

INCONSISTENCIES IN THE APPLICATION OF ARTICLE 71 PARAGRAPH (3) OF THE JUVENILE JUSTICE SYSTEM ACT IN CRIMINAL VERDICTS AGAINST CHILDREN: A NORMATIVE REVIEW OF THE KALABAHI, ATAMBUA, AND AMBON DECISIONS

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ABSTRACT

This study examines the implementation of Article 71 paragraph (3) of Law No. 11 of 2012 concerning the Juvenile Justice System (UU SPPA), which regulates the replacement of criminal fines with work training in cases involving juvenile offenders. This provision aims to ensure fairer protection for children through a corrective, recovery oriented approach. The research employs a normative legal method, combining statutory and case based approaches, and analyzes three first instance court decisions from Kalabahi, Atambua, and Ambon. The findings reveal inconsistencies in the application of the provision, as not all verdicts fully adhere to the mandated substitution of fines with work training as stipulated in the UU SPPA. These disparities highlight the need for greater uniformity and comprehension of the applicable norms to guarantee optimal protection of children's rights. Work training should not be viewed merely as an alternative sanction but as a rehabilitative measure aligned with the principles of restorative justice. This study recommends the development of technical guidelines and the strengthening of institutional capacity to support sanctions that uphold child protection and sustainable justice values.

Keywords: *Inconsistency, Article 71 paragraph 3 of the Child Justice System Law, Criminal, Children*

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INTRODUCTION

Children are entrusted by God and possess immeasurable value; therefore, they must be nurtured with care and affection to develop into individuals of good character. Recognizing that children inherently possess dignity and human value from birth, they deserve to be treated fairly and without discrimination. Furthermore, children play a vital role as heirs to the nation's foundational values and serve as the cornerstone for building a brighter future. Issues

concerning the juvenile justice system in Indonesia remain a critical focus in the broader agenda of national legal reform.¹

In the preambular consideration point (d) of Law No. 11 of 2012 on the Juvenile Justice System (commonly referred to as the UU SPPA), it is stated that Law No. 3 of 1997 on Juvenile Courts is no longer adequate in addressing the demands of contemporary developments and the evolving legal needs of society. This inadequacy stems from the fact that the former legislation failed to ensure comprehensive protection for children in conflict with the law, thus necessitating the establishment of a new, more responsive and comprehensive legal framework on child protection.

Although the UU SPPA introduces significant improvements, it does not provide detailed provisions on the specific forms of work training intended as criminal sanctions. This stands in contrast to Law No. 3 of 1997, whose explanatory section explicitly stated that the aim of work training is to equip children with practical skills, such as carpentry, agriculture, mechanical repair, or cosmetology. The absence of similar elaboration in the current law has resulted in the implementation of work training being left to the discretion of individual institutions, without standardized operational guidelines.²

Within the framework of national law, the Juvenile Justice System Act (UU SPPA) provides a definition of Children in Conflict with the Law (Anak yang Berhadapan dengan Hukum or ABH) under Article 2, which includes children who are suspected, accused, or charged with committing a criminal offense, as well as children who are victims or witnesses of a crime. This provision illustrates that the legal approach to children extends beyond those who commit offenses and also encompasses the protection of children as victims and witnesses.³

As a form of safeguarding children's rights, the UU SPPA does not solely rely on a repressive legal approach but instead emphasizes restorative and educational principles. The imposition of sanctions on ABH is intended to serve as part of a rehabilitative process that respects the dignity and worth of the child, rather than punitive measures. This is consistent with the principle of restorative justice, which serves as a foundational concept in Indonesia's juvenile justice system.⁴

Within the framework of national law, the Juvenile Justice System Act (UU SPPA) defines "Children in Conflict with the Law" (Anak yang Berhadapan dengan Hukum or ABH) in Article 2 as encompassing children who are suspected, accused, or charged with committing a criminal offense, as well as those who are victims or witnesses of a crime. This regulation reflects a legal approach that is not solely focused on child offenders but also extends to protecting children as victims and witnesses.

As a form of protection of children's rights, the UU SPPA does not rely solely on a repressive legal approach, but rather emphasizes the importance of restorative and educational methods. Sanctions imposed on children in conflict with the law are intended to form part of a rehabilitative process that respects the dignity and humanity of the child, rather than serving as

¹ Djamil, M. Nasir. *Anak Bukan Untuk Dihukum: Catatan Pembahasan UU Sistem Peradilan Pidana Anak (UU-SPPA)*. Jakarta: Sinar Grafika, 2013, hlm. 3.

² Sulistio, Ningrum, dan Trisno Raharjo. *Pelaksanaan Pidana Pelatihan Kerja Terhadap Tindak Pidana Pencabulan oleh Anak di Balai Perlindungan dan Rehabilitasi Sosial Remaja*, Indonesian Journal of Criminal Law and Criminology (IJCLC), Vol. 1, No. 2, Juli 2020, hlm. 90.

³ Jailani, Muhammad. *Sistem Peradilan Pidana Anak di Indonesia*. Selong: CV Garuda Ilmu, 2018, hlm. 19.

⁴ Muhammad, Rusli. *Sistem Peradilan Pidana Anak di Indonesia*. Yogyakarta: FH UII Press, 2020, hlm. 19.

punitive measures. This aligns with the principle of restorative justice, which serves as the foundation of the juvenile justice system in Indonesia.

