



LEGAL PROTECTION OF CHILDREN IN SPECIAL CHILD DEVELOPMENT INSTITUTIONS IN NORTH SULAWESI

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Abstract: *This article examines legal protection for children serving custodial sentences in Special Child Development Institutions (LPKA), with particular attention to North Sulawesi. It uses normative or doctrinal legal research supported by limited sociolegal material reported from LPKA Class II Tomohon and related institutional information. Statutory and conceptual approaches are used to examine the Juvenile Criminal Justice System Law, the Corrections Law, the Child Protection Law, and international child rights standards. The analysis shows that family conditions, peer environments, socioeconomic pressures, and developmental vulnerabilities may increase the risk of offending, but these factors should not be treated as the legal cause of placement in an LPKA. Under Indonesian law, imprisonment may only be imposed on a child who is at least 14 years old and must remain a measure of last resort. Children in LPKA retain rights to education, health care, physical and spiritual care, legal assistance, protection from violence, family contact, and reintegration programs. Effective protection therefore requires measurable rights fulfilment, adequate professional staffing, continuity of education, mental health support, family engagement, and reintegration planning from the beginning of the custodial period.*

Keywords: *Child Rights; Children Deprived of Liberty; Legal Protection; LPKA; Reintegration.*

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Introduction

Children who enter the criminal justice system remain rights holders. A criminal conviction may lawfully restrict liberty, but it does not suspend the child's entitlement to dignity, education, health, protection from violence, family relations, or development. This premise is reflected in the 1945 Constitution, the Child Protection Law, the Juvenile Criminal Justice System Law, and the Corrections Law. Indonesia's commitment to the Convention on the Rights of the Child was formalized through Presidential Decree No. 36 of 1990. Together, these instruments require the State to protect children during every stage of the justice process, including when liberty has been lawfully restricted (Republic of Indonesia, 1945, 1990, 2012, 2014, 2022; United Nations General Assembly, 1989).

Indonesian juvenile justice has moved away from the terminology and institutional logic of the former Juvenile Court Law. Law No. 11 of 2012 replaced Law No. 3 of 1997 and introduced a system centered on diversion, restorative justice, the best interests of the child, and special treatment throughout the justice process. Law No. 22 of 2022 then replaced the 1995 Corrections Law and strengthened reintegration, human rights protection, and child-specific correctional functions (Republic of Indonesia, 2012, 2022). The legal shift is significant because it changes both the purpose of institutional placement and the standard by which institutional practice should be evaluated.

The terminology also requires precision. Under Law No. 11 of 2012, a child in conflict with the law is a person aged 12 but under 18 who is suspected of committing an offense. Yet a child under 14 may only be subjected to measures, not criminal punishment. Law No. 22 of 2022 accordingly defines an Anak Binaan as a child aged 14 but under 18 who is serving a sentence in an LPKA (Republic of Indonesia, 2012, 2022). This distinction corrects a recurring problem in legal writing that treats every child aged 12 to 18 who enters the juvenile justice process as a child who may be imprisoned.

International standards support the same direction. The Beijing Rules promote juvenile well-being and reduced reliance on formal intervention. The Havana Rules state that institutional placement should be a last resort and for the minimum necessary period. General Comment No. 24 of the Committee on the Rights of the Child further emphasizes diversion, age-appropriate justice, and the persistent concern surrounding deprivation of liberty (United Nations General Assembly, 1985, 1990; United Nations Committee on the Rights of the Child, 2019). Research from several jurisdictions also warns that deeper justice-system contact and juvenile incarceration can disrupt education, increase later justice-system contact, and generate developmental harms when institutions do not provide effective rehabilitation (Aizer & Doyle, 2015; Gatti et al., 2009; Lambie & Randell, 2013; McAra & McVie, 2007; Motz et al., 2020).

Two issues require separate treatment. Social and developmental conditions may help explain a child's vulnerability to offending, yet placement in an LPKA follows only after a custodial sentence is imposed under the juvenile justice framework. Once liberty is restricted, the legal inquiry shifts. The central question becomes whether the institution fulfils the child's statutory rights and provides development and reintegration programs that meet the applicable legal standards.

Studies from Indonesian LPKA settings show that implementation is uneven. Research has documented problems involving education, health services, professional staffing, infrastructure, and rehabilitation, even where institutions are making serious efforts to comply with statutory rights (Gultom & Ginting, 2025; Indrayanti, 2022; Kumaladewi & Astuti, 2026; Ramadhan & Sihaloho, 2022; Rifaad & Hijriani, 2022; Simanjuntak et al.,

2025; Widyaningtyas & Subroto, 2023). These findings make it necessary to assess LPKA protection through concrete rights rather than through broad claims that rehabilitation is already achieved.

