

Recognition of Child Placement Periods in LPKS as Part of Detention: Regulatory Disharmony and the Need for Legal Reconstruction

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Abstract

Ideally, every form of deprivation of liberty for children in conflict with the law, whether through detention in LPAS or placement in LPKS, should receive equal recognition within the framework of criminal procedure law. This principle aligns with the doctrine of the best interest of the child, which requires fair and consistent treatment standards across Indonesia. However, practice shows a lack of uniformity. Some law enforcement officers recognize placement in LPKS as part of detention, while others do not, due to the absence of explicit provisions in Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA). This situation creates legal uncertainty and double harm for children, both juridically and psychologically. This study aims to analyze the urgency of recognizing the period of placement in LPKS as part of detention by highlighting the disharmony between regulations and practice, while also offering regulatory reconstruction to ensure legal certainty. The methodology employed is library research with a qualitative approach, using a normative legal study with a descriptive-analytical method. The findings reveal a legal vacuum concerning the status of placement in LPKS, which has led to disharmony in various regions. Regulatory reconstruction is therefore necessary so that the placement period is recognized as part of detention, thereby ensuring the protection of children's rights, guaranteeing legal certainty, and fulfilling the primary objectives of the SPPA, namely rehabilitation and child protection.

Keywords: Recognition, Juvenile Justice, Regulatory Reconstruction.

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Abstrak

Idealnya, setiap bentuk pembatasan kebebasan anak yang berkonflik dengan hukum, baik penahanan di LPAS maupun penitipan di LPKS, harus mendapat pengakuan yang sama dalam hukum acara pidana. Prinsip ini sejalan dengan asas *the best interest of the child* yang menuntut standar perlakuan adil dan seragam di seluruh Indonesia. Namun, praktik menunjukkan adanya ketidakseragaman. Sebagian aparat penegak hukum mengakui masa penitipan sebagai bagian dari penahanan, sementara yang lain tidak, karena ketiadaan pengaturan eksplisit dalam Undang-Undang Nomor 11 Tahun 2012 tentang SPPA. Situasi ini menimbulkan ketidakpastian hukum dan kerugian ganda bagi anak, baik secara yuridis maupun psikologis. Penelitian ini bertujuan menganalisis urgensi pengakuan masa penitipan anak di LPKS sebagai bagian dari penahanan dengan menyoroti disharmoni regulasi dan praktik, sekaligus menawarkan rekonstruksi regulasi untuk menjamin kepastian hukum. Metodologi yang digunakan adalah penelitian pustaka dengan pendekatan kualitatif, melalui studi hukum normatif deskriptif-analitis. Hasil penelitian menunjukkan adanya kekosongan hukum terkait status penitipan di LPKS yang menimbulkan disharmoni di berbagai daerah. Diperlukan rekonstruksi regulasi agar masa penitipan diakui sebagai bagian dari penahanan, sehingga hak anak terlindungi, kepastian hukum terjamin, dan tujuan utama SPPA, yakni rehabilitasi serta perlindungan anak, benar-benar terwujud.

Kata Kunci: Pengakuan, Pidana Anak, Rekonstruksi Regulasi.

Introduction

Legal development in Indonesia is fundamentally directed toward achieving legal certainty, justice, and societal utility for all segments of the population. Within the context of child protection, these principles acquire particular significance, as children represent the future generation of the nation and must be treated in a fair and humane manner. The Juvenile Criminal Justice System (*Sistem Peradilan Pidana Anak—SPPA*) was established as part of a legal reform initiative that emphasizes that children in conflict with the law are not merely perpetrators of criminal acts, but individuals who retain the right to guidance, protection, and reintegration into society (Ghoni & Pujiyono, 2020). This protective paradigm is grounded in the universally recognized principle of *the best interest of the child*, which also constitutes the core spirit of Law Number 11 of 2012 on the Juvenile Criminal Justice System.

In the implementation of the SPPA, the practice of placing children in Social Welfare Organizing Institutions (*Lembaga Penyelenggaraan Kesejahteraan Sosial—LPKS*) has emerged as an alternative when facilities at Temporary Child Placement Institutions (*Lembaga Penempatan Anak Sementara—LPAS*) are unavailable. Substantively, such placement restricts the child's liberty, as the child is removed from their natural social environment, albeit under a rehabilitative label. In essence, the period of placement bears fundamental similarities to detention, as

both involve the deprivation of the child's freedom of movement (Aurellia & Wahyuningsih, 2024). However, within the framework of positive law, the legal status of placement periods in LPKS remains ambiguous, as not all law enforcement authorities recognize them as part of detention. This ambiguity gives rise to a compelling legal issue, namely how such placement periods should be treated within the juvenile criminal justice system.