The failure to implement this norm reflects a deviation from the imperative provisions of the Juvenile Justice System Act (UU SPPA), which are legally binding. This situation raises concerns not only about the consistency of norm application by judicial authorities but also about the effectiveness of legal protection for children. When judges disregard provisions specifically designed to ensure special and humane treatment for children, it risks undermining both the principle of legal certainty and the broader objective of achieving substantive justice within the juvenile sentencing system.⁵

To assess the conformity of the implementation of Article 71 paragraph (3) of the Juvenile Justice System Act (UU SPPA) in judicial practice, this study analyzes three court decisions involving the sentencing of children convicted of sexual offenses. First, in Decision No. 1/Pid.Sus-Anak/2019 of the Kalabahi District Court, the panel of judges sentenced the child to four years' imprisonment and imposed a criminal fine of IDR 100,000,000. The ruling stated that if the fine was not paid, the child would serve a substitute custodial sentence of three months. This sanction structure reflects the application of general criminal law, which allows for cumulative penalties. However, in juvenile cases, a special provision should apply eliminating fines and replacing them with work training.⁶

Second, Decision No. 03/Pid.Sus.Anak/2018 of the Atambua District Court follows a similar pattern. The court sentenced the child to imprisonment and imposed a fine of IDR 60,000,000, to be replaced by two months of imprisonment if unpaid. This sentencing model clearly contradicts the *lex specialis* principle enshrined in the UU SPPA, which requires work training to substitute any monetary penalty imposed on children.⁷

Third, in Decision No. 3/Pid.Sus/2020 of the Ambon District Court, the child was sentenced to imprisonment and fined IDR 200,000,000, with the stipulation that if the fine was unpaid, it would be replaced with three months of work training at a Social Welfare Organizing Institution (LPKS). Although work training was included in the ruling, the fine remained the primary sanction, making the application of work training conditional. This approach conflicts with the mandate of Article 71 paragraph (3), which requires the immediate substitution of fines with work training, positioning it as a standalone sanction specifically intended for children.⁸

METHOD

This research adopts a normative legal approach, which views law as a system of norms.⁹ The approaches used include a legislative approach, namely Article 71 paragraph (3) of Law No. 11 of 2012 concerning SPPA and a case approach, namely court decisions in cases of child sexual intercourse.¹⁰

The sources of data in this study consist of primary legal materials, namely statutory regulations specifically Law No. 11 of 2012 on the Juvenile Justice System and three court decisions: Decision No. 3/Pid.Sus/2020/PN.Amb, Decision No. 1/Pid.Sus-Anak/2019/PN.Klb,

⁵ Herniwati, *Buku Ajar Hukum Pidana Anak*, Yogyakarta: Zahir Publishing, 2021, hlm. 118.

⁶ Putusan Pengadilan Negeri Kalabahi Nomor 1/Pid.Sus-Anak/2019/PN.Klb., hlm. 30.

⁷ Putusan Pengadilan Negeri Atambua Nomor 03/Pid.Sus.Anak/2018/PN.Atb., hlm.

⁸ Putusan Pengadilan Negeri Ambon Nomor 3/Pid.Sus/2020/PN.Amb., hlm. 22.

⁹ Fajar, Mukti ND, dan Yulianto Achmad. *Dualisme Penelitian Hukum Normatif dan Hukum Empiris*. Yogyakarta: Pustaka Pelajar, 2010.

¹⁰ Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group, 2005.

and Decision No. 03/Pid.Sus.Anak/2018/PN.Atb. Secondary legal materials include relevant legal literature on the juvenile justice system and the theory of child protection. Data collection was carried out through library research, and the data were analyzed using normative qualitative methods, applying both prescriptive and teleological analysis techniques.

DISCUSSION

Normative Regulations of Article 71 Paragraph (3) of the Child Criminal Justice System Law

Article 71 paragraph (3) of the Juvenile Justice System Act (UU SPPA) contains an imperative provision within the framework of juvenile sentencing. It explicitly stipulates that when substantive criminal law prescribes a cumulative sanction of imprisonment and a fine, the fine must be replaced by work training. This provision departs from the general norms of the Indonesian Penal Code (KUHP), which allow for both imprisonment and fines to be imposed concurrently, and permits the substitution of fines with imprisonment.¹¹

The clause in Article 71 paragraph (3) should not be viewed merely as a technical procedural rule, but rather as a normative principle with philosophical significance. It reflects a paradigm shift from retributive punishment toward a model that prioritizes rehabilitation and restoration. This paradigm aligns with the principle of the best interests of the child, which emphasizes the need for maximum protection for children during legal proceedings and seeks to avoid the harmful consequences of excessive penal measures.¹²

The phrase “accompanied by additional penalties and/or measures” in Article 71 paragraph (3) further indicates that the principal punishment cannot stand alone. This demonstrates that sentencing for juvenile offenders must involve at least two components: a main penalty and an additional penalty or corrective measure focused on rehabilitation.

