

DEVELOPMENT OF PROBLEM CHILDREN THROUGH THE GAPURA PANCA WALUYA PROGRAM FROM THE PERSPECTIVE OF CHILDREN'S RIGHTS PROTECTION

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Abstract

The Gapura Panca Waluya program, initiated by the Governor of West Java through Circular Letter Number 45/PK.03.03/KESRA, is a policy for fostering troubled children through a semi-military approach involving cooperation with the Indonesian Army. This policy has drawn serious attention considering that the categorization of "problem children" in the circular does not clearly differentiate between children who commit juvenile delinquency and children involved in criminal acts. This study aims to analyze the suitability of the Gapura Panca Waluya program with the principle of the best interests of children as well as the criminal accountability of children who have participated in the program. The research method applied is normative law with a legislative approach and is also based on concepts. The research findings reveal that this program is not in line with the principle of the best interests of children as mandated by Law No. 35 of 2014 concerning Child Protection and has the potential to violate children's rights guaranteed in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. In addition, this program has the potential to create uncertainty regarding the legal status of children involved in criminal acts, considering that Law No. 11 of 2012 concerning the Juvenile Criminal Justice System already manages a special handling mechanism that should be taken for children in conflict with the law. As a solution, this program can be integrated as a form of diversion agreement for children involved in criminal acts according to the Juvenile Criminal Justice System mechanism.

Keywords: *Diversion, Panca Waluya Gate, Juvenile Delinquency, Best Interests of the Child, Juvenile Criminal Justice System*

INTRODUCTION

Indonesia is known as a country with great potential, particularly as it is currently experiencing a demographic bonus. Simply put, a demographic bonus is a condition in which the productive-age population (aged 15–64) far outnumbers the non-productive population, opening up opportunities for faster economic growth. According to Bloom and Canning, when the proportion of the productive population is more dominant, a country has a significant opportunity to improve its economy. However, this opportunity can turn into a disaster if not balanced with adequate human resources. Currently, adolescents are the future generation of adults, so character education is crucial to shaping them into good individuals, of course, with the support of their families, schools, and the surrounding environment. Thus, the demographic bonus will serve as a foundation for increasing national productivity and driving the economy through the optimization of productive human resources.¹ The demographic bonus according to Bloom and Canning is a situation where the total productive population exceeding the larger non-productive group, thus opening up opportunities for accelerated economic growth.² While the demographic bonus is economically beneficial, it will become a demographic disaster if not supported by competent human resources.

¹N. Satyahadewi, A. Amir, & E. Hendrianto, 2023, *Projection of Economic Improvement through Utilization of the 2040 Demographic Bonus*, Kaganga: Journal of History Education and Social Humanities Research, Vol. 6 No. 2, p. 716, <https://doi.org/10.31539/kaganga.v6i2.7943>.

² Yulistiyono, A., Gunawan, E., Widayati, T., Firmansyah, H., Malau, NA, Megaster, T., ... & Indawati, N. (2021). *Demographic Bonus as Indonesia's Opportunity to Accelerate Economic Development* (Vol. 1). Insania Publisher. P. 3.

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Today's adolescents are the future adults. Character education plays a role in shaping them into good individuals, of course with support from families, schools, and communities as agents of social change.³ Juvenile delinquency, often referred to as juvenile delinquency, is a form of behavior that requires increased attention because it often leads to criminal activity.⁴ Throughout 2025, Indonesia will face a significant increase in cases of children involved in criminal acts. Data from the Ministry of Human Rights shows that as many as 3,323 children were involved in various crimes during this period. In addition, data from the National Crime Information Center (Pusiknas) of the Indonesian National Police Criminal Investigation Agency shows that from January 1 to February 20, 2025, 437 children were reported for theft, 460 for violence and assault, and 349 for narcotics. This phenomenon shows that the child protection and development system still faces major challenges. The tendency for children to be involved in group crimes and the use of violence also indicates the need to evaluate the effectiveness of existing legal approaches.⁵

In addressing this, the Governor of West Java, Kang Dedi Mulyadi, issued the Gapura Panca Waluya Education policy, an initiative initiated by the Governor of West Java, Kang Dedi Mulyadi (KDM), which has been officially implemented through Circular Letter No. 45/PK.03.03/KESRA. This concept combines the noble values of Sundanese culture with the spirit of modern holistic education, creating an inspiring and calming narrative of revival.⁶ In Circular Letter No. 45/PK.03.03/KESRA, the Gapura Panca Waluya program is based on three broad groups: "first, regulations in the field of education such as the National Education System Law, PP related to National Education Standards, Presidential Regulations related to Strengthening Character Education, and West Java Regional Regulations related to the Implementation of Education; second, regulations related to national nutrition through Presidential Regulation No. 83 of 2024; and third, the Cooperation Agreement between the West Java Provincial Government and the Indonesian Army dated March 14, 2025, concerning regional development synergy." What's interesting to note is that of all the legal bases listed, not one mentions the Child Protection Law as a reference. Yet, this program directly targets school-age children who should receive special protection under that law.⁷ Referring to existing provisions, the Child Protection Law is not explicitly mentioned as a crucial legal basis for the formulation of this circular.