Ideally, any form of liberty deprivation imposed on children in conflict with the law—whether through detention in LPAS or placement in LPKS—should receive equal legal recognition within the criminal procedural framework. This approach is consistent with the principle of legal certainty, which requires clear and uniform procedural standards across Indonesia. Such recognition is also essential to safeguard children's rights, as every day spent under restricted liberty should be taken into account in the final sentencing decision (Santoso et al., 2023). In this way, children are not disadvantaged either juridically or psychologically, and the rehabilitative process can continue in accordance with the objectives of the SPPA. In practice, however, significant inconsistencies persist. Some prosecutors issue formal placement orders for children placed in LPKS, thereby ensuring that the placement period is counted as detention, while others do not, effectively rendering the placement period legally inconsequential.

As a result, children in different regions may receive unequal treatment despite being in comparable legal circumstances. This regulatory disharmony is exacerbated by the absence of explicit provisions in the SPPA Law that comprehensively regulate the mechanism of child placement, while Minister of Social Affairs Regulation Number 26 of 2018—which contains technical guidelines—is often disregarded by law enforcement officials due to its perceived inferior hierarchical status compared to statutory law. This situation reflects not only a loss of legal certainty but also a neglect of the principle of justice (Putri et al., 2021). Children placed in LPKS experience a restriction of liberty, yet the placement period is not consistently recognized as part of detention. This condition results in a dual form of disadvantage: first, children endure social stigma and psychological pressure arising from the deprivation of liberty; second, they lose their entitlement to sentence reduction that should logically follow from any form of liberty deprivation. The gap between regulation and practice thus reveals a tangible legal vacuum, which ultimately undermines the function of the SPPA as an instrument of child protection.

This study aims to conduct an in-depth analysis of the urgency of recognizing periods of child placement in LPKS as part of detention, with particular attention to regulatory disharmony and inconsistencies in practice. It further seeks to propose a regulatory reconstruction that integrates the provisions of the SPPA Law with the technical regulations contained in the Minister of Social Affairs Regulation, thereby establishing a uniform and binding standard. Through this approach, every child in conflict with the law is expected to receive legal certainty and equitable treatment without interregional discrimination. The contribution of this research lies in two principal aspects. First, from a theoretical perspective, it enriches the discourse on juvenile criminal law by highlighting an underexplored legal gap, namely the legal status of placement periods in LPKS. Second, from a practical standpoint, this study offers concrete recommendations for policymakers

to revise or supplement the SPPA Law by explicitly regulating the recognition of placement periods as part of detention.

Literature Review

Scholarly discussions on the placement of children in LPKS and its relationship with detention are not entirely new. A number of studies have previously examined and published findings on this issue using various methods and analytical approaches. Ulfah Rahmah Wati, in her study entitled *“The Placement of Children in Conflict with the Law at the Youth Protection and Rehabilitation Center of Sleman”*, analyzes the practice of child placement at the Youth Protection and Social Rehabilitation Center (*Balai Perlindungan dan Rehabilitasi Sosial Remaja—BPRSR*) in Yogyakarta. The study finds that periods of child placement are not taken into account in reducing the criminal sanctions imposed on children, resulting in procedural injustice (U. R. Wati, 2021). The similarity between Wati’s research and the present study lies in their shared focus on the placement of children in conflict with the law. However, the distinction is that Wati’s research emphasizes the practical implementation of placement at BPRSR, whereas the present study underscores the importance of recognizing placement periods as part of detention within the framework of regulatory disharmony and child protection.

Genjah Pulung Jati and Fransisca Romana Harjiyatni, in their work entitled *“The Implications of Placing Children in Conflict with the Law at Youth Protection and Social Rehabilitation Centers on Judicial Decisions”*, examine how judges consider—or fail to consider—the placement period of children, depending on the completeness of placement orders issued by public prosecutors. Their principal finding reveals disparities in judicial decisions arising from the absence of clear legal certainty governing the formal recognition of placement periods (Jati & Harjiyatni, 2022). The similarity with the present study lies in the shared concern over placement practices and their legal implications. The difference, however, concerns the analytical focus: while Jati and Harjiyatni concentrate on the implications for judicial rulings, this study seeks to reconstruct the regulatory framework so that placement periods acquire a clear legal status as part of detention.