Imprisonment is not considered an ideal form of punishment for children, as it can hinder their development and cause serious psychosocial harm. Children sentenced to prison face risks of violence, stigma, and discrimination, including being labeled as former convicts. Both international and national legal frameworks agree that imprisonment should be a measure of last resort for children in conflict with the law. This approach is embodied in the principle of restorative justice and the best interests of the child, which serve as the foundation of the juvenile sentencing system. The UU SPPA explicitly promotes the replacement of repressive sanctions with alternative forms of punishment, such as work training, which are better suited to the developmental needs of children and reduce the risk of future social marginalization.¹³

The exclusion of fines from the juvenile sentencing system is grounded in the assumption that children generally lack independent economic capacity. The imposition of monetary penalties is deemed inappropriate and may unfairly burden families or third parties, ultimately resulting in structural injustice for children from economically disadvantaged backgrounds. The substitution of fines with imprisonment commonly applied in adult criminal law also contradicts the spirit of the Juvenile Justice System Act (UU SPPA), which designates custodial sentences as a last resort.

¹¹ Badan Pembinaan Hukum Nasional Kementerian Hukum dan HAM RI. Analisis dan Evaluasi Hukum dalam Rangka Membangun Sistem Hukum Pidana Anak. Jakarta: BPHN Kemenkumham RI, 2017, hlm. 165.

¹² Aprilianda, Nurini. Alternatif Model Pembinaan Anak Berbasis Pendidikan Layak Anak dalam Sistem Pemasarakatan. Makalah disampaikan pada FGD Model Pembinaan Anak Berbasis Pendidikan Layak Anak dalam Sistem Pemasarakatan, BPHN, Jakarta, 2014, hlm. 11.

¹³ Diarsa, Trian Yuli dan Sarwirini, Menggali Hakikat dan Makna Pidana Peringatan sebagai Pidana Pokok dalam Sistem Peradilan Pidana Anak, Media Iuris, Vol. 5, No. 3, 2022, hlm. 500.

In practice, judges retain discretionary authority to impose work training based on three primary elements: the facts and circumstances of the offense and the child, legal issues arising from the facts including motives and methods and the applicable legal provisions. This approach indicates that judicial discretion extends beyond written norms and includes consideration of the individual characteristics of children in conflict with the law. Therefore, it is essential for judges to treat work training not merely as a technical substitute but as a rehabilitative effort, aimed at equipping children with skills that enable their reintegration into society in a productive and law-abiding manner.¹⁴

Through the mechanism of work training, children in conflict with the law are expected to acquire practical skills and knowledge that can support their reintegration into society. This is crucial, given that children are not merely subjects of criminal acts but are individuals in the process of growth and development, entitled to specific rights that must be respected. However, the implementation of work training as an alternative sentence must be designed in a proportional and child sensitive manner. The fulfillment of children's rights such as the right to education, protection from exploitation, and healthy development remains a critical boundary in the execution of such sanctions. Work training must not devolve into a disguised form of physical punishment or exploitation. It must be structured as a rehabilitative program that educates and strengthens the child's individual capacity.¹⁵

In comparison to Article 10 of the Indonesian Penal Code (KUHP), which recognizes four types of principal penalties namely, capital punishment, imprisonment, confinement, and fines the sentencing system under Law No. 11 of 2012 on the Juvenile Justice System (UU SPPA) is more aligned with the principles of child protection. The UU SPPA explicitly excludes the death penalty and life imprisonment for children, as such sanctions are incompatible with the objectives of rehabilitation, recovery, and social reintegration. Children are regarded as legal subjects in a developmental stage, both physically and mentally, and sentencing practices must be oriented toward character building rather than repressive punishment. In this framework, financial penalties such as fines are inconsistent with the philosophy of juvenile sentencing because they impose a disproportionate burden on the child and their family. Consequently, Article 71 paragraph (3) of the UU SPPA explicitly mandates that criminal fines be replaced with work training. This provision embodies the legal system's rejection of punitive measures that fail to provide avenues for the correction and development of children.¹⁶

From the perspective of harmonization with international instruments, Article 71 paragraph (3) of the UU SPPA is in line with the principles of the Convention on the Rights of the Child and the Beijing Rules, which require that children in conflict with the law be treated in ways that safeguard their physical, psychological, and moral development. The provision affirms a fundamental differentiation between the approach to juvenile and adult sentencing, both in substance and in objective.

¹⁴ Ramadhan, Syahri, dan M. Iqbal. Penjatuhan Sanksi Pidana Pelatihan Kerja terhadap Anak yang Berhadapan dengan Hukum (Suatu Penelitian di Wilayah Hukum Pengadilan Negeri Takengon), *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana Fakultas Hukum Universitas Syiah Kuala*, Vol. 7, No. 2, 2023, hlm. 279.

¹⁵ Ilahi, M. Alvi Rizki, Elly Sudarty, dan Nys Arfa. Pelaksanaan Pidana Pelatihan Kerja Terhadap Anak Pelaku Tindak Pidana, *PAMPAS: Journal of Criminal*, Vol. 1, No. 2, 2020, hlm. 128.

¹⁶ Fauzan, Abel Capan, Sarip Hidayat, Yani Andriyani, dan Suwari Akhmaddhian. Implementasi Pidana Pokok Pelatihan Kerja terhadap Anak Pelaku Tindak Pidana Narkotika di Kabupaten Kuningan, *Logika: Jurnal Penelitian Universitas Kuningan*, Vol. 15, No. 2, 2024.