However, the program was temporarily stopped by the Governor of West Java, Kang Dedi Mulyadi (KDM), on August 11, 2025. This program was reopened on October 21 through the implementation of the Gapura Panca Waluya Jabar Istimewa Batch VI Character Education at the Cilandak Marine Unit, South Jakarta.⁸ The reopening of the program was attended by 151 participants and was again inaugurated directly by KDM. In his remarks, he emphasized that this character education not only focuses on physical endurance, but also the mental formation and perspective of the young generation of West Java to have high integrity, discipline, and fighting spirit.⁹ If we look back at Circular Letter No. 45/PK.03.03/KESRA, there are criteria that can be categorized as "problem children" through the circular letter, it is regulated that students who show deviant behavior, such as involvement in group fights, dependence on online games, smoking habits, drunkenness, illegal racing activities, or the use of vehicle components that do not meet standards, can be included in a special coaching program with parental approval through cooperation between the provincial, district/city governments, the TNI, and the Polri.¹⁰ Referring to the category of "problem children" which is used as the basis for the implementation of the Gapura Panca Waluya Program, it is not always related to criminal acts, to other inappropriate behavior, but only deviant social behavior.

³Y. Mulati, 2023, *PARENTS' ROLE IN PREVENTING CHILDREN'S DEVIANT BEHAVIOR THROUGH CHARACTER EDUCATION AND CHILDREN'S POTENTIALS OPTIMIZATION*, Journal of Educational Policy Research, Vol. 15, no. 2, p. 137, <http://dx.doi.org/10.24832/jpkp.v15i2.632>.

⁴ Anjaswarni, T., Widati, S., & Yusuf, A. (2020). Early Detection of Potential Juvenile Delinquency and Solutions: "Save Millennial Teenagers". Page 2

⁵https://pusiknas.polri.go.id/detail_artikel/ratusan_anak_terlibat_tindak_kriminal_sejak_awal_tahun_2025, accessed on April 29, 2025 at 13.40 WIB.

⁶Yudaningsih, Panca Waluya Gate: The Path to the Revival of Character Education from Tatar Sunda, Kompasiana.com, accessed on June 22, 2025 at 12:58, <https://www.kompasiana.com/yudaningsih/68295b8c34777c0cd623dbb2/gapura-panca-waluya-jalan-kebangkitan-pendidikan-karakter-dari-tatar-sunda>.

⁷ Circular Letter No. 45/PK.03.03/KESRA

⁸Kang Dedi Mulyadi, "CLOSE THE PANCA WALUYA GATE EDUCATION AT MARINE HEADQUARTERS | THIS IS KDM'S MESSAGE," YouTube video, 17:25, uploaded by Kang Dedi Mulyadi Channel, August 12, 2025, <https://www.youtube.com/watch?v=bdJMRSEpE5I> (accessed on September 2, 2025 at 17:16 WIB)

⁹ Abby Aditya, "KDM Opens Sixth Generation Gapura Panca Waluya Character Education," *Lingkup.id*, October 21 2025, Accessed November 11 2025 <https://lingkup.id/kdm-buka-pendidikan-character-gapura-panca-waluya-angkat-keenam/>

¹⁰ Circular Letter No. 45/PK.03.03/KESRA

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Of course it is different from the provisions in the SPPA Law, especially Article 1 paragraph (3) states that " a child in conflict with the law, hereinafter referred to as a child, is a child who is 12 years old but not yet 18 years old who is suspected of committing a crime .¹¹" The difference in the criteria for "problem children" with the provisions for children in conflict with the law as contained in the SPPA Law shows that there are different points of view in emphasizing the status and handling of problem children. However, in practice, we can find similarities between the criteria for "problem children" and children in conflict with the law according to the SPPA Law, for example, a case of a teenage brawl which can be categorized as a Criminal Act of Assault in Article 170 paragraph (1) of the Criminal Code, which states "Anyone who openly and with joint force uses violence against people or goods, is threatened with a maximum prison sentence of 5 years and 6 months." Furthermore, in paragraph (2) the criminal threat is in the form of a maximum prison sentence of 7 years, if he intentionally damages goods or if the violence used cause injury ; with a maximum prison sentence of 9 years, if the violence causes serious injury ; with a maximum prison sentence of 12 years, if the violence results in death .¹²The following is a comparison table of the criteria for problem children in Circular Letter No. 45/PK.03.03/KESRA with children who have problems with the law in the SPPA Law, the Criminal Code , and the LLAJ Law .

