

# Addressing Prison Education and the Obstacles in Ensuring the Right to Education in Indonesian Juvenile Correctional Facilities

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## Abstract

Reintegrating juvenile offenders into society with a positive reception is a primary objective of education, aimed at breaking the cycle of incarceration that results in recidivism. This article aims to delineate the prison education policies within Indonesian juvenile correctional facilities (LPKA), focusing on regulatory frameworks and their practical implementation. It focuses on the issue of the LPKA's capability in Indonesia to ensure access to education, which is a fundamental right of juvenile inmates, and on whether its benefits can be felt and realized. Data collection methods encompassed interviews, regulatory assessments, institutional report evaluations, and literature reviews. Findings indicate that, despite a 270% decrease in juvenile inmate numbers from 2018 to 2022, only 68% of this population was granted educational access. Contributing factors include specific regulatory constraints on educational access and a lack of innovative collaborations, even with the reduced workload in LPKA. The study advocates for the initiation of formal educational institutions within LPKA, minimizing reliance on the Ministry of Education and allowing for curriculum adaptation to prevailing conditions.

**Keywords:** *Prison Education, Right to Education, Juvenile Correctional Facilities, Juvenile Inmates, Social Rehabilitation*

## I. INTRODUCTION

Over the past decade, prison education has emerged as a distinct rehabilitation strategy for juvenile inmates in Indonesia, setting it apart from the rehabilitation offered to adult inmates. Minors are given special protective measures, operationalized through various instruments such as diversion (case suspension), confidential trial procedures, a maximum isolation sentence of 10 years, and now reinforced by access to prison education.<sup>1</sup> These diverse measures demonstrate that the approach to addressing juvenile delinquency does not solely rely on punitive measures.<sup>2</sup> Over the past five years, diversion policies have markedly decreased the juvenile inmate count. The Directorate General of Corrections documented a decline from 3,067 minors in 2018 to 1,123 in 2022, representing a 270% reduction.<sup>3</sup> However, this significant reduction in inmate numbers has not been paralleled by a commensurate enhancement in the 2022 educational service targets, which stood at a mere 65%.<sup>4</sup> Despite this achievement, it has only managed to reach 69% of the total juvenile inmate population, leaving 31% or 348 juvenile inmates without access to education. Furthermore, the reported achievement aggregates both formal and non-formal education, disregarding the specific focus on formal education. Consequently, the rehabilitation initiatives within juvenile correctional facilities have yet to prioritize formal education as a fundamental requirement.

According to articles 3.1 and 13.4 of the Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules, 1985), juvenile inmates should be treated distinctively from adults and should be incarcerated separately. Indonesia implements this provision through the Juvenile Justice System Law (2012) and through a Ministerial Regulation (2015)<sup>5</sup> that instructs the establishment of a LPKA in each provincial capital.<sup>6</sup> The Coordinating Ministry for Human Development and Culture reported that, as of July 29, 2022, the Prison Database indicates a total of 1,940 juvenile inmates distributed across 33 LPKA, they are generally from poor families and are unable to obtain a good education.<sup>7</sup> This article defines "prison education" as educational programs offered within correctional facilities, a public policy managed by the Ministry

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1 Vivi Nurqalbi, "Analysis of Diversion Arrangements in the Beijing Rules and the Juvenile Criminal Justice System in Indonesia" (2023) *European Journal of Law and Political Science*.

2 Muhaimin Muhaimin, "Reconstruction of The Juvenile Criminal Justice System and The Giving of Diversion" (2021) *Jurnal Penelitian Hukum De Jure*.

3 *Laporan Tahunan Ditjenpas 2022*, by Ditjenpas Kemenkumham (Jakarta, 2023).

4 *Ibid.*

5 According Regulation of the Minister of Law and Human Rights No. 18 of 2015 concerning Organization and Work Procedures of Juvenile Correctional Center (LPKA).

6 Kanwilkumham Nusa Tenggara Timur, "Kilas Balik Berdirinyan LPKA Klas I Kupang", (2019), online: <<https://ntt.kemenkumham.go.id/berita-kanwil/berita-upt/4104-kilas-balik-berdirinya-lpka-klas-i-kupang>>.