Law No. 11 of 2012 on the Juvenile Justice System (UU SPPA) explicitly provides the legal basis for work training as one of the principal forms of punishment for children. This provision is stipulated in Article 71 paragraph (1)(c), which classifies work training as an alternative to primary sentencing. Its implementation is further regulated under Article 78, which emphasizes that work training must be conducted in institutions appropriate to the child's age and capabilities (paragraph 1), and that it must be carried out for a minimum duration of three months and a maximum of one year (paragraph 2). Under this framework, work training is not positioned as a form of incarceration, but rather as a developmental measure conducted outside correctional facilities, intended to support the constructive growth of children through skill building and rehabilitation.

The provision regarding the duration of work training is articulated in Article 78 paragraph (2) of the UU SPPA, which establishes a minimum period of three months and a maximum of one year. These temporal limits are designed to ensure the effectiveness of the training in instilling discipline, skill acquisition, and psychological recovery. If the sentence of work training is imposed for less than the statutory minimum, its effectiveness as a rehabilitative sanction may be compromised. Therefore, a comprehensive understanding among law enforcement officers of the structure and purpose of juvenile sentencing under the UU SPPA is critical to ensure that work training genuinely functions as a meaningful rehabilitative measure in line with the spirit of restorative justice.¹⁷

Article 71 paragraph (3) must be understood as a form of specific legal protection for children, who are recognized as a vulnerable legal subject. The provision is binding and does not permit discretionary deviation by law enforcement authorities, including judges. Any disregard of this provision may be categorized as a violation of the material principle of legality and is contrary to the prevailing positive law.¹⁸

Conformity Of Judicial Verdicts With The Provisions Of Article 71 Paragraph (3) Of The Juvenile Justice System Act

Article 71 paragraph (3) of Law No. 11 of 2012 on the Juvenile Justice System contains a specific and binding legal norm, reflecting the principle of *lex specialis derogat legi generali* within the structure of juvenile sentencing. The provision explicitly states that when a child is subject to a cumulative threat of imprisonment and a fine, the fine component must be directly substituted with work training. This provision leaves no room for broad judicial interpretation, as its imperative nature is designed to ensure special legal protection for children.¹⁹

However, in judicial practice, deviations from this norm are still encountered in court rulings. Such inconsistencies not only indicate a breach of prevailing positive law but also risk undermining the principle of child protection and the credibility of the juvenile criminal justice system as a whole.

The three decisions analyzed in this study. Decision No. 1/Pid.Sus-Anak/2019 of the Kalabahi District Court, Decision No. 03/Pid.Sus-Anak/2018 of the Atambua District Court, and Decision No. 3/Pid.Sus/2020 of the Ambon District Court demonstrate a consistent pattern

¹⁷ Baihaqi, M. Bilal, A.M. Endah Sri Astuti, dan Rahmi Dwi Sutanti. Analisis Yuridis Sanksi Pelatihan Kerja Sebagai Pengganti Denda Terhadap Anak yang Berkonflik dengan Hukum dalam Undang-Undang Sistem Peradilan Pidana Anak, *Diponegoro Law Journal*, Vol. 13, No. 1, 2024, hlm. 12.

¹⁸ Saraswati, Rika. *Hukum Perlindungan Anak di Indonesia*. Bandung: Citra Aditya Bakti, 2015, hlm. 116-117.

¹⁹ Marwan Mas, Awaluddin dan Abd. Haris Hamid. *Sistem Peradilan Pidana Anak*. Gowa: Pusaka Almaila, 2022, hlm. 21.

of non-compliance with the normative mandate. Each of these rulings imposed a combination of imprisonment and fines, with either subsidiary imprisonment in lieu of unpaid fines or, in one case, the inclusion of work training as a conditional substitute. These approaches deviate from the normative directive, which mandates that work training must be the sole and direct replacement for criminal fines imposed on children.

The District Court of Atambua Decision No. 03/Pid.Sus-Anak/2018/PN.Atb sentenced a child perpetrator of sexual intercourse under the provisions of Article 81 paragraph (2) in conjunction with Article 64 of the Indonesian Penal Code (KUHP). In its ruling, the panel of judges imposed a four-year prison sentence and a criminal fine of IDR 60,000,000, which, if unpaid, would be substituted with two months of imprisonment. This sentencing composition reflects the application of general criminal law principles, wherein imprisonment serves as a substitute for unpaid fines. However, such a structure directly contradicts the specific provision of Article 71 paragraph (3) of the Juvenile Justice System Act (UU SPPA), which explicitly mandates that criminal fines imposed on children must be replaced by work training, not imprisonment.

From the perspective of the theory of child legal protection, substituting fines with imprisonment not only contradicts the normative framework but also risks marginalizing children. A child who should be afforded the opportunity for self-reformation is instead subjected to a punitive and repressive system. Furthermore, this ruling failed to incorporate additional penalties or corrective measures as stipulated in Article 71 paragraph (2) of the UU SPPA, such as community-based sanctions or restitution measures. These restorative components are essential in aligning judicial outcomes with the principles of juvenile justice.