Behavior	Meets the Criteria for Problem Children According to Circular Letter No. 45/PK.03.03/KESRA	Criminal Acts Against Children According to Law No. 11 of 2012 and the Criminal Code, and Other Legislation	Information
Brawl	✓	✓	Can enter into Article 170 of the Criminal Code regarding assault, 351 regarding assault, 338 regarding murder
Illegal street racing	✓	✓	Can enter into Article 170 of the Criminal Code regarding assault, 351 regarding assault, 338 regarding murder
Drunk	✓	✓	There are no criminal sanctions except for disturbing public order.
Smoke	✓	X	Not a criminal offense
Non-standard exhaust	✓	✓	Traffic violation, but administrative in nature
Online Game Addiction	✓	X	Social deviation

Based on information provided on a YouTube channel documenting the implementation of the Gapura Panca Waluya Program, it is known that the process of sending children to military barracks begins with parental consent. This consent is expressed in the form of a signed statement on a stamped paper, without prior psychological examination,

¹¹Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

¹²Criminal Code

investigation by law enforcement officers, or professional assistance. This purely administrative approval then serves as the basis for implementing military discipline training for children identified as problematic by the school.¹³

This is solely related to the regulations contained in the SPPA Law regarding the juvenile justice system which explicitly stipulates that all children who have dealings with the law are required to undergo a series of formal processes, starting from investigation, inquiry, restorative or mediation, to the post-decision guidance stage. Article 1 paragraph (1) of the SPPA Law emphasizes that the juvenile criminal justice system covers all stages of handling cases involving children comprehensively, so that it cannot be interrupted or replaced by administrative mechanisms that are outside the established legal channels.¹⁴ In addition, the form of military disciplined guidance without psychological assessment of children can be seen as treatment that is not in accordance with the needs of child development and has the potential to become acts of violence, discrimination and mistreatment which are certainly related to the spirit of Article 1 paragraph (2) of the Child Protection Law which essentially requires the state to ensure the fulfillment of children's rights so that they can grow and develop optimally in accordance with human dignity and are also protected from various forms of violence and discriminatory treatment.¹⁵

This raises uncertainty about the legal status of children who have undergone the Gapura Panca Waluya Program, as to whether they are considered free from criminal responsibility. This is despite the clear provisions of the Child Protection and Child Protection Law, which stipulates that every child in conflict with the law must undergo a series of formal processes, starting with investigations, inquiries, restorative or mediation, and post-verdict guidance. Furthermore, it is questionable whether the West Java Governor's Circular (SE) that serves as the basis for implementing this program complies with the normative authority stipulated in statutory regulations. The SE is essentially administrative in nature and should not conflict with higher-level provisions, particularly regulations governing child protection and the juvenile criminal justice system. Research on the Panca Waluya Gate Program remains worthwhile, given that the program has been resumed through Batch VI at the Cilandak Marine Corps. First, the West Java Governor's Circular, which serves as the basis for this program, appears to ignore the formal mechanisms stipulated in the Child Protection and Child Protection Law, leading to uncertainty regarding the legal status of children involved in criminal acts. Second, the military-based approach to fostering education has the potential to disregard children's rights to receive an education that aligns with their needs, their psychological and sociological development. Third, the criteria for "problem children" used in this program tends to be biased, as it includes behaviors that are not logically considered the basis for military discipline, such as playing online games, smoking, or using loud exhaust pipes. These behaviors are more appropriately addressed through family guidance, counseling, or character education, rather than placing children in a military environment. These three points are the important basis for why this program remains relevant and requires further study from the perspective of child rights protection.

RESEARCH METHODS

This study applies a normative legal research approach, a method focused on examining written legal materials by examining relevant legal norms, principles, and principles to provide answers to the legal issues under study. Through this method, the researcher seeks to develop legal arguments and concepts that can serve as a basis for formulating recommendations regarding the issues under study.¹⁶ This study applies two approaches simultaneously: a legislative approach (statute approach) and a concept-based approach (conceptual approach). The legislative approach is implemented through a review of various regulations and legal provisions related to the issues that are the focus of the research. And the conceptual approach is chosen to obtain solutions to the legal issues discussed.¹⁷ Therefore, the suitability between the approach used and the legal issues studied is a primary factor in determining the choice of approach. In this study, both approaches are used to review the Gapura Panca Waluya Program policy, specifically related to the development of children categorized as problematic, and linked to the provisions of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System and Law No. 35 of 2014 concerning Child Protection. Through these two approaches, the author analyzes whether the implementation of the program is in line with the principles of protecting children's rights, and whether this policy has the potential to

¹³ YouTube, *Dedi Mulyadi Clarifies Military Barracks Program, Is There Parental Consent?*, accessed via <https://youtu.be/799LUtH98dY?si=kOpnmdLatTyz0KCN>, accessed on July 2, 2025.