7 Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan, "Pemerintah Terus Berupaya Penuhi Hak Anak Binaan di LPKA", (2022), online: <<https://www.kemenkopmk.go.id/pemerintah-terus-berupaya-penuhi-hak-anak-binaan-di-lpka>>.

of Law and Human Rights. The potential for recidivism among juvenile inmates can be effectively mitigated through a prison education policy. Education, described as the process of facilitating learning or the acquisition of knowledge, skills, values, beliefs, and habits, whether formal or vocational, has demonstrated success in reducing recidivism rates.<sup>8</sup>

Crimes committed by minors are not always met with imprisonment as a response. Imprisonment has detrimental effects, as highlighted by Baron (2023) the imprisonment of juvenile inmates in America leads to a 38% decrease in high school graduation rates and a 27% increase in recidivism by the age of 19.<sup>9</sup> A similar situation is occurred in Indonesia, according to Artha (2022) the recidivism among juveniles arises due to a lack of education and skills.<sup>10</sup> This notion is further corroborated by Jatnika (2015), asserting that these individuals are unprepared for social reintegration if they experience limitations in accessing education, training, and moral support from their families.<sup>11</sup> Juvenile inmates are confined to correctional facilities, shaping their daily experiences and life trajectories.<sup>12</sup> Given this context, the provision of prison education emerges as a pivotal component, given its potential to influence both the individual juvenile inmates and the broader society.<sup>13</sup> In essence, prison education seeks to uphold the educational rights of school-age children, reinforcing the principle that every child, irrespective of their circumstances, is entitled to education.<sup>14</sup> The implementation of prison education is driven by the aim to nurture children into becoming contributing members of society, instilling in them a deeper sense of morality, and encouraging compliance with laws and societal norms, thereby fostering a harmonious community environment.<sup>15</sup>

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8 Gregory Magee, "Education Reduces Recidivism" (2021) 16 *Technium Social Sciences Journal* 175-182.

9 E Jason Baron, Brian Jacob & Joseph Ryan, "Pretrial juvenile detention" (2023) *Journal of Public Economics*.

10 I Gede Adi Artha, Osgar S Matompo & Maisa Maisa, "Efektivitas Pembinaan Terhadap Residivis Anak Tindak Pidana Pencurian di Lembaga Pembinaan Khusus Anak Kelas II Palu" (2022) *Jurnal Kolaboratif Sains*.

11 Dyana C Jatnika, Nandang Mulyana & Santoso Tri Raharjo, "Residivis Anak sebagai Akibat dari Rendahnya Kesiapan Anak Didik Lembaga Pemasarakatan dalam Menghadapi Proses Integrasi ke dalam Masyarakat" (2015) 5:1 *Share : Social Work Journal*.

12 Atikah Rahmi & Suci Putri Lubis, "Pertanggungjawaban Pidana Bagi Anak Yang Melakukan Kekerasan Fisik Terhadap Pembantu Rumah Tangga (Analisis Putusan Nomor: 27/Pid.Sus-Anak/2014/PN.MDN)" (2017) *De Lega Lata*.

13 Elizar Ayu Putri et al, "Pelatihan Peningkatan Kompetensi Mengajar Bagi Petugas Lembaga Pembinaan Khusus Anak (LPKA) Tangerang, Banten" (2020) *To Maega | Jurnal Pengabdian Masyarakat*.

14 Yoris Faqurais, "Efek Buruk Hukuman Penjara Pada Anak (Studi Kasus Di Lembaga Pemasarakatan Khusus Anak Kelas Ii Bandar Lampung)" (2021) *Nusantara: Jurnal Ilmu Pengetahuan Sosial*.

15 Rachmat Putro Ferdiawan, Meilanny Budiarti Santoso & Rudi Saprudin Darwis, "Hak Pendidikan Bagi Anak Berhadapan (Berkonflik) Dengan Hukum" (2020) 2:1 *Jurnal Kolaborasi Resolusi Konflik*.

Consequently, prison education stands as a transformative tool, equipping children with the means to refine their behavior and chart a more positive and productive path forward.

