



Requirements for Determining Recidivist Status in Juvenile Offenders under Law No. 11 of 2012 on the Juvenile Criminal Justice System: A Contemporary Legal Perspective

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How to cite

Servanda, Chicillia Sri., & Hutabarat, Rugun Romaida. 2026. Requirements for Determining Recidivist Status in Juvenile Offenders under Law No. 11 of 2012 on the Juvenile Criminal Justice System: A Contemporary Legal Perspective. *Jurnal Ilmu Hukum Kyadiren* 8(1), 425-439. <https://doi.org/10.46924/jihk.v8i1.464>

Original Article

Abstract

The phenomenon of juvenile recidivism presents significant legal challenges due to the absence of explicit provisions governing the criteria, indicators, and legal consequences of recidivist status for children under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This regulatory gap generates legal uncertainty and creates a tension between the imperative of law enforcement and the protection of children's rights. This study aims to examine the requirements for determining juvenile recidivist status within the Indonesian criminal law system and to analyze judicial considerations of reoffending in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst. Employing a normative legal research method, the study adopts statutory, conceptual, and case-based approaches, supported by qualitative, descriptive, and prescriptive analysis. The findings indicate that the regulation of juvenile recidivism remains characterized by a normative vacuum, thereby rendering its implementation highly dependent on judicial interpretation. The examined decision demonstrates that a developmental approach continues to be prioritized through placement in the Child Special Development Institution (LPKA) as a mechanism for child protection and rehabilitation.

Keywords: *Juvenile Recidivism, Juvenile Criminal Justice System, Juvenile Law, Judicial Policy.*

Abstrak

Fenomena pengulangan tindak pidana (residivisme) oleh anak menimbulkan persoalan hukum karena belum adanya pengaturan eksplisit mengenai batasan, indikator, dan konsekuensi hukum status residivis anak dalam Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak. Kondisi ini memunculkan ketidakpastian hukum serta dilema antara kebutuhan penegakan hukum dan perlindungan hak anak. Penelitian ini bertujuan menganalisis syarat penentuan status residivis anak dalam sistem hukum pidana Indonesia serta kebijakan hakim dalam mempertimbangkan pengulangan tindak pidana pada Putusan Nomor 17/Pid.Sus-Anak/2025/PN Jkt.Pst. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus, yang dianalisis secara kualitatif-deskriptif dan preskriptif. Kajian ini memandang bahwa pengaturan residivisme anak masih mengalami kekosongan norma sehingga penerapannya bergantung pada interpretasi hakim. Putusan tersebut menunjukkan pendekatan pembinaan tetap diutamakan melalui LPKA sebagai bentuk perlindungan dan rehabilitasi anak.

Kata kunci: *Status Residivis, Sistem Peradilan, Hukum Anak, Kebijakan Hukum*

1. INTRODUCTION

Children constitute a strategic national asset and play a fundamental role in ensuring the continuity of society, the nation, and the state. Accordingly, the state bears an obligation to provide legal protection that enables children to grow and develop optimally in physical, mental, and social dimensions. This commitment is constitutionally guaranteed under Article 28B(2) of the 1945 Constitution of the Republic of Indonesia, which affirms that every child has the right to survival, growth and development, and protection from violence and discrimination. This provision underscores child protection as a constitutional responsibility of the state, to be realized through a legal framework that ensures the fair and proportionate fulfillment of children's rights.

Indonesia's commitment to child protection has been further reinforced through the ratification of the principles embodied in the Convention on the Rights of the Child, subsequently incorporated into various national legal instruments, particularly Law Number 35 of 2014 on Child Protection and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (JCJS Law). The enactment of the JCJS Law marked a significant paradigm shift in addressing children in conflict with the law, moving from a predominantly punitive orientation toward a restorative and rehabilitative approach. This framework prioritizes the principles of the best interests of the child, restorative justice, and *ultimum remedium*. Within this context, children in conflict with the law are regarded not merely as offenders but also as individuals entitled to protection, guidance, and rehabilitation.