¹⁴ Law Number 12 of 2011 concerning the Juvenile Criminal Justice System

¹⁵ Law Number 35 of 2014 concerning Child Protection

¹⁶ Soerjono Soekanto & Sri Mamudja, 2001, Normative Legal Research (A Brief Review), Rajawali Pers, Jakarta, pp. 13-14

¹⁷ Peter Mahmud Marzuki, Legal Research: Revised Edition, Pages 169 - 172

ignore the formal stages in resolving cases of children who are in conflict with the law as stipulated in juvenile criminal justice mechanisms in Indonesia To strengthen the analytical basis of this study , the following presents a number of previous studies that are related to the issues of fostering problem children, protecting children's rights, and the juvenile criminal justice system: Aldi Satrio Hartawan and Mitro Subroto (2023), "Implementation of Alternative Punishment for Children in Trouble with the Law by Undergoing Formal Education and Undergoing Compulsory Military Service After the Age of 18, Innovative: Journal of Social Science Research, Vol. 3, No. 4, pp. 9946-9955 ". This study discusses alternative sanctions for children in trouble with the law through school education and mandatory military service after the child turns 18. This guidance is focused on instilling moral, mental, spiritual, ideological, fighting, and leadership values, in order to prevent children from being involved in criminal acts and help them become productive citizens. This program is considered capable of changing the mindset of handling children in conflict in the juvenile criminal justice system.¹⁸ Based on the explanation above, there are certainly differences in both substance and discussion. Previous research focused on children in legal trouble who were required to undergo mandatory military service after the age of 18, while this study focuses on children under 18 or those in high school, which naturally concerns children's rights.

Made Ita Ariani, Ni Putu Rai Yulianti, Dewa Gede Sudika Mangku (2020), entitled " Implementation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in Cases of Motorcycle Theft by Children in Buleleng Regency " , Jurnal Komunitas Yustisia, 2(2), 100-112 . This study discusses related Implementation of the Juvenile Criminal Justice System for child perpetrators of motor vehicle theft. The research findings show that The stages of inquiry, investigation, provision of legal assistance, and diversion efforts are carried out in accordance with the provisions current regulations, prioritizing the principles of restorative justice and the protection of children's rights.¹⁹ This study differs significantly. While previous research focused on law enforcement officials' compliance with SPPA procedures for children proven to have committed crimes, this study examines the Gapura Panca Waluya Program policy applied to children categorized as "problem children," including those with the potential to commit crimes, without going through the formal stages stipulated in the SPPA.

Third, research conducted by Sukitman Asgar and Sahrestia Kartianti (2021), entitled "Regional Government Policy in Handling and Protecting Children in Conflict with the Law in North Halmahera", Wajah Hukum, 5(1), 228-240 . This research discusses the weak commitment of the North Halmahera regional government in providing protection for children in conflict with the law, whether as perpetrators, victims, or witnesses. Limited infrastructure, human resources, and synergy between institutions cause child protection policies to be formalistic without maximum implementation.²⁰ This study differs significantly from the Gapura Panca Waluya Program in West Java . The problem with Gapura Panca Waluya is not a lack of facilities, but rather potential procedural violations resulting from administrative policies that override the formal stages of the Juvenile Criminal Justice System, ultimately potentially disregarding children's rights under national law.

RESULTS AND DISCUSSION

Alignment of the Gapura Panca Waluya Program Policy with the Best Interests of Children

Children are a priceless gift, and their existence deserves to be respected and protected. As the next generation, every child carries the inherent dignity and worth of birth, making their protection a duty that cannot be ignored.²¹ As the nation's successors, children will safeguard the integrity and existence of the Unitary State of the Republic of Indonesia. Their responsibility as successors to the nation requires them to have the opportunity to grow and develop optimally, including physically, mentally, and morally. To realize these rights, children need to be protected under statutory provisions to ensure the protection and fulfillment of their rights without discrimination.

There are a number of legal regulations that stipulate children's rights as follows:²²

¹⁸Hartawan, AS, & Subroto, M., 2023, *Implementation of Alternative Punishment for Children in Trouble with the Law Undergoing Formal Education and Undergoing Compulsory Military Service After the Age of 18* , Innovative: Journal of Social Science Research, Vol. 3, No. 4, pp. 9946-9955, <https://j-innovative.org/index.php/Innovative> .

¹⁹Ariani, NMI, Yulianti, NPR, & Mangku, DGS (2019). Implementation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System for Motorcycle Thefts Committed by Children in Buleleng Regency (Case Study of Case Number: B/346/2016/Reskrim). *Jurnal Komunitas Yustisia* , 2 (2), 100-112.