In line with this, two questions can be formulated: a) How does the national regulation guarantee education as a human right for juvenile inmates?, and b) How is the prison education policy implemented within Indonesian juvenile correctional institutions? These inquiries anchor the article's discourse, elucidating the factors contributing to the suboptimal delivery of educational services to juvenile inmates in Indonesia. This article explores the discrepancy between the established right to education for juvenile inmates, as stipulated in the Juvenile Criminal Justice System Law since 2012, and the observed inequality in providing such education. This article presents research undertaken by the author, drawing from interviews, regulatory reviews, analyses of annual and performance reports, and literature assessments. The overarching conditions of LPKA Indonesia are explored through annual and performance reports, supplemented by interviews conducted at LPKA Kutoarjo. These interviews engaged LPKA Officers (3), Education Office Officers (1), and Juvenile Inmates (10), focusing on the practicalities of the prison education policy. Discussion topics encompassed educational facilities, inter-institutional collaboration, integration of educational administration, and the prevailing learning environment. It is pertinent to note that this study's insights into juvenile inmates are circumscribed, given that all informants were selected by the LPKA. The incorporation of annual and performance reports as data sources aimed to provide a macro-level perspective on educational access for incarcerated juveniles.

## II. PRISON EDUCATION POLICY IN THE INDONESIAN LEGAL FRAMEWORK

### 1. The Practice of Education as Human Rights for Juvenile Inmates East

Education is enshrined as a fundamental right of every child under the Convention on the Rights of the Child which address standard developmental needs and fostering a commitment to the betterment of humanity. The child's right to education spans various domains, including economic, social, cultural, and individual rights.<sup>16</sup> The influence of the Convention is palpable in contemporary times. As reported by The United Nations Development Programme (UNDP), since 2015, enrollment in primary education in developing nations has surged to 91%.<sup>17</sup> However, challenges persist, with one in four girls remaining out of school and 103 million children lacking basic reading proficiency.

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16 Humanium, "Rights of the Child", online: 2022 <<https://www.humanium.org/en/child-rights/>>.

17 UNDP, "Quality Education", online: <[https://www.undp.org/sustainable-development-goals/quality-education?gclid=CjwKCAjwgZCoBhBnEiwAz35RwwqeRfXvnZ-IhIojZVq9jyWiFGhMvXo2uV55botW4UMk3L\\_YZGr0ChoCr7IQAxD\\_BwE](https://www.undp.org/sustainable-development-goals/quality-education?gclid=CjwKCAjwgZCoBhBnEiwAz35RwwqeRfXvnZ-IhIojZVq9jyWiFGhMvXo2uV55botW4UMk3L_YZGr0ChoCr7IQAxD_BwE)>.

Sharon Lee contends that analyzing education from a human rights perspective necessitates a dual-focused discussion. The first element is that the state must ensure that all children have access to education and the second element is that the education provided should not only be accessible but also practically applicable in real-life scenarios.<sup>18</sup> Both perspectives align with the Millennium Development Goal of offering free and non-discriminatory access to basic education, a principle championed by the UN since 2000.<sup>19</sup> In the Post-World War II era, the educational focus shifted towards imparting skills, practices, and values essential for harmonious coexistence across diverse cultural and national landscapes.<sup>20</sup> In congruence with this shift, UNESCO championed an education rooted in a humanistic-emancipatory framework, challenging the traditional conservative educational model which is more compliance-driven and often suppresses innovation.<sup>21</sup> A state's economic advancement is often gauged by its educational quality. Remarkable growth can be attributed to a dedicated investment in education and a rigorous pursuit of academic excellence.<sup>22</sup> Based on these developments, it's evident that education, on a global scale, has metamorphosed into both a fundamental right and an essential tool for the holistic development of children.

The establishment of the juvenile criminal justice system draws inspiration from the Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules, 1985), developing the idea that the criminal approach to respond to juvenile crime is selective and limited. Education is heralded for its transformative potential within juvenile correctional facilities, offering knowledge, skills, and reshaping life trajectories.<sup>23</sup> The primary objective of placing juvenile inmates in correctional facilities is not punitive; rather, it is to provide guidance and mentorship, ensuring their holistic and intellectual development.<sup>24</sup> Addressing educational needs within these facilities often involves literacy programs, which can pose challenges distinct from those in conventional schooling environments.<sup>25</sup> Despite the inherent challenges of delivering education in such settings, it remains a pivotal component of inmate rehabilitation.<sup>26</sup> The ethos

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18 Sharon E Lee, "Education as a Human Right in the 21st Century." (2013) *Democracy & Education*.

19 *Ibid.*

20 Elisabeth Teige & Kjersti Brathagen, "Education for International Understanding After WWII - an Education for Human Rights?" (2022) 26 *História da Educação*, online: <[http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S2236-34592022000100505&tlng=en](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S2236-34592022000100505&tlng=en)>.