Juridically, the decision reflects a misapplication of the *lex specialis derogat legi generali* principle. The UU SPPA, as a special law, should override the general provisions of the Penal Code when it comes to juvenile sentencing. However, the judiciary opted to apply general provisions, neglecting the existence of a more progressive and child-focused penal framework. This misstep not only signifies a juridical error in legal reasoning but also a disregard for the rehabilitative philosophy central to the SPPA.

Moreover, the inconsistency highlights prosecutorial failures during the indictment phase. The Public Prosecutor did not cite Article 71 paragraph (3) in the indictment, instead referencing irrelevant general provisions. The judge subsequently adopted the prosecution's recommendations almost entirely without providing legal reasoning for excluding work training. The absence of any discussion of Article 71 paragraph (3) in the judicial reasoning suggests a lack of awareness or attention to child protection norms embedded in the SPPA.

The legal implications of this misapplication are both substantive and procedural. Substantively, the judgment conflicts with binding legal provisions. Procedurally, the failure of law enforcement actors to apply specific legal protections reveals a systemic weakness in the juvenile justice process. This jeopardizes the rights of the child and undermines the best interests of the child principle. Accordingly, a comprehensive evaluation of how the SPPA is understood and implemented by the judiciary is imperative.

In contrast, the Ambon District Court Decision No. 3/Pid.Sus/2020/PN.Amb, dated 24 February 2020, imposed a sentence of three years and six months of imprisonment along with a fine of IDR 200,000,000 on a juvenile convicted of sexual intercourse. The judgment provided that if the fine was not paid, it would be replaced with three months of work training at a Social Welfare Institution (LPKS). At first glance, this structure appears more aligned with the spirit of juvenile justice compared to previous rulings, as it avoided imprisonment as a substitute. Nevertheless, from a normative standpoint, this approach still deviates from Article

71 paragraph (3) of the UU SPPA, which requires that work training be imposed directly, not conditionally.

The inclusion of a criminal fine in the judgment indirectly imposes financial responsibility on the child or their family, which contravenes the principle of non-discrimination in juvenile justice. Considering that children typically lack economic independence, the imposition of monetary sanctions creates structural injustice and psychological burdens, particularly for families from economically disadvantaged backgrounds. This sentencing model still reflects adult criminal justice practices, rather than a system centered on child protection and rehabilitation.

In this case, the public prosecutor also requested the imposition of a fine with a substitute imprisonment clause. The panel of judges adopted this request without reassessing its legal basis under the Juvenile Justice System Act (UU SPPA). This demonstrates a weak application of the *lex specialis derogat legi generali* principle, where the provisions of the UU SPPA, as a special statute, should override general provisions of the Penal Code, including those related to fines and substitute imprisonment.

Moreover, the judgment's legal reasoning lacks reference to Article 71 paragraph (3) or the principle of the best interests of the child. The judge appeared to accept the prosecutor's demand without considering the relevant special legal framework that applies in juvenile cases. Therefore, this error is not only substantive in terms of sentencing but also procedural in nature. Law enforcement officials are expected to actively ensure the implementation of child protection norms.

This contradicts the core tenets of the theory of child legal protection, which posits that rehabilitation and recovery should be prioritized as primary tools, not as secondary options. A child unable to pay a fine will still experience social and economic pressure that could have been avoided. From the perspective of the sentencing structure under the UU SPPA, work training is not merely a substitute but also classified as a principal form of punishment. Consequently, the court should directly impose work training, rather than treating it as a conditional alternative. This inaccuracy reveals a lack of full alignment between the judge's understanding of juvenile sentencing and the law's child-protection objectives.

Although work training appears as an alternative in the judgment, its conditional formulation raises legal concerns. Furthermore, the Supreme Court of Indonesia, through Decree No. 359/KMA/SK/XII/2022, has explicitly emphasized that fines should not be imposed on children in criminal cases. Accordingly, this decision still falls short of realizing the spirit of juvenile justice reform, which is rooted in rehabilitation, protection, and restorative justice.

The District Court of Kalabahi Decision No. 1/Pid.Sus-Anak/2019 involved a 16-year-old boy who was convicted of repeatedly engaging in sexual intercourse with a 15-year-old girl. The judgment imposed a four-year prison sentence and a fine of IDR 100,000,000, which, if unpaid, would be substituted with three months of imprisonment. This sanction was based on Article 81 paragraph (2) of the Child Protection Act and classified as a repeated offense under Article 64 of the Penal Code.

From the perspective of juvenile law, this ruling is incompatible with Article 71 paragraph (3) of the UU SPPA, which clearly prohibits the imposition of fines on children and mandates their replacement with work training. The use of imprisonment as a substitute for fines not only violates the binding normative provision of the SPPA but also reflects the application of general legal principles from the Penal Code, which should not govern juvenile

cases. The court's reasoning contains no legal argumentation indicating that work training was even considered, despite the mandatory nature of that provision.

From the perspective of juvenile law, the judgment clearly contravenes Article 71 paragraph (3) of the Juvenile Justice System Act (Law No. 11 of 2012), which expressly prohibits the imposition of fines on children and mandates their replacement with work training. The use of imprisonment as a substitute for a fine is not only inconsistent with the binding normative provision of the Act but also reflects the continued application of *lex generalis* principles from the Penal Code, which should be set aside in juvenile proceedings. Moreover, the judgment lacks any legal reasoning suggesting that work training was considered as an alternative sanction, despite its mandatory nature under the Act.