²⁰Asgar, S., & Kartianti, S. (2021). Local Government Policy in Handling and Protecting Children in Conflict with the Law in North Halmahera. *Face of Law* , 5 (1), 228-240.

²¹Lestari, M. (2017). Children's rights to protection under statutory regulations. *UIR Law Review* , 1 (2). P. 185

²² Afandy, T., & Desiandri, YS (2023). Review of the implementation of policies for the protection and fulfillment of children's rights. *Iuris Studia: Journal of Legal Studies* , 4 (3), p. 148.

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1. Article 28B paragraph (2) of the 1945 Constitution
2. Law Number 39 of 1999 concerning Human Rights.
3. Law Number 23 of 2002 concerning Child Protection
4. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
5. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection

The scope of child protection within the Indonesian legal framework applies from the time a child is still in the womb until they reach eighteen years of age. The law governing this is built on four universal basic principles: non-discrimination, the best interests of the child, the right to survival and development, and recognition of the child's views. These four principles serve as the foundation for the state to ensure that every child receives comprehensive protection and that their rights are recognized without exception from the beginning of life until they reach adulthood.²³ Based on the idea that children are a precious gift, children need to be given special attention in terms of their physical, psychological, spiritual, and social growth. Special attention to children is implemented in every regulation related to children, therefore the government is obliged to pay attention to the principle of the best interests of children in legislation related to children. In line with this principle, educational institutions are one of the institutions that are important for the physical, psychological, spiritual, and social growth of children for children. Of course, the approach applied must be aligned with the principle of the best interests of children. Basic education is mandatory for every citizen aged 17 years. This situation is mandated in Article 6 paragraph (1) of the National Education System Law.²⁴ Article 9 paragraph (1) of the Child Protection Law also explains that every child has the right to receive education and teaching for their personal development as well intellectual capacity in line with interests and potential.²⁵

Education is not limited to formal channels such as schools or universities. Both non-formal and informal education also play a significant role in character building, especially for children and students.²⁶ One form of non-formal education that has received considerable attention is the implementation of a military-based education model. Military-based education, within the context of the Indonesian education system, is generally viewed as a means of instilling discipline, a sense of responsibility, and a spirit of nationalism in students. Although not included in the main national curriculum, this approach is implemented through various activities, such as character education, scouting, marching training, and collaboration with certain military institutions, such as the Indonesian National Armed Forces (TNI). This approach is considered crucial for developing a young generation that is physically and mentally resilient, disciplined, and loyal to the nation and state, especially in facing the challenges of globalization and changing moral values.²⁷

Currently, one model of military-based education that has received widespread public attention is the Gapura Panca Waluya Program, which was promoted by West Java Governor Dedi Mulyadi. This program targets children who are considered problematic, with the aim of fostering discipline, responsibility, and positive character through coaching methods that adopt the principles of military education. This idea arose because the problem of adolescent behavior that is considered increasingly deviant, such as brawls, skipping school, drunkenness, participating in illegal racing is increasingly worrying, because formal learning methods are often considered ineffective in instilling character values such as honesty, discipline, responsibility because all of these are important instruments in forming individuals who are useful for the future.²⁸ As reported by BBC News, dozens of students participated in a 14-day program at the Military Barracks. They lived in a hall that functioned as a multi-purpose room and underwent military routines, including going to bed at 10:00 PM, waking up at 4:00 AM, congregational prayers, breakfast together, marching, physical training, and karate. In addition, they received lessons in discipline and national defense from soldiers, as well as school subjects such as Indonesian from teachers assigned on a rotating basis. Other activities included doing their own laundry, with 24-hour supervision to ensure discipline and learning.²⁹

²³ Ibid, p. 149

²⁴ Law Number 20 of 2003 concerning the National Education System

²⁵ Law Number 35 of 2014 concerning Child Protection

²⁶ Ilma, N. (2015). The role of education as the main capital in building national character.

²⁷ Novriyansah, MAD (2025). MILITARY-BASED EDUCATION CURRICULUM MANAGEMENT: ANALYSIS AND CHALLENGES. Pendas: Scientific Journal of Elementary Education, 10(02), p. 401.

²⁸ Indriani, I., Azzahra, S., Safardi, Z., Adawiyah, R., & Suhardi, S. (2025). Building Disciplined Character Through Military Barracks: Stakeholder Analysis in Educational Innovation. eL-Muhbib Journal of Elementary Education Thought and Research, 9(1), p. 105

²⁹ Dedi Mulyadi sends 'recalcitrant' students to military barracks – What are the consequences?, *BBC Indonesia*, May 6, 2025, <https://www.bbc.com/indonesia/articles/c7932qp4n2ro>.