Wildan Tantowi, in his study entitled *“Problematics of the Duration of Detention for Children in Conflict with the Law (An Analysis of Decision No. 29/Pid.Sus-Anak/2018/PN.SMN)”*, provides an in-depth examination of issues related to the excessive duration of child detention beyond the legally prescribed limits. The study concludes that, in the case examined, the child should have been released by operation of law because the detention period had expired at the prosecution stage (Tantowi, 2021). The similarity between Tantowi’s research and the present study lies in their shared attention to issues of detention duration and the legal status of child detention. Nevertheless, the analytical emphasis differs: Tantowi focuses on the problem of detention time limits, whereas this study highlights the unresolved legal status of placement periods within Indonesia’s juvenile justice system.

Based on the literature review, it can be concluded that studies concerning the placement and detention of children have been widely conducted, addressing aspects such as placement practices, implications for judicial decisions, and problems related to detention duration. However, research that specifically and comprehensively examines the recognition of child placement periods in LPKS as an integral part of detention remains limited. This dimension is, in fact, crucial for ensuring legal certainty, procedural justice, and the protection of the rights of children in conflict with the law. Accordingly, the present study seeks to fill this gap by offering a novel contribution in the form of a regulatory reconstruction that formally recognizes placement periods in LPKS as part of detention within the juvenile criminal justice framework.

Research Methodology

This article constitutes a library-based study employing a qualitative approach. The methodology adopted is normative legal research, presented through a descriptive–analytical narrative (Benuf & Azhar, 2020). The primary sources of this study consist of relevant statutory regulations, including Law Number 11 of 2012 on the Juvenile Criminal Justice System (SPPA Law), the Indonesian Code of Criminal Procedure (*Kitab Undang-Undang Hukum Acara Pidana*—KUHAP), as well as technical regulations governing the roles of the Correctional Center (*Balai Pemasyarakatan*—Bapas) and Temporary Child Placement Institutions (LPAS/LPKS). Secondary sources are derived from peer-reviewed academic journals published within the last five years that address issues of child placement, detention, child protection, and legal theories concerning the protection of human rights, thereby providing a contemporary perspective for the analysis.

Data analysis is conducted through an in-depth examination of legal norms contained in the primary regulations, which are subsequently compared with scholarly findings from secondary sources in order to identify points of disharmony between regulatory frameworks and practical implementation. The data are analyzed using norm-based content analysis, whereby each relevant provision or article is systematically examined, compared, and synthesized in accordance with the research objectives. Data validation is ensured through source triangulation, achieved by cross-referencing statutory provisions with recent academic studies and judicial decisions as expressions of *living law*. The reliability of the data is reinforced through cross-confirmation among legal sources, ensuring that each conclusion rests on regulatory, academic, and empirical foundations. The narrative structure of the analysis follows an inductive pattern, beginning with a general discussion of the concepts of child placement and detention, narrowing to the specific issue of recognizing placement periods in LPKS, and culminating in a proposed model of regulatory reconstruction.

Procedures for the Placement of Children in Conflict with the Law

Within Indonesia's juvenile criminal justice system, two distinct mechanisms apply when a child comes into conflict with the law: detention and placement. Each mechanism is governed by different legal bases, procedures, and

consequences, particularly with regard to administrative treatment, the calculation of custodial periods, and the institutions in which children are accommodated (Sitompul et al., 2020). The placement of children in Social Welfare Organizing Institutions (*Lembaga Penyelenggaraan Kesejahteraan Sosial*—LPKS) constitutes an alternative option chosen by investigators when the child's condition does not allow for detention in a Juvenile Correctional Institution (*Lembaga Pembinaan Khusus Anak*—LPKA). This practice aims to prioritize the protection of children's rights, given that detention should serve as a measure of last resort (*ultimum remedium*) in handling juvenile cases.

The fundamental distinction between detained children and those placed in LPKS lies in age, the severity of the alleged offense, and administrative procedures. Detention is generally imposed on children aged 14 years or older who are suspected of committing offenses punishable by imprisonment of seven years or more, and it requires a formal detention warrant issued by investigators. In contrast, placement in LPKS applies to children aged between 12 and under 18 years and is administratively carried out through a placement request letter and a handover report, as stipulated in Article 11 of the Minister of Social Affairs Regulation Number 26 of 2018 (E. R. Wati, 2017). This distinction reflects the state's attempt to tailor legal responses by taking into account children's psychological conditions, age, and social circumstances. Interviews with the Women and Children Service Unit of the Bandung Metropolitan Police revealed that placement is considered more flexible, as investigators merely issue an exit or placement letter rather than a formal detention order. Such practice is categorized as an exercise of investigative discretion, as regulated under Law Number 30 of 2014 on Government Administration.