Furthermore, the decision fails to include additional penalties or corrective measures that should accompany the principal sentence, as stipulated in Article 71 paragraph (3) of the Juvenile Justice System Act. The absence of such supplemental sanctions reflects an incomplete application of the sentencing structure mandated for juvenile offenders. From the standpoint of child protection, this judgment leans more toward a retributive than a rehabilitative model, which contradicts the best interests of the child principle that underlies both national and international juvenile justice frameworks.

According to the theory of child legal protection, this also constitutes a violation of the principles of non-discrimination and substantive justice. Children from low-income families are doubly disadvantaged, as they may face additional punishment solely due to their inability to pay a fine. Moreover, the approach of substituting fines with imprisonment echoes an adult sentencing logic, while children should be subjected to a distinct legal treatment that accounts for their psychological, economic, and social conditions.

Procedurally, this case also reveals significant weaknesses. The public prosecutor continued to refer to general provisions that do not reflect the specialized mechanisms established by the Juvenile Justice System Act. The panel of judges then adopted nearly all prosecutorial demands without aligning them to the applicable specific legal norms. The absence of reference to Article 71 paragraph (3) in the court's legal reasoning indicates a lack of understanding or awareness of the distinctive nature of juvenile law, which demands prioritization of child welfare.

Accordingly, the Kalabahi District Court decision violates not only the substantive provisions regarding juvenile sentencing but also suggests procedural failure in ensuring adequate legal protection for children in conflict with the law. This inconsistency reveals systemic issues in the practice of juvenile criminal justice, which require urgent reform through capacity-building for legal actors and harmonization of enforcement with the implementing regulations of the Juvenile Justice System Act.

The review of three court decisions namely from the District Courts of Kalabahi, Atambua, and Ambon indicates the absence of consistent implementation of Article 71 paragraph (3) of Law No. 11 of 2012. In all three cases, criminal fines were imposed on juvenile offenders despite the Act's clear mandate that such fines must be replaced with work training when combined with imprisonment. Two of the decisions even substituted unpaid fines with detention, while the third imposed work training only conditionally if the fine was not paid rather than as a mandatory, direct substitute.

This inconsistency does not merely reflect an administrative oversight rather, it demonstrates a fundamental disharmony in the application of the principle *lex specialis derogat legi generali*, whereby the specific provisions of the Juvenile Justice System Act (UU SPPA) should take precedence over the general norms found in the Penal Code. In practice, however,

some judges continue to rely on Article 30 of the Penal Code as the basis for substituting fines with imprisonment, without considering the substance of the more relevant special provisions governing children in conflict with the law.²⁰

The SPPA explicitly stipulates that fines are no longer to be imposed on children, and instead, work training is established as a primary form of punishment, more suitable to the condition and needs of juvenile offenders. This policy reflects a significant shift in penal philosophy from a retributive model to one based on restorative justice and a child sensitive legal system. The restorative approach emphasizes rehabilitation, guidance, and the reinforcement of social responsibility while prioritizing the psychological welfare and development of the child.²¹

According to the theory of child legal protection, a child must be treated as a legal subject who requires a special approach within the criminal justice system due to their physical, psychological, and social immaturity. This perspective was also reflected during the legislative deliberation of the SPPA. Lawmakers such as Harkristuti Harkrisnowo highlighted that children generally do not have employment or independent income. Therefore, imposing fines on children would effectively transfer the financial burden to their parents or guardians. This contradicts the principle of personal accountability in criminal law, as the punishment meant for the perpetrator is unfairly transferred to an uninvolved third party.²²

First, this study identifies a disparity in the application of Article 71 paragraph (3) of the SPPA across different judicial jurisdictions, which undermines the certainty and predictability of legal outcomes for children. Variations in judicial decisions despite being based on the same legal provision create uncertainty for children undergoing criminal proceedings and conflict with the material principle of legality, which requires that laws be clear, certain, and predictable in their implementation.

This lack of uniformity presents a dilemma not only at the individual level but also systemically. A child cannot reasonably anticipate whether the law will be applied appropriately, as outcomes depend too heavily on individual judicial interpretation across regions. In this context, the legal certainty enshrined in the principle of *nullum poena sine lege certa* is not fulfilled. Despite the law's explicit prohibition against the imposition of fines on children, several judges continue to impose such sanctions. As a result, the child's right to fair legal certainty as guaranteed under Article 28D (1) of the 1945 Constitution is compromised. Inconsistency in enforcement may also confuse other legal actors, who may be uncertain whether to apply the SPPA or follow precedents that deviate from it. If left unaddressed, such disparities could perpetuate unequal sentencing practices in the juvenile justice system.

In relation to the theory of legal certainty, Satjipto Rahardjo argues that legal certainty consists of two elements: the clarity of legal norms and their consistent application. Legal norms must be drafted in an unambiguous manner and be free from multiple interpretations, while their enforcement must be uniform, fair, and non-discriminatory for subjects in similar legal positions. Satjipto emphasizes the importance of predictability in law enforcement so that the public including children can trust in the consistent application of legal rules. Nevertheless, unlike legal positivists such as Hans Kelsen, Satjipto cautions against rigid formalism, asserting that excessive emphasis on formal legal certainty may lead to substantive injustice. He thus

²⁰ Harun, Muhammad dan Briliyan Erna Wati. *Hukum Pidana*. Semarang: CV Rafi Sarana Perkasa, 2021.