From a legal perspective, the policy of involving schoolchildren in the military barracks program has a fundamental legitimacy flaw. The program lacks an explicit legal basis, either under Law No. 23 of 2014 concerning Regional Government or under existing national education regulations. Furthermore, no regional or gubernatorial regulations specifically address the program's objectives, mechanisms, or implementation limitations, raising questions about its legal validity.³⁰ When examined conceptually, the military barracks program relies on a development mechanism that prioritizes a command hierarchy, intensive physical training, and a rigid organizational pattern as commonly applied in defense institutions. This paradigm is contrary to the orientation of national education which places students as active subjects in the learning process and prioritizes an approach that focuses on developing human potential. When this militaristic approach is applied to school children, there is a significant change in the function of education from a coaching and character development model shifting to a coercive disciplinary model.³¹ As mandated in Article 9 paragraph (1a) of the Child Protection Law, every child has the right to receive protection in educational units from sexual crimes and violence perpetrated by teachers, educational staff, fellow students, or other parties.³²

If military training is carried out without due care and professionalism, there is a risk of violating children's rights, especially if the methods used are harsh, authoritarian, or physically or mentally punishing. Such practices may be related to Article 28B Paragraph (2) of the 1945 Constitution, which affirms the right every child to live, to grow flowers, also get protection of violence or discrimination,³³ therefore the militaristic non-formal education model is considered less relevant for dealing with "problem children" because it has the potential to violate several laws and regulations regarding children's rights. Compared to a militaristic approach that risks physical and psychological stress, guidance and counseling are considered far more effective. This is because guidance and counseling address several aspects, including developing religious character, instilling national ideological values, developing a healthy personality, strengthening academic competencies in line with the curriculum, developing practical skills, and fostering comprehensive student behavior.³⁴ Therefore, addressing problem children can be achieved through guidance and counseling services in schools, without the need for a militaristic approach. Furthermore, policies that are not based on clear authority have the potential to create broader legal issues in regional governance. The Panca Waluya Gate program could set a bad precedent, opening up room for regional heads to misinterpret their authority. Excessive use of public interest. This situation could ultimately undermine the principle of legal certainty, pose a risk of abuse of authority, and result in clashes of authority between the central and regional governments, particularly in the education sector, which is still under the supervision of the central government.³⁵

Criminal Responsibility for Child Perpetrators Who Have Participated in the Gapura Panca Program

In Circular Letter No. 45/PK.03.03/KESRA, it is stated that students who have special behaviors which are further referred to as "problem children" include brawls, addiction to playing online games, smoking, drunkenness, illegal motorcycle racing, using exhausts that do not comply with standards.³⁶ However, the grouping of problem children is not proportional, because it combines forms of juvenile delinquency with criminal acts, one of the crimes in the category of problem children above is brawls between students because it is called a form of crime against others. According to Kadish in Romli Atmasasmita, the category of violence includes individual violence and collective violence, individual violence for example murder; rape; abuse; kidnapping, and collective violence for example fights between groups that cause injuries, deaths, or damage to property and objects.³⁷

³⁰ Idul Fitra Hazman & Eko Primananda, "Authority for Involving School Children in the Military Barracks Program in West Java," *Trisakti Legal Reform*, Vol. 8, No. 1 (2026), <https://doi.org/10.25105/refor.v8i1.25189>. P. 268

³¹ Ibid, p. 268

³² Law Number 35 of 2014 concerning Child Protection

³³ Kurniawaty, JB, Widayatmo, S., & Widyastuti, M. (2025). Cultivating Nationalism and National Defense Attitudes through Military Training in Problematic Children: A Psychological, Human Rights, and Parental Review. *JAGADDHITA: Journal of Diversity and National Insight*, 4 (2), p. 22.

³⁴ Harahap, D. (2020). The role of guidance and counseling teachers in dealing with student delinquency. *Al-Irsyad Journal: Islamic Guidance and Counseling Journal*, 2 (1), p. 154.

³⁵ Eid al-Fitr Hazman & Eko Primananda, Op.cit, p. 269

³⁶ Circular Letter No. 45/PK.03.03/KESRA

³⁷ Anjari, W. (2012). Student brawls from a criminological, criminal law, and educational perspective. *Widya Scientific Journal*, 218772. P. 36