Despite these normative commitments, contemporary social developments reveal an increasing involvement of children in various criminal activities, including theft, violence, drug-related offenses, and technology-based crimes. This issue becomes increasingly complex when children who have previously undergone legal proceedings subsequently reoffend, thereby exhibiting patterns of recidivism. Under Indonesian criminal law, recidivism is regulated under Articles 486–488 of the Indonesian Criminal Code, which permit sentence enhancement for repeat offenders. However, these provisions are primarily designed for adult offenders and do not explicitly regulate juvenile recidivism.

The issue is further exacerbated by the absence of clear legal standards concerning the criteria, indicators, and legal consequences of juvenile recidivist status. Provisions concerning repeat offending are only indirectly reflected in Article 7(2)(b) of the JCJS Law, which excludes diversion mechanisms for children categorized as recidivists. The absence of explicit legal norms creates the potential for legal uncertainty and sentencing disparities in judicial practice.

The issue of children in conflict with the law, particularly juvenile recidivists, has become an increasingly important subject within Indonesian juvenile criminal law

discourse, particularly in light of the growing tendency of reoffending among minors. This phenomenon reflects deeper structural challenges within the juvenile criminal justice system, especially regarding the balance between safeguarding children's rights and imposing criminal sanctions on repeat offenders.¹ Previous studies have demonstrated that the regulation of juvenile recidivism in Indonesia continues to face substantial normative, implementation, and criminal policy challenges.

Research conducted by Maksum Hadi Putra represents one of the earliest studies examining the regulation of criminal sanctions for juvenile recidivists in Indonesia. The findings revealed a regulatory vacuum concerning sanctions for children who reoffend under Law Number 11 of 2012 on the Juvenile Criminal Justice System. Although explicit provisions concerning sentence enhancement for juvenile recidivists remain absent, judges in practice have continued to impose harsher penalties, thereby generating disharmony between legal norms and judicial implementation.²

Similarly, research by Mu'Ammar Fachri Ismail analyzed judicial considerations in sentencing juvenile repeat offenders. The study found that judges tend to impose more severe penalties due to the inapplicability of diversion, as stipulated under Article 7(2)(b) of the JCJS Law. Nevertheless, the study primarily focused on judicial reasoning and did not address the issue of legal protection afforded to juvenile recidivists throughout the judicial process.³

Furthermore, a study conducted by Hasanah et al. demonstrated that the adjudication of juvenile recidivism cases continues to rely upon the general provisions of the JCJS Law without the support of a specific legal mechanism governing juvenile recidivism. Consequently, sentencing practices remain highly dependent on judicial interpretation.⁴ Meanwhile, Sri Peni Yudawati emphasized that the provisions governing juvenile recidivism under the JCJS Law are confined to diversion exceptions and fail to specify the applicable forms of sanctions, limits on sentence enhancement, or distinct treatment mechanisms for juvenile recidivists.⁵

Empirical research conducted by Sitti Nurhaliza Musa et al. demonstrates that legal protection for juvenile recidivists is provided throughout the judicial process through mechanisms such as separate detention facilities, legal assistance, and psychological interventions. However, the study does not examine the relationship

¹ Nadira Apricia and Rugun Romaida Hutabarat, "Analisis Yuridis Pemberatan Pidana Terhadap Terpidana Residivis Terorisme," *Unes Law Review* 6, no. 2 (2023): 6632–38, <https://doi.org/10.31933/unesrev.v6i2.1524>.

² Maksum Hadi Putra, "Sanksi Pidana Terhadap Anak Yang Melakukan Pengulangan Tindak Pidana (Residive)," *Jurnal IUS Kajian Hukum Dan Keadilan* 4, no. 2 (2016): 50–67, <https://doi.org/10.12345/ius.v4i2.344>.

³ Mu'Ammar Fachri Ismail, "Dasar Pertimbangan Hakim Terhadap Anak Pelaku Tindak Pidana Berulang: Studi Putusan No.70 / Pid.Sus-Anak / 2018 / PN Tjk Dan No.45 / Pid.Sus-Anak / 2019 / PN Tjk" (Universitas Lampung, 2021), <https://digilib.unila.ac.id/61724/>.