²¹ Aprilianda, Nurini. *Pidana Pelatihan Kerja Pengganti Denda yang Berkemanfaatan dalam Perspektif Perlindungan Anak*, *RechtIdee*, Vol. 15, No. 1, 2020, hlm. 66.

²² DPR RI. *Risalah Rapat Panitia Kerja Pembahasan RUU Sistem Peradilan Pidana Anak*, Tahun Sidang 2011–2012.

advocates for a balanced approach that integrates legal certainty, justice, and utility, in line with the principles of progressive legal theory.

However, in the context of child protection as mandated by Article 71 paragraph (3) of the Juvenile Justice System Act (UU SPPA), deviation from this norm does not foster justice but rather exacerbates the treatment of children as a vulnerable group. Therefore, consistent application of the provision constitutes a manifestation of substantive justice. Satjipto Rahardjo also distinguishes between formal and material legal certainty the latter requiring that the law not only be written but also enforced in a just manner. Accordingly, the consistent application of work training as a substitute for cumulative sentencing, as stipulated in Article 71(3), reflects an implementation of material legal certainty that supports the protection of children. Inconsistencies in applying this article highlight a gap between the ideal legal framework and its implementation in judicial practice an issue that demands urgent attention and reform within the juvenile justice system.²³

Secondly, judicial inconsistency in enforcing Article 71(3) of the SPPA undermines the rule of law. When binding special provisions are ignored, this not only weakens the integrity of the juvenile justice system but also opens the door to forum shopping and creates deviant judicial precedents. The principle of legal supremacy demands that all judicial actors adhere to applicable norms, and such deviations risk violating the principle of equality before the law, as enshrined in Article 2 of the Convention on the Rights of the Child. Judgments that contradict the SPPA are also vulnerable to reversal on appeal or cassation, as they may contain errors in law or exceed the court's authority (*ultra vires*). In the context of legal protection, as Setiono explains, the law should serve as a safeguard against arbitrary action and ensure security and fairness. Noncompliance with the SPPA removes these legal protections for children in conflict with the law.²⁴

Third, the application of fines and alternative imprisonment in juvenile cases creates structural injustice, particularly for children from low-income families. This provision risks discrimination, as children from wealthy families can pay fines and avoid physical punishment, while children from poor families are more likely to face imprisonment. This contradicts the principle of non-discrimination and the best interest of the child, as stipulated in the Child Protection Act, the Child Protection Act, and the Convention on the Rights of the Child.²⁵ Even when parents attempt to pay the fine to spare their child from incarceration, the high monetary value of the fine is often disproportionate to their financial capacity. In many cases, this results in significant financial hardship or forces the child to undergo imprisonment, which contradicts the rehabilitative orientation of the juvenile justice system. Treating children similarly to adults in the structure of criminal sanctions ignores their distinct psychological and social vulnerabilities. Sanctions against children must be sensitive to these vulnerabilities and should not exacerbate existing inequalities.

Fourth, these findings reflect a general weakness in judicial understanding and institutional capacity in consistently applying Article 71(3) of the SPPA. The lack of technical guidelines, insufficient training, and inadequate dissemination of juvenile justice norms have contributed to deviations in practice. This situation calls for immediate intervention by the

²³ Rahardjo, Satjipto. *Ilmu Hukum*. Bandung: Citra Aditya Bakti, 2000.

²⁴ Setiono. *Rule of Law (Supremasi Hukum)*. Tesis Magister Ilmu Hukum, Program Pascasarjana Universitas Sebelas Maret, Surakarta, 2004, hlm. 3.

²⁵ Aprilianda, Nurini. *Pidana Pelatihan Kerja Pengganti Denda yang Berkemanfaatan dalam Perspektif Perlindungan Anak*, *RechtIdee*, Vol. 15, No. 1, 2020.

Supreme Court in the form of implementing regulations and stricter oversight of sentencing practices in juvenile cases.²⁶

Within the framework of state responsibility, law enforcement officers are expected to guarantee child protection by consistently applying sanctions that align with the principle of *lex specialis*. However, the practical reality shows that the state has failed to carry out this obligation effectively. The disregard for child protection norms in judicial decisions risks making children secondary victims of the justice system itself. If not immediately addressed, this systemic failure may undermine the credibility of the state in its reporting obligations under the Convention on the Rights of the Child. Indonesia's normative commitment to child protection will appear inconsistent unless it is followed by concrete, child-centered legal enforcement.

Ultimately, the application of Article 71 paragraph (3) of the Juvenile Justice System Act (UU SPPA) should not be viewed merely as a technical requirement, but rather as a tangible expression of the state's commitment to ensuring a juvenile sentencing system that is just, rehabilitative, and consistent with the principles of child protection under both national and international law. The degree of compliance with this provision serves as an indicator of the substantive implementation of the best interests of the child and the principle of non-discrimination.

