

Construction of Legal Protection for Children in Conflict with the Law Due to Motorcycle Gangs Based on Legal Certainty (Case Study of Palu City Police Resort)

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Abstract. *The increasing involvement of children in motorcycle gang activities in Palu City indicates a serious problem in the child protection system and the effectiveness of law enforcement. Children as perpetrators of criminal acts cannot be viewed solely as criminals, but also as vulnerable individuals who require protection in accordance with the principle of the best interests of the child as mandated by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). This study aims to analyze the construction of legal protection for children in conflict with the law due to their involvement in motorcycle gangs, identify its weaknesses, and formulate a legal protection construction based on legal certainty. The method used is socio-legal research that combines normative and empirical approaches through analysis of legislation, literature studies, and interviews with Palu City Police officers and related parties. The results of the study indicate that the police have implemented a number of preventive and repressive measures, but their implementation still faces various obstacles, including limited resources, a lack of understanding of the principles of restorative justice among officers, and a suboptimal diversion mechanism. In addition, the existing legal protection construction does not fully guarantee legal certainty for children due to the gap between normative provisions and implementation in the field. This research emphasizes the need to strengthen legal structures, increase the capacity of officials, and integrate more systematic policies so that legal protection for children involved in motorcycle gangs can be carried out comprehensively, humanely, and still guarantee legal certainty.*

Keywords: *Children; Legal; Motorcycle; Protection.*

1. Introduction

The phenomenon of children in conflict with the law (ABH) is an increasingly complex social and legal issue in Indonesia. Children in conflict with the law are not only understood as children who commit crimes (perpetrators), but also include children who are victims of crimes and children who serve as witnesses in legal proceedings.(Sudewo, 2021)According to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), children in conflict with the law have the right to receive special treatment in accordance with the principle of the best interest of the child. This law emphasizes that the juvenile criminal justice system must prioritize a restorative justice approach that prioritizes the development, recovery, and social reintegration of children, not merely punishment.(Lapod, 2024).

Legally, children are individuals who have a special legal status as regulated in Law Number 35 of 2014 concerning Child Protection, which emphasizes that every child has the right to receive protection from all forms of violence and discrimination, including in cases of conflict with the law.(Nainggolan, 2024). In addition, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) emphasizes the importance of a restorative justice approach and diversion mechanisms in handling cases of children in conflict with the law. This means that criminal punishment is not the primary goal, but rather a last resort after various more humane and educational solutions have been explored.(Noviyanti et al., 2024).

However, in practice, the implementation of legal protection for children involved in criminal acts often faces various obstacles, both from the side of law enforcement, society and families.(Saraswati, 2015)In practice, many cases demonstrate that child perpetrators of crimes are often treated the same as adults, both during investigations and detention. This situation clearly contradicts the principles of child protection mandated by law.(Saraswati, 2015).

Palu City, the government and economic center of Central Sulawesi Province, is experiencing social dynamics influenced by population growth and technological developments, which have contributed to increased motorcycle gang activity among youth. Data from the Jaguar Team of the Palu Police's Samapta Unit (June 3, 2025) recorded 11 active motorcycle gangs, each with its own structure and territory, spread across nearly all areas of the city. Their presence in densely populated residential areas and public facilities indicates that motorcycle gang activity in Palu is organized and has the potential to disrupt public order and security.

The judicial process for children in conflict with the law must be carried out specifically by officers who are qualified, experienced, and have a deep understanding of children's issues, from the investigation stage to the trial. The

main principle in handling children's cases is to prioritize diversion mechanisms and restorative justice so that the legal process does not rob children of their future, as criminalization is only a last resort. Factors such as poverty, environmental pressure, and family dysfunction often trigger children to become involved in criminal acts, so comprehensive support is essential. However, in practice, violations of child protection principles are still found due to officers' lack of understanding of the provisions of the Child Protection System (SPPA) and the Convention on the Rights of the Child.(HAREFA, 2024).

The phenomenon of motorcycle gangs, which are easily spread through social media, increasingly encourages the involvement of children in dangerous acts that disturb the community. In this context, the police must balance criminal law enforcement with child protection through preventive measures such as counseling, coaching, and collaboration with schools and the community, while selectively applying repressive measures. Previous research, such as the study in Semarang, has not specifically highlighted legal protection for children in motorcycle gangs or the application of the principle of restorative justice in the Child Protection System (SPPA), creating an important research gap that requires further investigation. Research on the construction of legal protection for children involved in motorcycle gangs in Palu City is relevant for illustrating how legal certainty and child protection can be balanced, while also providing practical recommendations for authorities in create a more humane and just juvenile Justice System.

