means that every citizen has equal standing before the law, including children in conflict with the law.

Children are the next generation of the nation who have fundamental rights that are recognised nationally and internationally (van Bueren, 2021). One of the main rights guaranteed by Article 28B paragraph (2) of the 1945 Constitution is the right of children to live, grow, develop, and receive protection from violence and discrimination. The right to education is also regulated in Article 31(1) of the 1945 Constitution, which affirms that every citizen has the right to education.

However, reality shows that children in conflict with the law face gaps in the fulfilment of their basic rights, especially the right to education (Nugroho Adhi et al., 2021; Quennerstedt & Moody, 2020; Zulinto et al., 2021). Based on data from various Special Child Development Institute (LPKA) in Indonesia, formal education equivalent to public schools has not been fully implemented. Most LPKAs only provide non-formal education such as Packages A, B, and C. This is due to various obstacles, including the lack of educational facilities, the lack of trained teaching staff, and the low attention to children's education in criminal regulations (Nurhamdah et al., 2022; Widya Islami & Isnawan, 2024).

This phenomenon has serious repercussions. Children serving sentences in LPKA not only lose time in their education, but also face social stigma that worsens their reintegration into society (Nurhamdah et al., 2022; Widya Islami & Isnawan, 2024). This inequality in access to education creates a significant gap compared to other children who are not in conflict with the law. In fact, education should be an important tool for rehabilitation and shaping their future.

The gap between regulations and implementation in the field is a major challenge. On the one hand, various regulations such as Law No. 11/2012 on the Juvenile Criminal Justice System (UU SPPA) and Law No. 22/2022 on Corrections provide sufficient legal basis to protect children's right to education. On the other hand, the practice does not consistently reflect these policies, especially in the provision of quality formal education in LPKA. In addition, the existing policy focuses more on the criminal aspect, without considering the importance of education as part of child rehabilitation. Therefore, serious efforts are needed to reconstruct policies related to the fulfilment of the right to education for children in conflict with the law. This research aims to address this need by examining existing regulations, identifying gaps in implementation, and providing recommendations to ensure the right to formal education can be fulfilled properly in LPKA.

This research aims to examine in depth the legal arrangements related to guaranteeing the right to education for children in conflict with the law in Indonesia. By focusing on the prevailing regulations, this research seeks to identify gaps and challenges in the implementation of policies that have been applied in the Special Child Development Institute (LPKA). In addition, this research aims to formulate strategic recommendations to reconstruct education policies in LPKA to align with child protection principles, such as non-discrimination, the best interests of the child, and the right to equal education. Through the analysis of regulations and practices in the field, this research is expected to provide a comprehensive solution to ensure that the right to education of children in conflict with the law is not only a normative discourse, but also realised in its implementation. Thus, this research aims to support the rehabilitation and social reintegration efforts of these children for a better future.

Methods Research

This research uses a normative juridical approach (Christiani, 2016; Disemadi, 2022; Sudrajat, 2023) to analyse the legal arrangements and implementation of the right to education for children in conflict with the law in Indonesia. The focus is on examining regulations such as the SPPA Law and the Corrections Law, as well as identifying obstacles to their implementation in the Special Child Development Institute (LPKA). A conceptual approach based on the theories of the welfare state, human rights, and juvenile criminal policy is used to understand the importance of education as part of child protection. Data was obtained through a literature study with primary (laws and regulations), secondary (scientific literature and reports), and tertiary (dictionaries and supporting documents) legal materials. Analyses were conducted qualitatively through legal interpretation to evaluate regulations and compare them with practices in other countries, such as Malaysia and Japan. This research aims to provide strategic recommendations to improve policies to fulfil the right to education in LPKA.

Result and Discussion

Guaranteeing the Right to Education for Children in Conflict with the Law

The right to education is part of the human rights guaranteed nationally and internationally, including for children in conflict with the law. In Indonesia, the regulation of children's right to education is set out in various laws and regulations, such as Law No

11/2012 on the Juvenile Criminal Justice System (SPPA Law) and Law No 2222 on Corrections. In addition, Indonesia has also demonstrated its commitment to the fulfilment of the right to education through the ratification of the Convention on the Rights of the Child (Manan, 2015), which provides an international foundation for the protection of children's rights. However, there are often gaps between legal arrangements and implementation that affect the fulfilment of the right to education for children in conflict with the law (Muharrani et al., 2024; Rosser, 2015).