⁴ Alfyyah Nur Hasanah et al., "Analisis Pertimbangan Hakim Pada Putusan Anak Pelaku Tindak Pidana Pencurian Dengan Status Residivis Di Pengadilan Negeri Muara Bungo," *Pagaruyuang Law Journal* 7, no. 1 (2023): 16–27, <https://doi.org/10.31869/plj.v7i1.4553>.

⁵ Sri Peni Yudawati, "Pengaturan Sanksi Pidana Terhadap Anak Yang Berkonflik Dengan Hukum Berstatus Residivis Di Indonesia" (Universitas Jambi, 2024), <https://repository.unja.ac.id/64877/>.

between such protective measures and judicial considerations reflected in court decisions.⁶ Furthermore, research by Faturrahman Faturrahman identified sentencing disparities attributable to the absence of specific legal provisions governing juvenile recidivism⁷, whereas Azhari et al. highlighted the persistent tension between safeguarding children's rights and ensuring a deterrent effect in cases involving repeat juvenile offending.⁸

More recently, a study by Agustina Wati et al. emphasized the inadequacy of developmental programs for juvenile recidivists within the Child Special Development Institution (Lembaga Pembinaan Khusus Anak—LPKA), noting that such interventions often fail to accommodate individual rehabilitative needs.⁹ Collectively, these studies suggest that scholarship on juvenile recidivism in Indonesia remains largely concentrated on issues of normative deficiencies, sentencing disparities, and rehabilitative development. Nevertheless, no prior study has specifically examined the legal requirements for determining juvenile recidivist status under Indonesian positive law while simultaneously analyzing judicial policy in concrete court decisions from a child protection perspective.

Existing scholarship has generally focused on normative gaps, disparities in sentencing, and the rehabilitation of juvenile recidivists. However, no comprehensive study has systematically examined the legal requirements for determining juvenile recidivist status within the Indonesian criminal law system alongside an analysis of judicial policy in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst. The originality of this study lies in its integration of normative legal analysis with a child protection perspective, thereby offering a more comprehensive understanding of juvenile recidivism within Indonesia's criminal justice framework.

This study aims to analyze the legal requirements for determining juvenile recidivist status within the Indonesian criminal law system, particularly in light of the absence of explicit provisions in both the Criminal Code and the Juvenile Criminal Justice System Law. In addition, the study examines judicial policy in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst, with particular attention to whether judicial reasoning aligns with the principles of child protection, the best interests of the child, restorative justice, and rehabilitative objectives.

⁶ Sitti Nurhaliza Musa et al., "Anak Sebagai Pelaku Residivis Tindak Pidana Pencurian Dan Perlindungan Hukumnya," *Terang: Jurnal Kajian Ilmu Sosial, Politik Dan Hukum* 1, no. 3 (2024): 15–26, <https://doi.org/10.62383/terang.v1i3.353>.

⁷ Faturrahman Faturrahman, "Tindak Pidana Anak Sebagai Pelaku Residivis Dalam Sistem Peradilan Pidana Anak" (Universitas Islam Negeri Syarif Hidayatullah, 2024), https://repository.uinjkt.ac.id/dspace/bitstream/123456789/85461/1/152_Faturrahman_SKRIPSI.pdf.

⁸ Muhammad Alvi Azhari et al., "Penerapan Sanksi Pidana Terhadap Residivis Anak Yang Berkonflik Dengan Hukum," *Sinergi: Jurnal Riset Ilmiah* 2, no. 8 (2025): 3979–92, <https://doi.org/10.62335/sinergi.v2i8.1762>.

⁹ Agustina Wati et al., "Pengaturan Terhadap Pembinaan Anak Residivis Pada Lembaga Pembinaan Khusus Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Al Dalil: Jurnal Ilmu Sosial, Politik, Dan Hukum* 4, no. 1 (2026): 10–17.

2. RESEARCH METHODOLOGY

This study employs a normative legal research method supported by qualitative-descriptive and prescriptive approaches to examine the legal requirements for determining juvenile recidivist status within the Indonesian criminal law system and to analyze judicial policy concerning the consideration of repeat offending by children in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst. This methodological approach was selected because the research problem centers on the existence of a normative vacuum, regulatory disharmony, and the inconsistent application of the concept of juvenile recidivism in criminal justice practice.