2. Research Methods

This study employs socio-legal research, a combination of normative and empirical legal research. Law is examined not only as a regulatory text but also as a social practice in dealing with children involved in motorcycle gangs. The approach used includes four approaches.(Rifa'i et al., 2023): Legislative approach, to review all regulations related to SPPA and child protection. Case approach, to examine the application of norms through real cases at the Palu Police. A conceptual approach, to strengthen theories about children, crime, motorcycle gangs, and legal protection. Historical approach, to see the development of child protection policies from time to time. The research location was the Palu Police Department, as this institution directly handles child criminal cases and motorcycle gang cases in Palu City. Data sources consisted of primary data, including interviews with Palu Police investigators, academics, and legal practitioners; secondary data, including legal literature, regulations, and previous research; and tertiary data, such as legal dictionaries and encyclopedias. Data collection was conducted through observation, interviews, document studies, and documentation such as photographs and activity notes. The collected data were analyzed using normative qualitative analysis, through the stages of data reduction, data presentation, normative-interpretive analysis, and deductive conclusion drawing.(Huberman &

Miles, 1992). This method allows researchers to assess the suitability of legal regulations with law enforcement practices against child motorcycle gang members at the Palu Police Headquarters and to identify obstacles and needs for improvement in their legal protection.

3. Results and Discussion

3.1. Construction of Legal Protection for Children in Conflict with the Law Due to Motorcycle Gangs

The phenomenon of child involvement in motorcycle gang crime is an increasingly complex socio-legal issue, and also indicates a systemic failure in family supervision, moral education, and social control. From a legal perspective, child involvement cannot be treated the same as adult perpetrators, thus requiring the construction of legal protection based on a restorative approach, not merely punitive. Philosophically, children are viewed as individuals still in the process of development, so every legal action must be oriented towards the child's best interests, in accordance with the principles of restorative justice.

Constitutionally, child protection is guaranteed in Article 28B paragraph (2) of the 1945 Constitution, which affirms children's rights to survival, growth and development, and protection from violence and discrimination. This provision is reinforced by Law No. 35 of 2014 concerning Child Protection and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), which emphasizes the state's obligation to protect children, both as victims and perpetrators. The SPPA Law is the main basis for the implementation of diversion and restorative justice, which aims to divert the resolution of children's cases from the formal judicial process so that children avoid stigma and the negative impacts of criminalization.

The phenomenon of motorcycle gangs shows that many children become involved not out of malicious intent, but as a result of their search for identity, peer pressure, minimal family supervision, and weak character education. Therefore, they are not merely perpetrators, but also victims of unfavorable social conditions. The construction of legal protection for children in this context encompasses three dimensions: preventive, repressive, and rehabilitative. The preventive approach involves legal education, character development, strengthening the role of the family, and police counseling. The repressive approach is implemented through child-friendly procedures, mentoring, and mandatory diversion. The rehabilitative approach, meanwhile, is carried out through guidance at the LPKA (Rehabilitation Institution), counseling, and social reintegration programs.

Interviews with Palu Police officers confirmed that the practical perspective in the field has shifted toward a humanistic approach. Investigators from the Women and Children Protection Unit emphasized that children involved in motorcycle gangs should be viewed as individuals with a future, and therefore, the legal

process must be educational. However, implementing this principle faces obstacles such as a societal paradigm that still emphasizes retributive thinking, victims' resistance to diversion, limited facilities, and a lack of trained officers in handling children. Public pressure and sensational media coverage often leave officers torn between legal ideals and societal demands.

Sociologically, children involved in motorcycle gangs generally come from families with economic problems, disharmony, or a lack of attention. Motorcycle gangs become a place to seek identity, existence, and solidarity, albeit in deviant forms. This emphasizes that the problem of motorcycle gangs cannot be solved solely through legal means, but requires a multidisciplinary approach: psychology, education, and social policy.

The overall analysis demonstrates that legal protection for children requires comprehensive reconstruction: regulatory reform, increased capacity of authorities, strengthening the role of families, and transforming society's legal culture. As emphasized by Satjipto Rahardjo's progressive law theory, the law must side with humans, including children who have gone astray due to their environment. In the context of motorcycle gangs, children must be nurtured and rehabilitated, not subjected to repressive punishment. Thus, the construction of legal protection for children in conflict with the law reflects the level of civilization of a nation: a civilized nation is one that protects the future of its children, even when they commit mistakes.