Deviation from this imperative norm constitutes an error in *iudicando* that may delegitimize judicial decisions and erode public trust in the juvenile justice system. When work training is not imposed as a substitute for fines, children lose access to an educational and proportionate sanction. Such a scenario disregards the spirit of restorative justice embedded in Article 2(f) of the SPPA. Imposing custodial sentences on children increases the risk of recidivism, as correctional institutions often expose them to other offenders, including older individuals. Even though, in principle, children should be housed in specialized juvenile correctional institutions (LPKA), the influence of negative criminal subcultures remains a serious concern. Conversely, work training provides a more effective rehabilitative alternative by focusing on skill development and behavioral change without subjecting children to violence or social stigma.

Court decisions that continue to impose fines with substitute imprisonment as a condition reflect a conventional punitive approach that is inconsistent with the restorative justice principle enshrined in the SPPA. When sanctions imposed on children resemble adult sentencing, public confidence in the juvenile justice system's protective mandate may wane. This situation may prompt criticism from child advocacy organizations and civil society, and potentially lead families to opt for informal resolutions outside the legal system an approach that risks perpetuating injustice and vigilantism.

Furthermore, rulings that contradict statutory provisions violate the principles of positive law and may be considered *ultra vires*, providing valid grounds for appeal or cassation. Hence, ensuring consistency between judicial verdicts and the provisions of the SPPA must be regarded as an essential component of the state's duty to uphold justice and legal protection for children.

From a legal standpoint, any ruling that deviates from the provisions of Article 71 paragraph (3) of the SPPA can be classified as legally defective or an error in *iudicando*, as it disregards binding special provisions. Such violations may justify legal remedies such as

²⁶ Prastyoso, Subekti. *Penjatuhan Pidana Denda Terhadap Anak Yang Melakukan Tindak Pidana Persetubuhan Dalam Putusan Nomor 1/Pid.Sus-Anak/2019/Pn.Pts, Recidive*, Volume 9, No. 1, Fakultas Hukum Universitas Sebelas Maret, 2020.

appeal or cassation by the juvenile defendant or their counsel. The Supreme Court holds the authority to annul or revise decisions involving misapplication of the law, especially in cases involving vulnerable groups like children. Even if such decisions have acquired permanent legal force (*inkracht*), their formal enforceability does not resolve the substantive issues that threaten legal certainty and undermine child protection within the juvenile justice system.

The reliance on judicial discretion in applying the law to children in conflict with the law poses a significant threat to legal certainty. In the context of child protection, such inconsistency directly contradicts the principle of legality in its material sense, which requires that any criminal sanction must be based on clear, predictable, and well-defined legal provisions (*nullum poena sine lege certa*). When court rulings disregard this imperative norm particularly Article 71(3) of the Juvenile Justice System Act (Law No. 11 of 2012) they undermine the constitutional guarantee of legal certainty as stipulated in Article 28D (1) of the 1945 Constitution.

Moreover, inconsistencies across jurisdictions create systemic disparities in sentencing practices involving juveniles. When one court adheres strictly to the Juvenile Justice System Act while another disregards it, this disparity weakens the principle of equality before the law and erodes the foundations of substantive justice. Children, as vulnerable legal subjects, become collateral victims of such inconsistency, while judicial actors are left without a unified standard. This divergence risks generating normative confusion at the jurisprudential level, where deviant precedents may overshadow the authoritative weight of *lex specialis* norms enshrined in the Juvenile Justice System Act. It reflects a broader deficiency in judicial oversight and doctrinal alignment, particularly in a legal system tasked with upholding child sensitive justice and the rule of law.²⁷

CONCLUSION

Provisions regarding juvenile justice are stipulated in Law Number 11 of 2012 concerning the Juvenile Justice System. The principal penalties for juveniles are regulated in Article 71 of Law Number 11 of 2011. Specifically, Article 71 paragraph (3) of Law Number 11 of 2012 concerning the Juvenile Justice System (SPPA Law) clearly states that fines imposed on juveniles must be replaced with job training in cases where cumulative sentences are imposed. This provision embodies the principle of child protection and reflects a rehabilitative approach to juvenile punishment. Therefore, juvenile punishment should be carried out in accordance with existing provisions in the law to create legal certainty within the community.

However, an analysis of three district court decisions reveals inconsistent application of this norm. The District Court decisions in Kalabahi and Atambua imposed fines along with alternative prison sentences, which contradicts the *lex specialis* principle embedded in the SPPA Law. Meanwhile, the Ambon District Court, despite mentioning job training, still treats fines as the primary sanction. These differences reflect the gap between normative regulations and judicial practice, which undermines effective legal protection for children in the criminal justice system. Inconsistencies in the application of Article 71(3) of the Child Protection Act not only directly impact children who receive disproportionate sanctions, but also threaten the stability and legitimacy of the legal system itself. When children are punished in a manner that ignores the special protections mandated by law, this constitutes a violation of substantive legal justice. Furthermore, such inconsistencies erode public trust in law enforcement agencies.

²⁷ Asshiddiqie, Jimly. *Gagasan Negara Hukum Indonesia*. Academia.edu, tersedia di: https://www.jimly.com/makalah/Konsep_Negara_Hukum_Indonesia.pdf, diakses pada 26 April 2024.

When the public witnesses inconsistent application of legal protections to vulnerable groups such as children, it fosters the perception that the justice system is discriminatory or negligent. In the long term, this not only undermines the credibility of the judiciary but also has psychological impacts on children who may feel neglected by the very system designed to protect them.

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