This discretionary authority is employed to address legal situations that are not explicitly regulated by statutory law, particularly in cases involving children who require a non-repressive approach. Accordingly, placement emphasizes social protection rather than punitive considerations. Nevertheless, the placement of children in LPKS is not without challenges. One of its principal shortcomings is the absence of formal recognition of placement periods as part of detention. When a child is detained in LPKA, the duration of detention is clearly calculated and regulated under the Juvenile Criminal Justice System Law (SPPA). Conversely, the time spent by a child in LPKS does not carry equivalent legal consequences. This situation potentially disadvantages children, as the period they undergo is not legally acknowledged, thereby giving rise to procedural injustice.

From an investigative perspective, decisions to place children in LPKS are generally based on practical and psychological considerations. Investigators often express concerns that children may abscond, tamper with evidence, or interfere with legal proceedings. At the same time, they take into account the limited capacity of parents or guardians to supervise the child. When families are unable to guarantee the child's availability throughout the legal process, placement in LPKS is viewed as a middle-ground solution. As a social institution, LPKS is considered better equipped to provide supervision and guidance, despite existing weaknesses in formal legal procedures. At the prosecution stage, this placement practice frequently continues. Informants from the Bandung District Prosecutor's Office explained that prosecutors generally maintain the child's status as

determined by investigators (Senandi & Krey, 2025). If investigators place a child in LPKS, prosecutors tend to uphold that placement. However, problems arise because prosecutors often fail to issue formal placement orders. Instead, placement is frequently arranged through informal communication with LPKS authorities. Consequently, there is no official administrative document that judges can rely upon to calculate placement periods as part of detention.

This administrative vacuum constitutes the core problem in the procedure for placing children in LPKS. On the one hand, placement is regarded as more humane because it does not formally stigmatize the child as a detainee. On the other hand, the absence of official documentation renders the placement period a form of “lost time” from a legal perspective. Children experience restrictions on their liberty without corresponding administrative recognition, thereby undermining the principle of legal certainty. Legal certainty is a fundamental principle within the juvenile criminal justice system. Without formal documentation, legal protection for placed children becomes fragile. In the long term, this condition may generate injustice, as placed children risk serving longer periods of liberty deprivation than those who are formally detained in LPKA. Therefore, procedural reform is required to mandate prosecutors to issue formal placement orders that can serve as a legal basis for judicial consideration.

In addition, ethical and psychological dimensions must not be overlooked. Placement in LPKS is fundamentally intended to provide a more conducive environment than LPKA, which is commonly associated with detention. However, without a clear legal foundation, a child’s presence in LPKS may be perceived as an unlawful form of liberty deprivation. This perception can trigger trauma and feelings of injustice among children undergoing legal proceedings (Rosmala et al., 2024). From a social perspective, LPKS plays a strategic role in guiding children in conflict with the law. These institutions function not merely as placement facilities, but also as centers for rehabilitation and educational development, enabling children to reintegrate into society more effectively. Nevertheless, for this role to operate optimally, the state must ensure that placement procedures possess strong legal legitimacy. Without such legitimacy, the rehabilitative function of LPKS remains questionable, as children continue to exist in a state of legal uncertainty.

Implementation of Child Placement in LPKS: Disharmony Between Legal Practice and Child Protection

The implementation of child placement in Social Welfare Organizing Institutions (*Lembaga Penyelenggaraan Kesejahteraan Sosial*—LPKS) within the context of juvenile criminal cases remains a practice fraught with significant legal challenges. One of the main issues concerns the ambiguous status of placement as part of the juvenile justice system, particularly regarding the reduction of custodial periods in judicial sentencing. In principle, Indonesia’s juvenile criminal justice system is designed to prioritize the best interests of the child, so that every mechanism applied should align with the principles of justice, utility, and legal certainty (Budiarta & Susrama, 2023). However, in practice, child placement lacks a firm legal basis to be recognized as a mitigating factor in sentencing. This situation has sparked debate among practitioners and scholars regarding its

legality and raises questions about how children's rights are truly protected when their freedom is restricted during placement without formal legal recognition.