3.2. Weaknesses in the Construction of Legal Protection for Children in Conflict with the Law Due to Motorcycle Gangs

The legal protection framework for children in conflict with the law due to their involvement in motorcycle gang activities essentially has a strong normative foundation, ranging from the constitutional mandate in the 1945 Constitution to more technical provisions in the Child Protection Law and the Juvenile Criminal Justice System Law (SPPA). This normative framework is oriented towards the principles of non-discrimination, the best interests of the child, and respect for human dignity, along with a strong mandate to implement rehabilitation, reintegration, and restorative justice. However, in reality, this legal protection framework has been ineffective due to a number of interrelated structural, instrumental, institutional, psychological, and cultural weaknesses.

1) First Inter-agency coordination is the most fundamental weakness. Official testimony shows that the diversion mechanism, normatively designed to be based on restorative justice, stops at the formal process and is not followed up by supporting agencies such as the Correctional Agency (Bapas), the Social Services Agency, or educational institutions. Follow-up counseling, which should maintain the continuity of child rehabilitation, is not effective. The absence of a clear cross-sectoral coordination system leads to children returning to risky environments

without social intervention, thus maintaining a high risk of recidivism. This highlights the gap between the ideal legal structure (law on the books) and the reality of its implementation (law in action).

2) Second The distribution of facilities and supporting infrastructure is far from adequate. Many areas lack halfway houses, rehabilitation institutions, or professional staff such as child psychologists and counselors. This lack of facilities forces some children to be placed in adult detention cells or waiting rooms that are not child-friendly, clearly contrary to child protection principles. The lack of experts makes rehabilitation programs more administrative than psychosocial, thus underachieving the development goals. Thus, the lack of facilities is not only a technical issue but also reflects the state's weak commitment to providing a child-friendly justice system.

3) Third, the legal approach is more dominant than the social and psychological approaches. The law enforcement paradigm still tends to be retributive rather than restorative, so that children are positioned as perpetrators who must be punished, rather than individuals in need of protection. The socioeconomic causes of children's involvement in motorcycle gangs, such as poverty, lack of family supervision, and risky relationships, are not adequately addressed. As a result, the legal process results in psychological stress, social stigma, and a loss of motivation to change. This aligns with Sutherland's differential criminology theory, which states that deviant behavior is learned from the environment; if the social roots of the problem are not addressed, legal action will be ineffective.

4) Fourth Obstacles in the investigative process reveal weaknesses in the capacity of the authorities. Children often feel afraid, ashamed, or distrustful of the police. The lack of child psychology-based communication skills makes the investigation process awkward, unempathetic, and tends to be emotionally stressful. Parental non-involvement or defensiveness further complicates the process. Furthermore, time constraints and the investigators' heavy workload reduce the quality of legal and psychosocial support that should be provided. These capacity limitations emphasize that legal protection for children requires child-sensitive policing, which is not yet a common standard in practice.

5) Fifth Local government support is suboptimal. Many local governments lack rehabilitation programs for children in conflict with the law, allocate no dedicated budget, and fail to integrate policies with law enforcement and social institutions. Coordination is limited to meetings without implementation. Unclear funding makes various rehabilitation programs unsustainable. This weak local political will exacerbates the situation for children, as handling children in conflict with the law requires cross-sectoral support and multi-level governance, and cannot be solely the responsibility of the police or the Correctional Institutions and Child Protection Agency (LPKA).

6) Sixth Societal stigma is a cultural aspect that hinders children's social reintegration. Children of motorcycle gang members are often viewed as threats, not as children in need of support. They are shunned, suspected, and difficult to accept back after undergoing legal proceedings. Yet, successful rehabilitation depends on social acceptance. Efforts by authorities to educate and educate about children's rights have not reached all levels of society. Without cultural change in society, rehabilitation and diversion lose their meaning because children remain ostracized.

7) Seventh All these weaknesses influence each other and create a vicious cycle. Lack of facilities weakens diversion, weak diversion worsens social reintegration, societal stigma increases the risk of recidivism, and recidivism undermines public trust in the juvenile justice system. This cycle reinforces that child legal protection is a multidimensional issue that cannot be resolved solely through legal approaches but requires the integration of social, psychological, educational, and local policy aspects.