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Indonesian criminal law does not automatically treat children found guilty of committing a crime as adults. The Child Protection Act (UU SPPA) provides legal certainty and protection for children in conflict with the law, ensuring that their mental, emotional, and psychological well-being are taken into account to help them improve, rather than causing lasting trauma.³⁸ According to the provisions of Article 1 paragraph (1) of the SPPA Law, the term juvenile criminal justice system covers the entire series of processes for resolving legal cases involving children, starting from the investigation stage to the implementation of guidance after serving a sentence. Furthermore, Article 1 paragraph (3) of the SPPA Law stipulates that children in conflict with the law are children who are 12 (twelve) years old but not yet 18 (eighteen) years old, who are suspected of committing a crime.³⁹ Within the framework of the SPPA Law, there is a special mechanism called diversion as the main instrument for handling children in conflict with the law. Diversion is basically an effort to divert the resolution of children's cases that originally had to be taken through formal criminal justice channels to a resolution outside of these channels, by prioritizing a persuasive and non-penal approach so that children have the opportunity to correct their actions without having to bear the burden of stigma from the judicial process.⁴⁰

Article 6 of the SPPA Law stipulates that diversion is aimed at achieving several objectives simultaneously, starting from creating peace between the child and the victim, resolving cases that do not depend on court mechanisms, protecting children from the possibility of deprivation of liberty, to developing a sense of responsibility in children and active community involvement in the resolution process. What needs to be emphasized specifically is that diversion is not merely a mechanism that is only implemented once the case has reached the court table. Article 7 of the SPPA Law actually requires diversion efforts to be implemented at every stage of the legal process, starting from the investigation stage by the police, the prosecution stage by the prosecutor, and the examination stage by the judge in court. This is further clarified by Article 9 of the SPPA Law, which expressly states that investigators, public prosecutors, and judges are each obliged to consider diversion by taking into account the category of crime, the child's age, the results of community research from the Bapas (Coroner's Office), and the child's family and social environment.⁴¹

The emergence of the Gapura Panca Waluya program, which implements a semi-military-style guidance model for troubled children, fundamentally conflicts with the provisions of the SPPA Law, given that the handling of children in conflict with the law already has its own pathway through the juvenile criminal justice system, specifically designed to prioritize the protection and best interests of children. From a legal perspective, this policy, which involves schoolchildren in the military barracks program, contains a fundamentally flawed legitimacy. In the context of authority in the field of education, Law No. 23 of 2014 concerning Regional Government emphasizes that education is a concurrent government affair, namely an affair whose authority is shared between the central government, provincial governments, and district/city governments. Based on the Attachment to Law No. 23 of 2014, the authority to manage secondary education lies with the provincial government, while the management of basic education is the authority of the district/city government.⁴²

This division refers to the definition of education levels expressly stipulated in Article 17 and Article 18 of Law No. 20 of 2003 concerning the National Education System, where basic education includes elementary and junior high schools, while secondary education includes senior high and vocational high schools. Thus, the governor's attributive authority in the field of education only covers the management of secondary education at the senior high and vocational high school levels, and does not cover students at the elementary education level at the junior high school level under the authority of the district/city government.⁴³ If the military barracks program also targets junior high school students, then the governor has exceeded the limits of attributive authority granted by law, so that the policy is not only problematic in terms of the substance of the program, but also in terms of the division of concurrent government affairs that have been determined normatively. In general, the authority held by government officials arises from three sources: attribution, delegation, or mandate, each of which is expressly regulated in laws and regulations. In this case, the authority of the Governor of West Java in the field of education falls under the category of attribution authority arising from Law Number 23 of 2014, so its implementation is bound by the limitations

³⁸ Eleanora, FN, & Masri, E. (2018). Special Guidance for Children According to the Juvenile Criminal Justice System. *Journal of Scientific Studies, Bhayangkara University, Jakarta Raya*, 18 (3), 215-230. P. 216

³⁹ Kurniasi, R. (2024). Implementing Restorative Justice for Children Who Become Criminal Offenders Through Diversion. *UNES Law Review*, 6(4), 10821-10828. P. 10824

⁴⁰ Krisnalita, LY (2019). Diversion for crimes committed by children. *Binamulia Hukum*, 8(1), 93-106. P. 101

⁴¹ Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

⁴² Law Number 23 of 2014 concerning Regional Government

⁴³ Law Number 20 of 2003 concerning the National Education System

determined by the law. If the governor issues a policy whose contents are not clearly covered by the authority granted or even related to it, then the policy can be considered an action that exceeds authority.⁴⁴ In the context of the Gapura Panca Waluya program, the governor's implementation of the policy becomes increasingly problematic when it is linked to children involved in criminal acts, considering that a special handling mechanism is already available for these children through the SPPA Law, which cannot simply be ignored or replaced by regional policies.⁴⁵ The problem becomes even more apparent when applied to children who commit crimes such as brawls between students, which from a juvenile criminal law perspective can be qualified as a crime and should be processed through mechanisms in accordance with the SPPA Law. The Gapura Panca Waluya policy creates uncertainty regarding the legal status of child perpetrators of crimes, because children suspected of committing crimes must essentially be processed through the SPPA Law mechanism to obtain legal certainty and protection of their rights as children in conflict with the law. Furthermore, transferring children suspected of committing crimes to this program has the potential to remove their legal status as child suspects, which should be protected by the SPPA mechanism. Thus, the problems raised by this military barracks policy not only touch on aspects of formal authority alone, but also spread to issues of governance, fulfillment of children's rights, and alignment with national education policy. This also confirms that limiting the authority of regional heads is crucial so that the implementation of regional autonomy does not deviate from the applicable legal corridor.