Juvenile criminal proceedings differ fundamentally from adult criminal trials, both administratively and substantively. Juvenile cases are separated from general criminal cases from the outset, handled by certified juvenile court judges, and conducted in closed court sessions to protect children's privacy. These mechanisms affirm that children are not merely seen as offenders but also as individuals entitled to protection from the state. However, when a child is placed in LPKS during the investigation or prosecution stage, a new problem arises due to the unclear legal status of the placement. Placement is not explicitly mentioned in statutory regulations, so when cases reach the sentencing stage, the time spent in LPKS cannot be normatively considered for sentence reduction. This ambiguity reflects a regulatory gap that creates a legal dilemma.

Judges in juvenile cases are expected to consider not only punitive measures but also rehabilitative factors. Considerations such as probation reports, family conditions, social background, and the child's psychological profile are intended to ensure that the judgment is educational in nature and prioritizes the child's best interests (Abdelmufti & Delmiati, 2025). However, because placement in LPKS is not formally categorized as detention, judges lack a legal basis to count this period as part of the imposed sentence. Consequently, even though children lose their freedom and face restrictions during placement, this period is not recognized as a mitigating factor in sentencing. This situation gives the impression that the time spent in LPKS becomes "lost time" without juridical significance.

Concrete examples of this problem can be observed in court decisions, such as Decision No. 6/Pid.Sus-Anak/2025/PN.Blb and Decision No. 12/Pid.Sus-Anak/2024/PN.Blb. In both cases, it is evident that the time children spent in LPKS was not considered by the judges as a reduction in sentence. Children who had undergone placement still bore the full penalty, as if they had never experienced any restriction of liberty. This creates legal uncertainty and undermines the principle of child protection, as the time already served is not acknowledged within the punitive process. Substantively, this situation illustrates a gap between the ideal vision of a juvenile justice system grounded in the best interests of the child and the rigid practice of courts strictly adhering to statutory texts.

From a normative perspective, this issue stems from the absence of explicit provisions in Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA Law) and in the Indonesian Code of Criminal Procedure (KUHAP) regarding the status of placement. While the SPPA Law regulates detention periods and their consideration in sentencing, it makes no reference to placement. Placement practices in LPKS mostly originate from investigator and prosecutor discretion, supported administratively by Minister of Social Affairs Regulation No. 26 of 2018 (Septiany & Septianita, 2024). Because placement is based solely on administrative regulations, it lacks the same legal force as formal detention, which explains why judges are reluctant to treat it as a basis for sentence reduction. This legal vacuum clearly demonstrates weak harmonization between administrative regulations and criminal procedural law.

A similar perspective was expressed by Zulfikar Siregar, a juvenile court judge in Bandung. He emphasized that sentence reductions can only occur if there

is formal detention regulated by clear legal norms. According to him, to date, no court decision has recognized time spent in LPKS as a mitigating factor. Even when prosecutors include placement letters in case files, judges still do not consider them, as there is no normative provision justifying such recognition. This statement confirms the existence of a real legal void, where children who have lost their freedom receive no legal acknowledgment for the period spent in placement. Consequently, the primary goal of child protection within the juvenile justice system is not optimally achieved.

From the perspective of justice, this condition is highly problematic. Children who have undergone restricted freedom in LPKS have effectively lost fundamental rights, such as freedom of movement and social interaction. Yet, when this period is not legally recognized, they endure a “double penalty”: first, the restriction of liberty during placement, and second, the full criminal penalty imposed by the judge. This situation contravenes the principle of *the best interest of the child*, which mandates that all legal mechanisms prioritize the welfare of the child above all else (Darwanta, 2020). Rather than providing protection, this practice prolongs the child’s suffering and adds psychological burdens that may affect their rehabilitation process.

Sociologically, placement in LPKS is intended as a more humane alternative to detention in Juvenile Correctional Institutions (LPKA). LPKS is expected to provide a more rehabilitative environment, with guidance, counseling, and caregiving programs that support the child’s development. However, without legal recognition, placement risks becoming a source of uncertainty. Children in LPKS do not know precisely how long they will remain, and upon sentencing, this period is deemed irrelevant. This not only affects children psychologically but also generates a profound sense of injustice for both children and their families, potentially eroding their trust in the legal system.