The study adopts statutory, conceptual, and case-based approaches. The statutory approach is employed to examine relevant legal frameworks, including the Indonesian Criminal Code, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2014 on Child Protection, Law Number 1 of 2023 concerning the Criminal Code, as well as international legal instruments, particularly the Convention on the Rights of the Child (CRC). Meanwhile, the conceptual approach is used to explore theoretical perspectives concerning juvenile recidivism, child protection, restorative justice, the best interests of the child, and the principle of *ultimum remedium*. The case-based approach is applied through an analysis of Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst to evaluate judicial reasoning from legal, sociological, and philosophical perspectives.

The legal materials employed in this study consist of primary, secondary, and tertiary legal sources collected through library research and documentary analysis. These materials are subsequently analyzed using qualitative, descriptive, and prescriptive methods to identify relevant legal norms, evaluate judicial practices, and formulate legal arguments and recommendations regarding the ideal regulation of juvenile recidivist status within the Indonesian criminal justice system.

3. RESEARCH RESULT AND DISCUSSION

3.1. Determining Juvenile Recidivist Status in the Indonesian Criminal Law System: Normative Issues and Implications for Child Protection

Historically, recidivism is not a novel phenomenon in the development of criminal law. Since the era of classical criminal law, the repetition of criminal conduct has been regarded as an indication of continuing criminal intent on the part of the offender. Classical legal thought assumes that human misconduct may be corrected; however, repeated offending is often interpreted as evidence of persistent criminal intent requiring a firmer legal response.¹⁰ Within the evolution of modern criminal law, recidivism has

¹⁰ L. V. Karkhanina, "On the Issue of the Responsibility of Convicts for Evading Serving Sentences Not Related to Isolation from Society," *Juridical Journal of Samara University* 10, no. 3 (2024): 32–38,

increasingly served as a basis for sentence enhancement, premised on the assumption that prior punishment has failed to deter the offender from committing subsequent offenses.

The regulation of recidivism under Indonesian law is set forth in Articles 486–488 of the Indonesian Criminal Code. In principle, these provisions stipulate that an individual may be categorized as a recidivist when, after being convicted through a final and legally binding judicial decision (in *kracht van gewijsde*), the individual commits another criminal offense within a legally prescribed period. Normatively, several core requirements must be satisfied to establish recidivist status: first, the existence of a prior criminal conviction that has acquired legal finality; second, the offender must have served all or part of the imposed sentence; third, a subsequent offense must occur within a specified period; and fourth, there must be a correlation between the classification of the repeated offense and the categories of crimes governed under the general and specific provisions concerning recidivism.

These requirements cannot be readily applied to children in conflict with the law. This limitation arises primarily from the absence of explicit provisions regulating juvenile recidivism under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (JCJS Law), which functions as the *lex specialis* governing juvenile criminal proceedings in Indonesia. The JCJS Law provides only a limited reference to repeat offending through Article 7(2)(b), which stipulates that diversion mechanisms are inapplicable to offenses constituting repeat criminal conduct. Nevertheless, this provision fails to establish a clear legal definition or objective indicators for determining when a child may be classified as a recidivist. In particular, the law does not clarify whether a prior conviction is required, whether the repeated offense must be of a similar nature, or whether recidivist status may serve as a basis for sentence enhancement in juvenile cases.

The absence of such regulatory clarity creates substantial challenges in law enforcement practice, as legal practitioners often rely on the general doctrine of recidivism in criminal law without adapting its application to the distinctive principles of child protection. Yet, children differ fundamentally from adults in psychological, social, and intellectual terms. As individuals undergoing developmental processes, children remain particularly vulnerable to the influence of social environments, economic conditions, family circumstances, and traumatic experiences.¹¹ Accordingly, the application of the concept of recidivism to children cannot be equated entirely with its application to adult offenders, particularly within a juvenile justice framework that prioritizes rehabilitation and the best interests of the child.

<https://doi.org/10.18287/2542-047X-2024-10-3-32-38>; Kaijie You, “Key Determinants of ‘Serious Circumstances’ in Awarding Punitive Damages for Intellectual Property Infringement: Evidence from Chinese Judicial Judgments,” *Plos One* 21, no. 1 (2026): e0340113, <https://doi.org/10.1371/journal.pone.0340113>.