Essentially, a developmental approach through programs like Gapura Panca Waluya is more relevant for children engaging in juvenile delinquency that is not yet considered a crime, such as truancy, online gaming addiction, smoking, drunkenness, or illegal street racing. These behaviors generally represent social and disciplinary issues that can be addressed through character development, counseling, and supervision from family and school. In this context, a discipline-based development program like the military barracks can be positioned as a relevant last resort when the school or family is no longer able to handle the child's behavior, which is deemed to have exceeded reasonable limits, for example, when the child repeatedly disregards school rules and previous developmental efforts have failed. This situation is increasingly evident considering that many parents voluntarily submit their children to these developmental programs in response to their inability to deal with their children's chronic negative behavior, such as involvement in motorcycle gangs, frequent truancy, or other deviant behavior.⁴⁶

The parents chose this decision because it was considered the most realistic step after various previous guidance efforts, ranging from guidance and counseling services at school to reprimands and sanctions imposed within the family, failed to produce results. In this context, the Gapura Panca Waluya program can be positioned as a preventive and rehabilitative effort to foster discipline and responsibility in children without requiring them to be subjected to the juvenile criminal justice system. Based on these two scenarios, clear coordination between provincial governments and law enforcement officials is needed in handling problem children. The provincial government, through the Gapura Panca Waluya program, should only handle children who behave deviantly in the category of non-criminal juvenile delinquency, while children suspected of committing crimes must be handed over to law enforcement officials to be processed according to the SPPA Law mechanism, including efforts to diversion from the investigation stage. Without clear coordination between these two parties, overlapping authority will arise that is detrimental to children. On the one hand, the right to a fair legal process is ignored, and on the other hand, the development program that should be intended for non-criminal delinquent children is instead filled by children who should receive protection through the juvenile criminal justice mechanism.

CONCLUSION

The Gapura Panca Waluya Program is not in line with the principle of the best interests of children as mandated by the laws and regulations in force in Indonesia. The principle of the best interests of children as regulated in Law Number 35 of 2014 concerning Child Protection emphasizes that every policy concerning children must prioritize the interests of children above other interests, including in determining the methods of fostering and handling problem children (children in special care). The militaristic approach applied in this program has the potential to be related to children's rights to protection from harsh and degrading treatment as guaranteed in Article

⁴⁴Ibid, p. 270

⁴⁵Ibid, p. 270

⁴⁶Zaynudin, A., & Susanto, A. (2026). Examining the West Java Governor's Policy Regarding the Placement of Children in Military Barracks as an Effort to Rehabilitate Juvenile Delinquency in Relation to the Concept of Civilian Children and State Children in the Correctional System. *Al-Zayn: Journal of Social Sciences & Law*, 4(2), 4674-4680. P. 4678

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28B Paragraph (2) of the 1945 Constitution, as well as the rights of children to grow and develop in a conducive environment as regulated in Article 13 of the Child Protection Law which prohibits all forms of violence, cruel treatment, and treatment that degrades the dignity of children. Therefore, an approach that is more in line with the principle of child protection is through counseling guidance, value-based character education, and strengthening the role of families and schools that position children as subjects who need to be guided, not disciplined by force. The Gapura Panca Waluya program raises serious issues in the context of juvenile criminal accountability because it does not clearly differentiate between children who commit juvenile delinquency and children involved in criminal acts, even though both have different legal consequences. For children suspected of committing crimes, the SPPA Law has provided a structured handling mechanism including the obligation of diversion efforts from the investigation stage. Therefore, transferring these children to the military barracks program without going through the SPPA mechanism has the potential to deprive them of their right to a fair legal process.

Furthermore, the governor's attributive authority only covers secondary education at the high school and vocational high school levels, so the inclusion of junior high school students in this program also exceeds the limits of authority that has been normatively determined. In this context, two-way coordination between the provincial government and law enforcement officials can be a relevant alternative. Officials who encounter children in disciplinary operations can hand over problematic children (for special handling) but have not committed crimes to the Gapura Panca Waluya program, while the governor can hand over children involved in criminal acts to the authorities for processing through the SPPA. Even from a legal perspective, this program can be applied to children who have committed crimes as long as it is integrated as a diversion agreement based on Article 8 of the SPPA Law, so that the Gapura Panca Waluya program is not only effective as a means of development but is also legally valid.

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