This article addresses two questions. The first concerns how factors associated with children entering the juvenile justice system should be distinguished from the legal basis for placement in an LPKA. The second examines the rights and institutional duties that govern children serving custodial sentences and the improvements needed in the North Sulawesi context. By separating delinquency risk, criminal responsibility, punishment, and rights fulfilment, the analysis connects current Indonesian correctional law with child rights standards without treating those concepts as interchangeable.

Method

Normative or doctrinal legal research provides the primary method for this study, with limited sociolegal material used to illuminate the North Sulawesi setting. The normative component examines the legal status and continuing rights of children in conflict with the law as well as children serving custodial sentences. Institutional observations and information concerning LPKA Class II Tomohon and related correctional sources supply the contextual material. These materials assist the implementation analysis but are not used for statistical generalization or broad causal claims about the population of children in conflict with the law.

Two legal approaches guide the normative analysis in this study. The statutory approach reviews the 1945 Constitution, Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 35 of 2014 on Child Protection, Law No. 22 of 2022 on Corrections, and implementing rules, including the regulation on LPKA organization and work procedures. The conceptual approach addresses the best interests of the child, restorative justice, deprivation of liberty as a last resort, rehabilitation, reintegration, and the continuing status of children as rights holders. International standards provide an additional interpretive benchmark. The principal instruments are the Convention on the Rights of the Child, the Beijing Rules, the Havana Rules, and General Comment No. 24 (Republic of Indonesia, 2015).

Primary legal materials consist of legislation and international legal instruments. Secondary materials include verified academic books and peer-reviewed journal articles on juvenile justice, diversion, incarceration, education, health, LPKA rights, and rehabilitation. The analysis applies grammatical and systematic interpretation to clarify the relationship among age, criminal punishment, institutional placement, and statutory rights. The sociolegal material is then read descriptively against this normative framework. Because the available North Sulawesi field material does not specify a

complete sampling frame, participant profile, or standardized research instrument, it is treated as contextual evidence rather than a basis for prevalence estimates or population level causal conclusions.

Discussion

From Children in Conflict with the Law to Children Serving Sentences in LPKA

A legal analysis of children in LPKA must begin with the pathway created by the Juvenile Criminal Justice System Law. Not every child suspected of an offense is eligible for imprisonment. Article 69(2) of Law No. 11 of 2012 provides that a child below 14 years may only be subjected to measures. Imprisonment is listed among the available principal sanctions, but Article 81 also treats it as a last resort. Article 85 requires a child who is sentenced to imprisonment to be placed in an LPKA rather than an adult prison (Republic of Indonesia, 2012).

Law No. 22 of 2022 uses the term Anak Binaan for a child aged 14 but under 18 who is serving a sentence in an LPKA. This terminology is more than administrative. It reflects the legal objective that custody should contain a development program, not merely confinement. The Corrections Law places education, personality development, independence training, care, and reintegration within the correctional function (Republic of Indonesia, 2022).

The distinction also prevents imprecise use of the expression 'child inmate.' Children in conflict with the law may be at different procedural stages and may be subject to diversion, non-custodial measures, temporary placement, or an LPKA sentence. Discussion of LPKA should therefore focus on children who have reached the custodial stage and should avoid presenting imprisonment as the normal destination of juvenile proceedings.

Risk Factors and the Legal Basis for Deprivation of Liberty

The factors identified in the study are more accurately understood as vulnerabilities or risk factors than as direct legal causes of institutional placement. Indonesian research has identified recurring associations with weak parental supervision, family conflict, negative peer groups, economic pressure, and exposure to harmful social environments (Amrullah *et al.*, 2017; Gultom, 2014). International research similarly shows that individual characteristics, family conditions, peer environments, and justice-system contact can shape offending trajectories, although their effects are neither uniform nor deterministic (Gatti *et al.*, 2009).

These factors should not be converted into deterministic explanations. Poverty does not cause crime by itself, family disruption does not make offending inevitable, and

adolescent emotional instability should not be described as a pathological condition unless it is established through qualified assessment. Such language matters in a child rights article because stigmatizing explanations can reproduce the same labeling effects that juvenile justice seeks to avoid. Studies of system contact have shown that formal intervention can itself shape later trajectories, particularly when children are drawn deeply into punitive processes (McAra & McVie, 2007; Motz et al., 2020).

The legal basis for LPKA placement is therefore distinct from the social explanation of offending. A child enters an LPKA because a court imposes a custodial sentence within the limits of the SPPA Law. Social and family information remains relevant to assessment, sentencing, development planning, and reintegration, but it does not substitute for the legal requirements governing criminal responsibility and sentencing.