¹¹ Nandang Sambas, *Pembaruan Sistem Pemidanaan Anak Di Indonesia* (Graha Ilmu, 2010).

Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst illustrates the judiciary's cautious approach to the application of the concept of recidivism in cases involving children. Based on the facts established during the proceedings, the child admitted to having committed approximately twenty theft offenses and had previously been apprehended on several occasions. From a sociological perspective, these circumstances indicate a strong pattern of repeated offending and may be categorized as behavioral recidivism. Nevertheless, from a legal standpoint, the court did not explicitly classify the child as a recidivist within the formal framework of criminal law.

The judge appeared to recognize the limitations of the normative basis for determining juvenile recidivist status. From the standpoint of positive law, the child did not satisfy the legal requirements for recidivism as stipulated under the Indonesian Criminal Code, particularly because several prior offenses had not proceeded through judicial determination resulting in a final and legally binding decision (*in kracht van gewijsde*). Accordingly, the essential legal prerequisite for recidivism had not been fully fulfilled. Rather than formally categorizing the child as a recidivist and using such status as a basis for sentence enhancement, the judge treated the repeated offending as an aggravating circumstance in assessing the child's behavioral pattern.

This judicial approach reflects an effort to balance the principles of legal certainty and child protection. In the court's reasoning, greater emphasis was placed on the child's personal and social circumstances, including school dropout status, a dysfunctional family environment, inadequate parental supervision, and adverse social influences. Moreover, the recommendation issued by the Correctional Center (Balai Pemasyarakatan—BAPAS), which proposed rehabilitative placement within a Child Special Development Institution (Lembaga Pembinaan Khusus Anak—LPKA), constituted a significant consideration in the judgment. Consequently, the court imposed an eight-month period of institutional guidance in an LPKA, emphasizing rehabilitative and educational objectives rather than adopting a purely punitive orientation.

The findings of this study correspond with those of previous scholarship. Research conducted by Maksum Hadi Putra identified a normative gap concerning juvenile recidivism, resulting in judges relying on interpretations derived from general criminal law when adjudicating cases involving children.¹² This observation is consistent with the present study, which demonstrates that judges continue to consider repeated offending despite the absence of explicit provisions governing juvenile recidivism under the JCJS Law. Similarly, this study confirms the findings of Sri Peni Yudawati, who argued that the JCJS Law merely implies the exclusion of diversion in cases of repeat offending

¹² Maksum Hadi Putra, "Sanksi Pidana Terhadap Anak Yang Melakukan Pengulangan Tindak Pidana (Residive)."

without providing further clarification regarding applicable sanctions or the legal status of juvenile recidivists.¹³

Furthermore, the findings of this study extend the perspective advanced by Faturrahman Faturrahman concerning sentencing disparities involving juvenile recidivists.¹⁴ The present study demonstrates that normative ambiguity does not necessarily result in harsher punishment; rather, it may create judicial space for discretionary decision-making grounded in rehabilitative objectives and the best interests of the child. Consequently, judges tend to avoid applying the concept of recidivism rigidly where such application may impede the developmental and rehabilitative prospects of the child.

Juvenile recidivism within the Indonesian criminal justice system should not be understood solely as a basis for sentence enhancement, but rather as an indicator of deficiencies in the broader system of child protection and development.¹⁵ The recurrence of criminal behavior among children fundamentally reflects not only individual culpability but also deeper structural problems related to family conditions, educational access, socioeconomic circumstances, and the effectiveness of the juvenile criminal justice system.¹⁶ Accordingly, the application of the concept of recidivism to children must be approached in a more proportionate manner, with greater emphasis placed on rehabilitation, social reintegration, and developmental support.¹⁷

At present, the legal requirements for determining juvenile recidivist status remain inadequately regulated within the Indonesian criminal justice system. From a normative perspective, the application of juvenile recidivism continues to depend heavily upon judicial interpretation due to the absence of explicit provisions governing its criteria, indicators, and legal consequences under the Juvenile Criminal Justice System Law. In practice, as reflected in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst, judges do not formally classify children as recidivists but nonetheless consider patterns of repeated offending as part of the broader assessment of a child's behavioral condition. This approach illustrates an effort to reconcile the need to preserve legal order with the

¹³ Sri Peni Yudawati, "Pengaturan Sanksi Pidana Terhadap Anak Yang Berkonflik Dengan Hukum Berstatus Residivis Di Indonesia."