Empirical examples from several regions demonstrate the failure of diversion programs due to the lack of ongoing guidance. Children return to motorcycle gang activities within months. The impacts include increased recidivism, psychological trauma, reduced legal effectiveness, and an increased burden on law enforcement. This demonstrates that the weaknesses in legal protection are not simply a lack of resources, but also a weak system design and paradigm for handling children.

Law enforcement officials offer several improvement strategies: establishing integrated cross-sector coordination, improving officer training in psychology and humanistic approaches, creating a national prevention program for at-risk children, and strengthening rehabilitation facilities and budgets. These strategies demonstrate that reform must be systemic, addressing legal, social, psychological, and institutional dimensions simultaneously.

Overall, the weaknesses in the legal protection structure for child motorcycle gang members are multidimensional, encompassing structural, instrumental, cultural, and psychosocial aspects. Without comprehensive reforms that include improved coordination, increased capacity of authorities, provision of child-friendly facilities, local government support, and public education to reduce stigma, the goals of restorative justice and child protection as mandated by the Child Protection and Child Protection Law will not be achieved. Children remain at risk of social disintegration, psychological trauma, and recidivism, threatening their own safety and future social security.

3.3. Construction of Legal Protection for Children in Conflict with the Law Due to Motorcycle Gangs Based on Legal Certainty.

The construction of legal protection for children in conflict with the law due to involvement in motorcycle gangs based on legal certainty emphasizes that every action of law enforcement officers must be within the corridor of protecting children's rights and in accordance with the principles of restorative justice as stipulated in the SPPA Law. Legal certainty for children is not limited to ensuring that formal procedures are met, but also includes humane treatment, transparency, accountability, and guarantees that children understand and can undergo the legal process without experiencing violence, intimidation, or excessive psychological pressure. In the context of the police, legal certainty is implemented through compliance with examination procedures, complete documentation in electronic systems, and internal oversight by Propam and the Head of Criminal Investigation Unit to prevent abuse of authority. Officers such as Aipda R, Bripta S, and Ipda T emphasized the importance of actions that comply with norms, prohibit violence, and the importance of transparency as part of ensuring legal certainty, which is in line with child protection theory and global literature that emphasizes that the legal process for children must be educational, not repressive. From a modern legal perspective, legal certainty is not only interpreted as clarity of rules, but also certainty of protection, certainty of process, and certainty of outcome, as emphasized in the principle of due process of law, the principle of non-discrimination, and the principle of the best interest of the child. The main foundations are contained in Law No. 11/2012 concerning the Juvenile Criminal Justice System (SPPA), Law No. 35/2014 concerning Child Protection, Regulation of the Chief of Police No. 8/2021 concerning the Handling of Children in Conflict with the Law, and the 1989 Convention on the Rights of the Child (CRC), which Indonesia has ratified through Presidential Decree No. 36/1990.

In this context, legal certainty is defined as a guarantee that every stage a child goes through, from investigation, inquiry, diversion, to post-sentencing guidance, is carried out transparently, accountably, without arbitrariness, and in line with the principles of restorative justice. Children involved in motorcycle gangs are often caught up in legal violations such as minor vandalism, assault, illegal convoys, or illegal racing. Therefore, law enforcement officials are obliged to apply a higher standard of legal protection than they would for adult perpetrators.

Aipda R explained that legal certainty begins from the initial stages of the investigation: "Every stage must comply with the Child Protection Procedures (SPPA), from the examination to the final report." This statement demonstrates that compliance with formal legal procedures is an essential element. The SPPA requires investigators to involve legal counsel, community mentors (Bapas), and to refrain from any violence. This is in accordance with the provisions of Articles 18, 21, and 23 of the SPPA Law, which regulate child-friendly investigations. In addition, the best interests principle, as stipulated in Article 4 of the Child Protection Law, requires officers to prioritize the best interests of the child in every action.

Bripka S added that legal certainty also concerns justice and non-violent treatment: "Equal and fair treatment without violence or intimidation is part of legal certainty." This aligns with Article 64A of the Child Protection Law, which prohibits repressive actions. In the context of motorcycle gang members, the mental pressure is significant, so a humanistic approach is an integral part of legal protection. This approach not only softens the legal process but also ensures that children understand the consequences of their actions in an educational manner, as recommended by the doctrine of rehabilitative justice (Cohen, 2005; Goldson, 2010).