The North Sulawesi material points in the same general direction by identifying peer relationships and family environments as recurring concerns in the backgrounds of children discussed in the institutional context. Without a documented sample and measurement procedure, however, it would be unsafe to state that one factor is the dominant or definitive cause. The more defensible interpretation is that several vulnerabilities can interact and should therefore be considered in individualized development and reintegration planning.

Rights of Children in LPKA under Indonesian and International Law

Once a child is deprived of liberty, the legal focus shifts to continuing rights and institutional duties. Article 12 of Law No. 22 of 2022 gives children and Anak Binaan rights to worship, physical and spiritual care, education and teaching, recreational activities, development of potential, health services, adequate food, information, legal counselling and legal aid, complaints, reading materials, humane treatment, protection from violence and exploitation, social services, and family or other lawful visits. Article 13 adds sentence reduction, assimilation, family leave, conditional leave, pre-release leave, parole, and other statutory rights for eligible Anak Binaan (Republic of Indonesia, 2022).

The SPPA Law reinforces this framework. Article 85 requires LPKA to provide education, skills training, development, and other rights. The program is not left entirely to institutional discretion because community counselors conduct social inquiries to inform education and development, while Bapas has a supervisory role (Republic of Indonesia, 2012). This produces a legal structure in which custody, assessment, education, and reintegration should be connected.

International standards support a rights based reading of these provisions. The Havana Rules require special attention to education, health care, family contact, protection from

violence, and preparation for return to the community. General Comment No. 24 emphasizes that deprivation of liberty should be minimized and that the child justice system must remain oriented toward reintegration (United Nations General Assembly, 1990; United Nations Committee on the Rights of the Child, 2019). Kilkelly (2008) similarly treats international child rights standards as a practical benchmark for auditing youth justice systems.

This international evidence also explains why education and health cannot be treated as optional welfare programs. Aizer and Doyle (2015) found substantial educational and later justice-system consequences associated with juvenile incarceration, while Lambie and Randell (2013) identify developmental and mental health risks associated with institutional confinement. Brinkley-Rubinstein *et al.* (2020) likewise emphasize the health consequences of child detention. These studies arise from different jurisdictions and cannot be mechanically transferred to Indonesia, but they support the legal principle that custodial institutions must actively protect development during confinement.

Protected Interest	Indonesian Legal Basis	Institutional Meaning
Education and development	Law No. 22/2022, Art. 12(c); Law No. 11/2012, Art. 85	Formal, non-formal, or other suitable education should continue during custody, together with skills and developmental programs.
Health and care	Law No. 22/2022, Art. 12(b), 12(d)	Physical and mental health care, adequate nutrition, and development-sensitive treatment are continuing rights.
Protection from violence	Law No. 22/2022, Art. 12(i); Child Protection Law	LPKA must prevent torture, exploitation, neglect, violence, and practices that endanger physical or mental health.
Legal assistance and complaints	Law No. 22/2022, Art. 12(f), 12(g)	Children must have access to legal information, legal assistance, and an effective channel for complaints.
Family contact and reintegration	Law No. 22/2022, Art. 12(k), Art. 13; SPPA framework	Family relations and conditional reintegration programs should be planned as part of rehabilitation, not added only near release.

Table 1. Core rights of children serving custodial sentences in LPKA

Implementation in North Sulawesi: What the Available Material Can Support

The material relating to LPKA Class II Tomohon indicates the presence of religious guidance, education, skills activities, and other rehabilitative programs, while family and peer environments repeatedly appear in descriptions of the children's backgrounds. The institution itself remains identifiable as an LPKA in current government administrative records. Comparable studies from other provinces report similar efforts to provide development and rehabilitation within the statutory framework (Gultom & Ginting, 2025; Rifaad & Hijriani, 2022; Simanjuntak *et al.*, 2025).

The available field description is not detailed enough to support strong empirical generalization. It does not set out the dates of fieldwork, the number and status of participants, the sampling strategy, the interview or observation instrument, the coding process, or the ethics procedure. For that reason, the analysis avoids quantitative expressions such as 'the vast majority' and does not treat isolated reports of juvenile offenses as evidence of a provincial trend. Those conclusions would require a separately documented empirical dataset.

What can be concluded with greater confidence is that implementation should be assessed by measurable rights. Indonesian studies have identified recurring constraints in LPKA settings, including limited educational infrastructure, shortages of specialized personnel, health-service limitations, and uneven rehabilitation facilities (Gultom & Ginting, 2025; Kumaladewi & Astuti, 2026; Ramadhan & Sihalo, 2022; Rifaad & Hijriani, 2022; Simanjuntak *et al.*, 2025; Widyaningtyas & Subroto, 2023). These are relevant comparison points for North Sulawesi because the same statutory rights apply nationally.