¹⁴ Faturrahman Faturrahman, "Tindak Pidana Anak Sebagai Pelaku Residivis Dalam Sistem Peradilan Pidana Anak."

¹⁵ Muhammad Afrizal Pramudito and Rugun Romaida Hutabarat, "Pertanggung Jawaban Pidana Anak Sebagai Kurir Narkotika," *Unes Law Review* 5, no. 4 (2023): 2928–37, <https://doi.org/10.31933/unesrev.v5i4.546>.

¹⁶ Medi Terania et al., "Pendekatan Family Group Conference Dalam Menangani Kasus Peradilan Anak: Studi Perbandingan Antara Indonesia Dan New Zealand," *El-Iqthisady: Jurnal Hukum Ekonomi Syariah* 7, no. 2 (2025): 890–900, <https://doi.org/10.24252/el-iqthisady.v7i2.63079>.

¹⁷ Mohammad Alam and Muhammad Kamruzzaman, "Juvenile Recidivism in Bangladesh: An Exploratory Study on Juvenile Development Center, Gazipur," *Science Journal of Education* 12, no. 3 (2024): 32–39, <https://doi.org/10.11648/j.sjedu.20241203.11>; V. Nidhi et al., "A Study on Risk Factors on Recidivism among Juveniles with Special Reference to Tamil Nadu," *International Journal For Multidisciplinary Research* 6, no. 4 (2024): 26181, <https://doi.org/10.36948/ijfmr.2024.v06i04.26181>.

state's obligation to ensure maximum protection for children as legal subjects who remain in a formative stage of development.

Accordingly, a reformulation of juvenile criminal law policy is necessary to establish clear parameters governing juvenile recidivism through an approach that differs fundamentally from adult recidivism. Such reform should prioritize risk assessment, individualized guidance, psychosocial rehabilitation, and the principle of the best interests of the child, rather than relying predominantly on punitive considerations.

3.2. Judicial Policy in Determining and Considering Repeated Offending by Children in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst

The judicial policy reflected in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst demonstrates an effort to position children as legal subjects entitled to special protection, even where repeated offending has been established. In this case, the court found the child legally and convincingly guilty of aggravated theft as stipulated under Article 363(1)(5) of the Indonesian Criminal Code. Nevertheless, the judge did not explicitly classify the child as a recidivist in the formal legal sense, despite evidence presented during the proceedings indicating repeated involvement in theft offenses, including the child's admission to having committed approximately twenty thefts and having been apprehended on several prior occasions. Rather than adopting a rigidly legalistic approach, the judge prioritized a contextual assessment by taking into account the child's objective social and personal circumstances.

From a legal perspective, the judgment was grounded in the applicable provisions of positive law, particularly the Indonesian Criminal Code and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (JCJS Law). The judge evaluated the legal elements of the offense, including the unlawful taking of another person's property with the intent of possession, as well as aggravating circumstances involving unlawful entry through damage to access points and the exploitation of facilities available at the crime scene. However, despite strong indications of repeated offending, the court refrained from treating recidivist status as a formal basis for sentence enhancement. This position is understandable given that the JCJS Law does not explicitly regulate the criteria or legal consequences of juvenile recidivism, while the recidivism provisions under the Indonesian Criminal Code require a prior conviction that has attained final and legally binding force (*in kracht van gewijsde*).

This approach reflects the court's effort to uphold the principle of legal certainty by avoiding the mechanical application of adult recidivism doctrines to the juvenile criminal justice system in the absence of a clear normative basis. From the perspective of juvenile criminal law, such an approach is particularly significant, as an overly expansive interpretation of recidivist status risks contributing to the over-criminalization

of children. Accordingly, the judge demonstrated judicial prudence in interpreting legal norms governing repeated offending by juveniles.