From a normative standpoint, Article 14(2) of Law No. 48 of 2009 on Judicial Power requires judges to render decisions that are rational, fair, and guided by conscience. Within this framework, judges theoretically have discretion to consider time spent in LPKS as a mitigating factor, even if it is not counted as formal detention. In practice, however, this discretion is rarely exercised, as judges tend to adhere strictly to the written law (Sitanggang & Cahyaningtyas, 2020). From a progressive legal perspective, non-normative considerations like these are crucial to safeguarding children’s rights in the juvenile justice process.

The broader implication of this practice is the erosion of legal certainty for children. Placed children occupy an ambiguous status: they are neither fully free nor formally detained. This legal vacuum can produce structural injustice, where children lose the right to recognition for the period of liberty deprivation already served. If left unaddressed, this situation may weaken the legitimacy of the juvenile justice system, signaling that the law does not genuinely prioritize child protection. This underscores the urgent need for comprehensive regulatory reform. New regulations must ensure that time spent in LPKS is recognized in judicial consideration, either as direct sentence reduction or as a mitigating factor.

Such reform is essential to close legal gaps, strengthen legal certainty, and ensure that the principle of child protection is upheld at every stage of the juvenile justice process. Without regulatory updates, placement risks being a mere

restriction of freedom without legal benefit, undermining the rights that the state is obligated to protect. Therefore, the current practice of child placement in LPKS, which is not recognized as part of the custodial period, exemplifies the disharmony between legal practice and child protection (Septiany & Septianita, 2024). While judges theoretically have room for progressive interpretation to safeguard the child's best interests, such discretion is difficult to exercise without an explicit legal basis. If the juvenile justice system is to genuinely serve children, regulations concerning placement must be strengthened so that no child suffers from a legal vacuum that contradicts the child protection principles that form the cornerstone of the SPPA.

The Urgency of Recognizing the Placement Period of Children in LPKS as Part of Detention

The placement of children in conflict with the law in Social Welfare Organizing Institutions (*Lembaga Penyelenggaraan Kesejahteraan Sosial*—LPKS) essentially constitutes a restriction of a child's freedom, even though procedural criminal law terminology does not always categorize it as detention. This practice arises due to limitations in facilities, such as Temporary Child Placement Institutions (*Lembaga Penempatan Anak Sementara*—LPAS) in many regions, making LPKS the chosen alternative. However, problems emerge when the time spent in placement is not legally recognized as part of formal detention (Zenegger et al., 2024). Consequently, the period children spend in LPKS appears to “disappear” and is not taken into account in judicial sentencing. This situation presents a serious concern, as from a human rights perspective, children experience restrictions on freedom that have psychological, social, and even physical impacts comparable to formal detention. Therefore, the recognition of placement periods in LPKS can no longer be overlooked.

The ambiguous status of placement periods in LPKS opens the door to violations of the principles of legal certainty and justice. Within criminal law, any form of liberty restriction must be clearly regulated, including procedures, duration, and recognition in legal decisions. In practice, however, LPKS placement is often treated as a legal gray area, as not all law enforcement officers include it in the calculation of custodial periods. This results in children in similar situations receiving different treatment depending on the region and the officers handling their case. As a result, the principle of *equality before the law* is undermined. The urgency of recognizing LPKS placement is not merely a technical administrative correction but a reaffirmation of the fundamental principle that the law must provide equal treatment to all citizens, including children.

Furthermore, the lack of recognition of placement periods can adversely affect children in two dimensions: juridical and psychological. From a juridical perspective, children lose the right to sentence reduction based on the time they have already experienced restricted freedom. Criminal law principles of fairness require that each day served under liberty restriction should be accounted for. Psychologically, children face mental stress due to uncertainty regarding the duration of their legal process (Tantowi, 2021). Children placed without clear legal status may experience “double incarceration”: first during the unrecognized

placement period, and second during formal detention calculated only after the court decision is rendered. This dual burden clearly contradicts the rehabilitative aim of the juvenile criminal justice system, which prioritizes correction and reintegration rather than punishment.

From a child protection perspective, the unclear status of placement undermines the principle of *the best interest of the child*, which constitutes the essence of Indonesia's Juvenile Criminal Justice System Law (UU SPPA). Any policy concerning children should prioritize their best interests for growth and development. By failing to recognize LPKS placement as part of detention, the state indirectly neglects children's right to fair treatment. Recognition of placement periods ensures that children in LPKS are respected as legal subjects with rights, rather than merely as objects of criminal procedures. Therefore, the urgency of this recognition is closely linked to the fulfillment of children's rights comprehensively—legally, socially, and humanely. Substantive justice, as emphasized by Satjipto Rahardjo, requires law to serve humans, not the other way around. When legal gaps cause harm to children, the state has an obligation to correct them, ensuring that law delivers justice beyond textual existence.