The practical implication is that institutional performance should be documented through indicators such as school participation, continuity of formal or equivalency education, access to licensed health professionals, mental health screening and referral, frequency of family contact, access to legal assistance, complaint handling, individualized development plans, and preparation for conditional release or reintegration. A rights based audit of this kind is more reliable than a general assertion that the LPKA has shifted from punishment to rehabilitation.

Rehabilitation, Restorative Justice, and Reintegration

Restorative justice needs to be located precisely within the legal framework. In the SPPA Law it is closely connected with diversion and the effort to resolve eligible cases without unnecessary formal processing. After a child begins serving a custodial sentence, the immediate institutional duties are development, education, care, protection, and reintegration. Those duties may reflect restorative values, but they are not the same procedural mechanism as diversion.

This distinction is supported by international evidence. Diversion programs can reduce recidivism compared with conventional processing in appropriate cases (Wilson & Hoge, 2013), while deeper system contact has been associated with poorer desistance outcomes in several studies (McAra & McVie, 2007; Motz *et al.*, 2020). Gatti *et al.* (2009) similarly identify possible iatrogenic effects from formal juvenile justice intervention, especially more intensive placement. The legal commitment to imprisonment as a last resort is therefore consistent with research that favors proportionate intervention and community-based alternatives when legally available.

For children who must remain in LPKA, rehabilitation cannot be reduced to discipline or routine programming. Education should continue toward recognized qualifications, and health services should cover mental health and trauma sensitive assessment in addition to physical care. Family contact should sustain safe relationships that support the child's return to the community. Skills development should also connect with education, employment pathways, and realistic opportunities available to the child after release. Together, these safeguards respond to the developmental disruption associated with custody (Aizer & Doyle, 2015; Brinkley-Rubinstein et al., 2020; Lambie & Randell, 2013).

Reintegration should start before release. Article 13 of the Corrections Law creates several conditional and transitional rights for eligible Anak Binaan, while the SPPA framework assigns community counselors and Bapas important roles in supervision and guidance. An effective model therefore connects LPKA, Bapas, family, education providers, health services, local government, and community organizations before the child returns to society.

Strengthening Legal Protection in LPKA

The first priority is to translate statutory rights into service standards that can be verified. Each LPKA should maintain auditable records of education, health access, family contact, legal assistance, complaints, development plans, and reintegration preparation. The purpose is not to turn child protection into administrative paperwork, but to make non-compliance visible and correctable.

Second, professional capacity requires attention. Child development institutions need educators, psychologists or mental health professionals, health workers, social workers, community counselors, and correctional officers trained in child-sensitive practice. Research from Indonesian LPKA settings repeatedly identifies limited personnel and facilities as implementation barriers (Gultom & Ginting, 2025; Kumaladewi & Astuti, 2026; Rifaad & Hijriani, 2022; Simanjuntak et al., 2025). A legal right that depends entirely on unavailable personnel remains fragile in practice.

Third, education should be treated as a continuing legal and developmental obligation. Children should be able to remain in formal schooling where feasible, enter equivalency education when necessary, and receive skills training without losing access to academic development. Widyaningtyas and Subroto (2023) show that educational rights may formally exist while implementation is constrained by infrastructure, human resources, and administration. Such barriers deserve attention because interruption of education can extend the consequences of custody well beyond the sentence itself.

A stronger local empirical contribution will require fuller documentation in future research. Field studies should identify the number and profile of participants, dates and

locations of observation, interview guides, consent and ethics procedures, analytical steps, and the institutional records consulted. With that information, later work could move beyond contextual description and assess more convincingly how far LPKA Class II Tomohon fulfils each statutory right.

Conclusion

The legal protection of children in LPKA begins with a clear distinction between social vulnerability, criminal responsibility, and custodial placement. Family conditions, peer influence, economic pressure, and developmental vulnerability may contribute to offending risk, but a child is placed in an LPKA because a court imposes a custodial sentence under the SPPA framework. Children below 14 may only receive measures, and imprisonment for older children must remain a last resort.

Once custody begins, deprivation of liberty does not remove the child's other rights. Law No. 22 of 2022 and Law No. 11 of 2012 require education, health care, physical and spiritual care, legal assistance, humane treatment, protection from violence, family contact, development programs, and pathways to reintegration. International standards reinforce the same obligations. The legally relevant question is therefore not whether an LPKA describes itself as rehabilitative, but whether these rights are actually available, continuous, safe, and measurable.

The North Sulawesi material supports a contextual picture of children affected by family and peer vulnerabilities and of an institution expected to deliver developmental programs. The information presently available, however, is not detailed enough to justify prevalence estimates or strong causal conclusions. The most defensible finding is therefore that legal protection should be strengthened through rights based monitoring, professional staffing, continuity of education, mental health support, structured family engagement, accessible legal assistance, and reintegration planning from the beginning of the custodial period.

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