From a sociological perspective, the judge's reasoning extended beyond the formal elements of the offense to consider the underlying factors contributing to the child's repeated criminal conduct. Based on evidence presented during the proceedings and the community research report prepared by the Correctional Center (Balai Pemasyarakatan—BAPAS), the child was found to reside within an unsupportive social environment, had discontinued formal education, experienced strained family relations, and received limited parental supervision. These circumstances empirically demonstrate that juvenile delinquency does not emerge in isolation but is substantially influenced by structural and environmental conditions.

The judge's reasoning aligns with contemporary criminological perspectives, which conceptualize juvenile offending as a product of social and environmental interactions rather than merely the consequence of individual culpability.¹⁸ Accordingly, repeated offending by children may be understood not solely as evidence of criminal intent (*mens rea*), but also as an indication of deficiencies in social protection and developmental support systems. On this basis, the court imposed an eight-month period of institutional guidance within a Child Special Development Institution (Lembaga Pembinaan Khusus Anak—LPKA), rather than adopting a more punitive sanction.

This judicial orientation reflects conformity with the principle of the best interests of the child, as recognized under child protection legislation and the Convention on the Rights of the Child. The court appears to have recognized that children who remain within adverse social environments face a heightened risk of repeated offending. Consequently, placement within an LPKA was viewed as a rehabilitative measure intended to foster the child's physical, psychological, and social development, while encouraging positive behavioral transformation.

The application of restorative justice principles in this case reveals a degree of ambivalence. Normatively, the Juvenile Criminal Justice System (JCJS) Law prioritizes diversion as the principal mechanism for implementing restorative justice. Nevertheless, Article 7(2) of the JCJS Law restricts diversion to offenses punishable by imprisonment of less than seven years and excludes cases involving repeated offending. Because the present case was treated as involving repeat criminal conduct, access to diversion was effectively precluded. Consequently, the restorative approach—which ideally emphasizes dialogue, social restoration, reconciliation, and non-penal solutions—could not be implemented in an optimal manner.

¹⁸ Mirjana Marković and Miloš Lakićević, "Family Circumstances and Relationships as a Factor of Children Crime Behavior," *Sinteze*, no. 17 (2020): 113–34, <https://doi.org/10.5937/sinteze9-24202>; Per-Olof H. Wikström et al., "Young People's Differential Vulnerability to Criminogenic Exposure: Bridging the Gap between People- and Place-Oriented Approaches in the Study of Crime Causation," *European Journal of Criminology* 15, no. 1 (2018): 10–31, <https://doi.org/10.1177/1477370817732477>.

In response to these limitations, the judge adopted a compromise approach by imposing a criminal sanction while maintaining a rehabilitative orientation. From the perspective of the double-track system in criminal justice, such an approach may still be considered appropriate within the juvenile justice framework, as punishment is not intended solely as retribution for wrongdoing but also as a mechanism for guidance, rehabilitation, and reintegration. Nevertheless, the decision simultaneously reflects the limitations of restorative justice implementation, given that the sentencing process continued to operate through coercive legal mechanisms, including deprivation of liberty, albeit within a specialized institution for children.

The findings of this study correspond with those of Mu'Ammar Fachri Ismail, who observed that juvenile repeat offenders generally do not qualify for diversion and are consequently processed through formal criminal justice procedures.¹⁹ However, the present study extends these findings by demonstrating that judges may still incorporate child protection principles through social and psychological considerations, even where diversion is unavailable. Likewise, this study confirms the findings of Sitti Nurhaliza Musa et al., which suggest that legal protection for juvenile recidivists may still be realized during judicial proceedings through the fulfillment of children's rights, family-oriented interventions, and specialized rehabilitative guidance.²⁰

Furthermore, this study reinforces the argument advanced by Faturrahman Faturrahman, which emphasizes that judges in cases involving juvenile recidivists tend to rely simultaneously upon philosophical, legal, and sociological considerations.²¹ However, the present study additionally demonstrates that judicial policy is not exclusively oriented toward the imposition of sanctions but also seeks to avoid stigmatizing children, particularly by refraining from explicitly labeling them as "recidivists" in judicial decisions.