In addition to formal compliance, legal certainty is also ensured through internal oversight mechanisms. First Inspector T stated: "We conduct internal oversight to prevent abuse of authority." This oversight aligns with Police Chief Regulation 8/2021, which emphasizes the need for supervision in handling ABH (children in conflict with the law). First Brigadier S added that digital documentation is crucial: "Every child's report must be documented in an electronic system for transparency." The digital system supports the principles of accountability and traceability as recommended in good governance practices.

One of the main pillars of legal certainty-based child protection is the diversion mechanism, which is the resolution of children's cases outside the courts. Diversion is firmly grounded in Articles 7–15 of the Child Protection and Child Protection Law, which state that diversion must be pursued at every stage of the legal process. Aipda R emphasized: "All processes are recorded in official minutes and have valid legal force." This means that diversion is not informal, but a legal mechanism that binds all parties. Bripka S described its benefits: "Diversion accelerates the legal process and provides clarity for children." This strengthens the principle of procedural justice, prevents children from lengthy judicial processes, and reduces the risk of over-criminalization.

However, diversion is only effective if all parties comply with the agreement. First Inspector T emphasized: "Legal certainty in diversion is achieved when all parties comply with the agreement." This view aligns with restorative justice theory, which positions children, victims, and the community as active subjects (Bazemore & Umbreit, 1995). Unenforced agreements can lead to legal uncertainty and worsen the child's psychological condition.

Various obstacles also affect the effectiveness of legal certainty. First, limited human resources in child legal matters. Aipda R emphasized: "The lack of child legal experts is a serious obstacle." This obstacle is recognized by many in the literature, such as Bowling (2002), who emphasized that professionalism of officers is key to child protection. Second, weak coordination between agencies, as stated by Bripka S: "Administrative procedures are often slow." This aligns with Howell's (2003) finding that the effectiveness of the SPPA is highly dependent on synergy between the police, Bapas, courts, and social institutions.

Third, limited public understanding. First Inspector T stated: "Not everyone understands that the legal process for children is different from that for adults." This creates stigma, social pressure, and discrimination. Fagan and Tyler (2005) emphasized that public stigma can worsen children's behavior and hinder reintegration. Fourth, limited supporting facilities such as shelters and rehabilitation institutions. First Brigadier S stated: "Not all areas have shelters." This aligns with Muncie's (2009) view that rehabilitation facilities are central to protecting children's rights.

Fifth, operational obstacles in the diversion mechanism, such as the absence of the victim, the child's lack of understanding, and weak follow-up by authorities, create real legal uncertainty. Children's psychological factors are a crucial aspect in ensuring effective legal certainty. Aipda R emphasized the need for an educational approach. Erikson's (1968) developmental theory asserts that adolescents are in a phase of identity discovery, so a repressive approach is counterproductive.

Internal and external oversight also strengthen legal certainty. Briпка S emphasized digital documentation, while Ipda T added that the Palu Police are open to external oversight, such as from the National Commission on Human Rights and the National Commission on Children. Goldson (2010) argues that external oversight is a standard requirement for preventing child rights violations.

Preventive strategies based on legal education in schools and youth communities, as stated by Ipda T, are a form of early intervention that has proven more effective than repressive action (Sherman et al., 1997). This preventive approach strengthens legal certainty by preparing children to understand their rights and obligations before they come into contact with the law.

Ultimately, establishing legal protection for children requires an integration of formal legal norms, social intervention, character education, family support, and a robust oversight system. The principles of the best interest of the child, restorative justice, and legal certainty can only be realized if law enforcement is conducted humanely, data-driven, rehabilitation-oriented, and involves all elements of society. Therefore, legal protection for children involved in motorcycle gangs is not merely about maintaining order, but also about ensuring that the state is present to protect the future of children as the next generation.

4. Conclusion

This research shows that legal protection for children involved in motorcycle gang activities at the Palu Police Department has been implemented in accordance with applicable legal principles, particularly the Juvenile Criminal Justice System Law. Police officers strive to balance law enforcement and development through more humane approaches, such as restorative justice and special treatment tailored to children's developmental needs. However, research has identified several

weaknesses that impact the effectiveness of this legal protection. Barriers such as limited facilities, lack of coordination between institutions, uneven capacity of authorities, and community stigma against child perpetrators remain serious challenges. These conditions impact the diversion process, psychological recovery, and social reintegration of children. Overall, the construction of legal protection based on legal certainty emphasizes the importance of integrating legal, social, educational, and psychological aspects. Law enforcement for children must continue to guarantee their rights, ensure transparency in the process, and provide opportunities for children to recover and develop into better and more responsible individuals.

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