Recognizing the placement period in LPKS as part of detention constitutes a necessary corrective measure. It is not solely a technical juridical matter but a question of how law humanizes children. Clear regulation will prevent disparities in treatment across regions and ensure that every child has the opportunity to undergo legal processes fairly and with dignity (Supriyatna et al., 2023). This urgency is also tied to the rehabilitative goals of the juvenile justice system. Placement in LPKS should be oriented toward guidance, psychosocial support, and preparation for social reintegration. However, when the period is not legally recognized, the rehabilitative orientation loses its meaning, as placement is viewed merely as a waiting period before formal detention. If acknowledged, the placement period can legitimately count as part of the rehabilitation process, ensuring that children are not subjected to arbitrary treatment. Recognition thus makes rehabilitation more coherent and consistent with the objectives of the UU SPPA.

Regulatory Reconstruction for Child Protection and Legal Certainty

The development of high-quality human resources represents a fundamental pillar for the nation's future sustainability. In this context, children are considered vital assets who will eventually continue national development. Protecting children from physical, psychological, and social threats is a critical priority that cannot be compromised. However, in practice, efforts to guide and rehabilitate children face significant challenges. Globalization, technological advances, and shifts in societal values often lead to behavioral issues among children. Some cases even push children toward criminal activities, requiring the state to act firmly yet humanely. This serious challenge necessitates regulatory reconstruction to ensure that child protection is not merely a normative discourse but is concretely embedded in the national legal system.

Law No. 11 of 2012 on the Juvenile Criminal Justice System (*Undang-Undang Sistem Peradilan Pidana Anak*, UU SPPA) embodies legal reform aimed at

emphasizing a protective paradigm for children in conflict with the law. Article 2 of UU SPPA explicitly enshrines the principle of the best interest of the child as the primary guideline in handling juvenile cases. This mandates the state to guarantee children's rights, both as victims and as offenders, to receive fair, appropriate, and humane treatment. However, in implementation, attention often focuses on child victims, while child offenders are frequently treated merely as objects of punishment (Wulandari, 2022). This creates imbalance, whereas the justice principle intended by UU SPPA requires a balance between the rights of children, victims, and societal interests. Regulatory reconstruction is therefore essential to ensure that this principle is genuinely operational in legal practice.

In terms of justice, handling juvenile cases should not be limited to delivering proportionate punishment but must also emphasize rehabilitation and social reintegration. Children who commit offenses should be redirected toward constructive paths rather than being condemned to social stigma that hinders their future. Thus, the juvenile justice system must integrate protection with education. This necessitates regulations capable of balancing legal certainty with substantive justice. Unfortunately, from investigation to prosecution stages, procedural inconsistencies are often found that weaken children's rights. One example is the placement of children in Social Welfare Organizing Institutions (LPKS), which continues to exhibit legal gaps and inconsistent implementation.

The juvenile criminal justice process involves complex stages. After police investigation, cases move to prosecution under the authority of the public prosecutor. At this stage, a significant problem emerges: some prosecutor offices attach formal placement letters when committing children to LPKS, while others do not. In some cases, placement occurs solely through informal communication without written documentation. This inconsistency clearly produces legal uncertainty. Children placed in LPKS lose their freedom, yet the placement period is not recognized as part of detention (U. R. Wati, 2021). This creates a dual disadvantage: children experience restricted liberty while also lacking legal recognition for the time served.

UU SPPA provides only general provisions, such as Article 33 paragraph (5), stating that if no Temporary Child Placement Institution (LPAS) exists, detention can be conducted at the local LPKS. However, this article does not elaborate on the mechanism of child placement, leaving room for wide interpretation. Consequently, field practices are not uniform and rely on the discretion of law enforcement officials. From an administrative law perspective, discretion should only be applied in cases of normative gaps. If this gap is left unaddressed, law enforcement concerning children will lack standardization, and legal certainty will remain unattained. Hence, regulations must be reconstructed to be clearer, more detailed, and binding.