The judicial approach adopted in this case reflects an effort to maintain a balance between the protection of society and the safeguarding of the child's future. Such reasoning corresponds to the neoclassical paradigm in juvenile sentencing, which acknowledges a child's criminal responsibility while simultaneously taking into account personal circumstances and psychological developmental capacity.²² The judge appears to have recognized that excessively punitive sanctions may inadvertently reinforce a child's criminal identity and increase the likelihood of future reoffending.

¹⁹ Mu'Ammar Fachri Ismail, "Dasar Pertimbangan Hakim Terhadap Anak Pelaku Tindak Pidana Berulang: Studi Putusan No.70 / Pid.Sus-Anak / 2018 / PN Tjk Dan No.45 / Pid.Sus-Anak / 2019 / PN Tjk."

²⁰ Sitti Nurhaliza Musa et al., "Anak Sebagai Pelaku Residivis Tindak Pidana Pencurian Dan Perlindungan Hukumnya."

²¹ Faturrahman Faturrahman, "Tindak Pidana Anak Sebagai Pelaku Residivis Dalam Sistem Peradilan Pidana Anak."

²² Nurini Aprianda et al., "Excusing Child Offenders: A Victim Justice Perspective," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (2024): 433–52, <https://doi.org/10.22219/ljih.v32i2.33937>.

Nevertheless, this study finds that judicial discretion continues to face structural limitations arising from the absence of explicit provisions governing juvenile recidivists under the JCJS Law. The lack of alternative restorative mechanisms for repeat juvenile offenders significantly narrows the scope of judicial intervention.²³ As a result, developmental and rehabilitative objectives continue to be pursued primarily through penal mechanisms, albeit implemented in a more educational and child-oriented manner.

The exercise of judicial discretion in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst partially reflects the principle of child protection through the adoption of a rehabilitative orientation, consideration of the child's social circumstances, and the avoidance of formally designating the child as a recidivist. However, the implementation of the principles of the best interests of the child and restorative justice remains suboptimal due to normative limitations within the JCJS Law, particularly those restricting diversion for children involved in repeated offending. Accordingly, a reformulation of juvenile criminal law policy is required to enable the selective application of restorative approaches to juvenile recidivists, supported by comprehensive risk assessments, individualized guidance, family involvement, and strengthened social supervision. Such reforms are essential to ensuring that the primary objectives of the juvenile criminal justice system—namely rehabilitation and the prevention of reoffending—can be achieved more effectively.

4. CONCLUSION

This study aims to comprehensively examine the legal requirements for determining juvenile recidivist status within the Indonesian criminal justice system and to analyze judicial policy concerning the consideration of repeated offending by children in Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst. The analysis is conducted through the lens of child protection principles, the best interests of the child, restorative justice, and the rehabilitative objectives underlying the juvenile criminal justice system. The study argues that the determination of juvenile recidivist status continues to face significant normative challenges, as neither the Indonesian Criminal Code nor Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (JCJS Law) explicitly regulates the criteria, indicators, or legal consequences of juvenile recidivism. As a consequence, the application of the concept of recidivism to children remains highly dependent upon the interpretation of law enforcement authorities, thereby creating the potential for legal uncertainty and inconsistent judicial practice.

Furthermore, Decision Number 17/Pid.Sus-Anak/2025/PN Jkt.Pst demonstrates that judges do not formally classify children as recidivists, yet continue to

²³ Marlina Marlina, *Peradilan Pidana Anak Di Indonesia: Pengembangan Konsep Diversi Dan Restorative Justice* (Refika Aditama, 2009).

consider repeated offending as part of the broader assessment of a child's behavioral condition. This judicial approach reflects an effort to reconcile legal certainty with the imperative of child protection, particularly through a rehabilitative orientation implemented within the Child Special Development Institution (Lembaga Pembinaan Khusus Anak—LPKA). Accordingly, this study provides an academic foundation for the reformulation of juvenile criminal law policy, although its findings remain limited to a single judicial case study. Therefore, the study underscores the necessity for explicit legal provisions governing juvenile recidivism within the JCJS Law, including more adaptive restorative mechanisms for repeat juvenile offenders. In addition, further empirical and comparative research is required to evaluate the effectiveness of rehabilitative interventions for children involved in repeated offending.

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