The SPPA Law, as the main legal basis for Indonesia's juvenile criminal justice system, provides a legal framework to guarantee children's right to education during the justice process. Article 3 of the SPPA Law mentions children's basic rights, including education. However, this regulation does not specifically list formal education as a mandatory element in children's rehabilitation. This is evident in Article 71, which regulates criminal sanctions and measures, but does not mention the obligation to provide formal education in Special Child Development Institutes (LPKA). As a result, the implementation of education in LPKA often relies on local initiatives, leading to inconsistencies in the provision of formal education and a greater focus on non-formal programmes such as Packages A, B and C.

Similar weaknesses are also found in the implementation of Corrections Law No 22 of 2022, although this law emphasises the importance of education for detained children. Article 12 of this law states that children undergoing guidance at LPKA are entitled to education appropriate to their age level. This education is considered an important part of rehabilitation, aiming to prepare children to return to society with better abilities. However, in practice, many LPKAs do not have adequate facilities, such as classrooms and libraries, or trained teaching staff. These limitations are exacerbated by the lack of coordination between the Ministry of Justice and Human Rights and the Ministry of Education, which should play a role in providing teaching staff and relevant curricula.

This limited implementation of the right to education points to a gap in the juvenile criminal justice system, despite Indonesia's supportive international legal framework. The ratification of the Convention on the Rights of the Child emphasises that education is an integral part of the rehabilitation of children in conflict with the law. In addition, international instruments such as the Beijing Rules and Riyadh Guidelines provide guidelines for countries to prioritise education in the juvenile justice system. However, despite commitments at the national and international levels, the reality on the ground shows that implementation is often hampered by structural and administrative factors.

The impact of these implementation weaknesses is not only limited to the lagging behind of formal education for children in LPKA, but also creates challenges in their reintegration into society. The inability to provide education on par with other children puts children in LPKA in a more vulnerable position to social marginalisation and stigma. This contradicts the primary goal of the juvenile criminal justice system, which is humane and nondiscriminatory rehabilitation, giving children the opportunity to improve themselves and build a better future.

The interplay between legal arrangements, limited implementation, and the impact on children demonstrates the need for serious efforts to improve the system. A comprehensive approach that includes strengthening regulations, improving education infrastructure and inter-agency collaboration is needed to ensure that the right to education of children in conflict with the law is fulfilled. Without these concrete steps, the gap between legal arrangements and practices on the ground will continue to create injustice for children who should be protected by the state.

Policy Reconstruction to Fulfil the Right to Education for Children in Conflict with the Law

The importance of education as part of the rehabilitation of children in conflict with the law has been recognised both nationally and internationally (Miles & Singal, 2010). However, the implementation of the right to education in the Special Child Development Institute (LPKA) shows a significant gap between the existing legal framework and the practice in the field. Therefore, a comprehensive policy reconstruction is needed to ensure that the fulfilment of the right to education for these children does not only become a normative discourse but is also realised in practice.

The first step in policy reconstruction is to revise existing regulations, particularly Law No. 11/2012 on the Juvenile Criminal Justice System (SPPA Law). Currently, UU SPPA does not include formal education as a mandatory part of juvenile rehabilitation, so implementation in LPKA relies more on local initiatives. The revision of this law needs to include formal education as a key element in the rehabilitation process. With clear regulations in place, each LPKA will be required to provide formal education equivalent to the public-school curriculum, so that children in LPKA have equal opportunities to continue their education. In addition to the revision of regulations, it is necessary to strengthen the education infrastructure in LPKA. Many LPKAs do not have basic facilities such as classrooms, libraries, or laboratories. This condition makes foster children only get education that is theoretical and minimal practice. The government needs to allocate a special budget to build educational facilities in LPKA, including the provision of supporting facilities such as stationery, textbooks, and digital learning media. Adequate infrastructure will create a conducive learning environment for children, so that they can optimally participate in education despite their difficult situation.

Teaching staff is also an important component in policy reconstruction. Many LPKAs lack qualified teachers to provide formal education. To address this issue, closer collaboration between the Ministry of Education and the Ministry of Law and Human Rights is needed. The government can recruit specialised teachers to be placed in LPKA, as well as provide additional training to teachers so that they are able to face the challenges of teaching in a correction environment. With competent teaching staff, the quality of education provided to children in LPKA can be significantly improved.