As a technical regulation, Minister of Social Affairs Regulation No. 26 of 2018 (*Permensos*) was enacted, providing detailed procedures for child placement. *Permensos* requires administrative documents such as placement request letters, handover reports, joint statements on child safety, case summaries, and social worker reports. Article 11 paragraph (3) even regulates placement duration at each stage of the legal process, essentially aligning with UU SPPA's provisions on detention periods (Fikri, 2020). Nevertheless, field evidence shows that law

enforcement often does not prioritize Permensos as a primary guideline. Some view it as inferior to UU SPPA, leading to its neglect in practice. This underscores the need for regulatory harmonization.

Field findings reveal disparities in practice among prosecutor offices. For instance, Bandung District Prosecutor's Office does not attach placement letters, whereas Karawang District Prosecutor's Office does. These differing practices create inconsistencies between regulation and implementation. Legal principles demand uniform treatment to achieve substantive justice. Such disparities violate the principle of *equality before the law* and can erode public trust in law enforcement institutions. Therefore, regulatory reconstruction must aim to establish uniform procedural standards nationwide.

In legal theory, the perspectives of Satjipto Rahardjo and Sudikno Mertokusumo illustrate this issue clearly. Rahardjo emphasizes that law should serve substantive justice, not merely provide normative certainty. Mertokusumo, on the other hand, stresses that legal certainty can only be achieved through consistent enforcement of written rules. In the context of child placement, these two perspectives complement each other. Regulatory reconstruction must ensure that the law not only exists as written rules but also delivers real justice to children in conflict with the law. When written rules are inconsistently applied, the sense of justice for the child is lost.

Beyond normative aspects, regulatory reconstruction must also reflect fundamental values mandated by Pancasila. The second principle, "Just and Civilized Humanity," requires that all citizens, including children, receive fair and dignified treatment (Saraswati et al., 2025). Placement in LPKS that is not recognized as detention clearly contradicts this principle, as children are treated as if deprived of their rights as legal subjects. Consequently, they face a dual burden: their freedom is restricted without legal acknowledgment. Such injustice risks eroding children's trust in the legal system and weakens the rehabilitative objectives of the juvenile justice system.

This legal uncertainty also affects children psychologically. Those placed in LPKS without clear legal status often experience confusion, stress, and trauma. They do not know when their placement will end or whether the period will be considered in court decisions. This uncertainty can hinder rehabilitation and social reintegration, which are primary goals of juvenile justice. Clear and consistent regulations are therefore crucial not only from a normative standpoint but also for the child's psychological development. Regulatory reconstruction offers a pathway to mitigate these negative impacts.

Proposed solutions include harmonization between UU SPPA and Permensos 26/2018 and amendments to UU SPPA itself. Harmonization is necessary to ensure that technical provisions in Permensos are recognized in the law, eliminating discrepancies in field interpretation (Rahmadani et al., 2023). Amendments to UU SPPA should clearly define "placement," establish formal procedural documentation by authorized officials, and recognize placement periods as part of detention.

Such reform will create consistency, close legal gaps, and strengthen child protection. Law enforcement will have a solid juridical basis to carry out their duties without infringing on children's rights. Regulatory reconstruction is not

merely a technical agenda but a reflection of the state's commitment to safeguarding children's rights. Protection and legal certainty must go hand in hand so that the juvenile justice system can truly deliver substantive justice. Harmonious and comprehensive regulations will provide certainty for law enforcement while ensuring protection for children in conflict with the law. Regulatory reconstruction thus becomes a gateway to establishing a more humane, just juvenile justice system aligned with Pancasila values. Consistent implementation ensures that children who have conflicted with the law still have opportunities to grow into responsible, high-quality future generations.

Conclusion

The practice of placing children in Social Welfare Organizing Institutions (LPKS), which arises due to the limited availability of Temporary Child Placement Institutions (LPAS), is substantively equivalent to detention, as both involve restrictions on the child's freedom. However, the absence of explicit provisions in the Juvenile Criminal Justice System Law (UU SPPA) regarding the recognition of placement periods as part of detention creates disharmony in implementation. Law enforcement officers across different regions apply varying standards, resulting in children's rights to legal certainty and equal protection being neglected. This situation has both juridical and psychological implications for the children and undermines the principle of *the best interest of the child*, which is the cornerstone of the juvenile justice system. Based on these findings, a regulatory reconstruction is necessary to explicitly recognize the placement period in LPKS as part of detention. Such reconstruction can be achieved through amendments to UU SPPA or through normative integration with the Minister of Social Affairs Regulation (Permensos) to establish uniform, binding, and equitable legal standards across Indonesia. With this recognition, every restriction of a child's freedom will no longer constitute a double burden but will instead be proportionally accounted for in the final sentence.

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