Policy reconstruction should also include improved inter-agency coordination. Currently, weak cooperation between the Ministry of Law and Human Rights and the Ministry of Education is one of the main causes of the low quality of education in LPKA. This cooperation needs to be strengthened by establishing a special team tasked with ensuring that the implementation of education in LPKA is in accordance with established standards. This team could conduct regular monitoring to evaluate the progress of education in each LPKA and provide recommendations for improvement based on findings in the field. As an additional step, Indonesia could learn from successful international practices. For example, in Malaysia, juvenile rehabilitation centres provide formal education integrated with skills training. In Japan, children in correctional institutions continue to follow the public-school curriculum, so they are not left behind in the education process. Adapting these practices can help Indonesia create a more effective and inclusive education system in LPKA. In addition, policy reconstruction should also include efforts to reduce social stigma against children in LPKA. Stigma is often the biggest barrier for these children to return to society and continue their education. The government, together with the community, needs to launch a national campaign to raise awareness about the importance of giving children in conflict with the law a second chance. This campaign can involve schools, local communities and the media to create a supportive environment for these children.

With policy reconstruction that includes revising regulations, improving infrastructure, providing competent teaching staff, strengthening inter-agency coordination,

adapting international practices, and anti-stigma campaigns, the right to education of children in conflict with the law can be fulfilled optimally. These measures not only aim to provide access to education but also support the rehabilitation of these children as productive members of society. A proper education is key to unlocking better future opportunities for them, while reducing the risk of recidivism in the future.

Conclusion

Fulfilling the right to education for children in conflict with the law is an integral part of child protection guaranteed by national and international law. However, analyses show a gap between legal arrangements and their implementation in the field. Although Law No. 11/2012 on the Child Criminal Justice System (UU SPPA) and Law No. 22/2022 on Corrections have regulated the right to education, these regulations have not been fully translated into effective policies at the Special Child Development Institute (LPKA). Many foster children only receive non-formal education that is not equivalent to formal education, due to limitations in infrastructure, teaching staff, and coordination between institutions.

To address this challenge, a policy reconstruction is needed to ensure the fulfilment of children's educational rights in LPKA is optimal. This reconstruction includes revising regulations, particularly the SPPA Law, to include formal education as a mandatory element of child rehabilitation. In addition, improving educational infrastructure in LPKA, providing competent teaching staff, and strengthening coordination between agencies are strategic steps that must be taken. Learning from international practices in Malaysia and Japan, the education system in LPKA also needs to integrate formal curricula with skills training to ensure that children can compete socially and economically after reintegration.

The importance of anti-stigma campaigns cannot be overlooked either. Children in conflict with the law need community support to remove stigma and open their access to more inclusive education. With these measures, the right to education of children in LPKA can not only be fulfilled but also become an important instrument in the process of rehabilitation and social reintegration. These efforts will support the achievement of the goals of a just and humane juvenile justice system, while creating a more empowered young generation for the future of the nation.

Suggestion And Recommendation

To ensure the fulfilment of the right to education for children in conflict with the law, the government needs to revise Law No. 11/2012 on the Child Criminal Justice System (UU SPPA) by adding formal education as a mandatory element in the rehabilitation process at LPKA. In addition, improving educational infrastructure, such as classrooms, libraries, and digital learning media, should be a priority. The provision of these facilities needs to be supported by the provision of competent teaching staff through collaboration between the Ministry of Education and the Ministry of Law and Human Rights. The government can also learn from international practices, such as in Malaysia and Japan, which successfully provide formal education integrated with skills training in juvenile correctional institutions.

In addition to improving internal aspects, the government needs to initiate anti-stigma campaigns to encourage social acceptance of children in LPKA, so that they can better continue their education and reintegrate into society. Monitoring and evaluation mechanisms for education programmes in LPKA should also be strengthened to ensure that they are implemented according to standards. By collaborating with the private sector and NGOs, the government can support the provision of additional facilities or scholarship programmes for foster children. These measures are expected to create a more inclusive education system and serve as an important instrument in the rehabilitation of children, so that they can build a better future.

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