21 Maren Elfert, "Humanism and democracy in comparative education" (2023) 59:3 *Comparative Education* 398-415.

22 Emily Hannum et al, *Education in East Asian Societies: Postwar Expansion and the Evolution of Inequality* (2019).

23 Nick Flynn & Rachel Higdon, "Prison Education: Beyond Review and Evaluation" (2022) 102:2 *The Prison Journal* 196-216, online: <<http://journals.sagepub.com/doi/10.1177/00328855221079276>>.

24 Muhaimin, *supra* note 2.

25 James S Vacca, "Crime can be prevented if schools teach juvenile offenders to read" (2008) *Children and Youth Services Review*.

26 Susan Easton, "Not just another brick in the wall? Protecting prisoners' right to education" (2022) *International Journal of Law, Crime and Justice*.

guiding the management of juvenile correctional facilities has evolved through three distinct phases: transitioning from "punishment and class domination," to "criminal transformation and social control," and finally to "correction and comprehensive social security management."<sup>27</sup> Through educational initiatives, juvenile offenders are increasingly recognized and integrated as vital participants in prison rehabilitation programs.

Education, as a key program in the rehabilitation of juvenile inmates, has seen diverse implementations across various nations. In the United States, Reese (2019) delved into the Prison Education Project (PEP), which has emerged as the nation's most extensive volunteer-driven prison education initiative, emphasizing lifelong learning.<sup>28</sup> Reese argues that the United States correctional system shows progressive tendencies, by including four different programs: academic orientation, career development, interdisciplinary studies, and enrichment.<sup>29</sup> In Finland, the prison education approach integrates academic activities with vocational training to equip juvenile offenders with vocational skills and prepare them to enter the workforce.<sup>30</sup> The Finnish model underscores that education is not just the acquisition of information, but also equipping individuals with the necessary qualifications to actively participate in work and community contexts.<sup>31</sup> As explored by Denis (2021), Japan's prison education policies integrate education with discipline, daily chores, and team sports, emphasizing collective responsibility.<sup>32</sup> This comprehensive approach provides juvenile offenders with a sense of care and belonging, which many might lack in their familial or educational contexts, influenced by Japanese culture, which values compassion and supportive leadership.<sup>33</sup> This comparative analysis underscores that prison education policies globally do not solely rely on education as an isolated strategy but also focus on preparing juvenile inmates for future vocational endeavors.

In examining global prison education policies, certain countries, notably China, have yet to optimize their approaches. Yunhan (2019) highlights that the primary impediment in China stems from its traditional correctional system. In Article 64 of the Prison Law, it is stipulated that prisons offer vocational training to inmates, which is aligned with the

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27 Ling Yang & Qin Zhao, "The evolution and development of the value orientation of juvenile delinquency correction in China" (2021) *Children and Youth Services Review*.

28 Renford Reese, "The Prison Education Project" (2019) *International Review of Education*.

29 *Ibid.*

30 Katariina Mertanen & Kristiina Brunila, "Prison Break. Education of young adults in closed prisons—building a bridge from prison to civil society?" (2018) *Education Inquiry*.

31 *Ibid.*

32 Michelle Denis, "Conditions and treatment within Juvenile prisons: A comparative of Japanese and American standards for Juvenile prisons and rehabilitation" (2021) *Indonesian Journal of International and Comparative Law*.

33 *Ibid.*

demands of prison production and the employment prospects of inmates upon release.<sup>34</sup> However, an inmate's inclination or motivation to partake in educational programs is contingent upon the availability of facilities that facilitate external interactions, such as visitation and telecommunication services.<sup>35</sup> Bradley (2021) also revealed a similar non-optimality in Her Majesty's Prison Service Full Sutton (UK), where prison education policy struggled to adapt to technological advances during the peak of the Covid-19 pandemic.<sup>36</sup> The pronounced digital divide and the absence of technological progression precipitated a marked decline in prison education.<sup>37</sup> In Slovakia, Lukacova (2019) identifies challenges faced by educators who perceive a lack of adequate competence to contribute effectively to prison education policies.<sup>38</sup> Absent specialized training, these educators are compelled to expedite their teaching processes, adhering strictly to prescribed syllabi, despite the inherent constraints of prison facilities.<sup>39</sup> In conclusion, the suboptimal nature of prison education policies in certain developed nations can be attributed to their unpreparedness in policy implementation.

## 2. Synchronization of Prison Education Policies in Various National Regulations

The Indonesian Constitution (UUD 1945) regulates two important aspects of education: education as part of human rights in Article 28C and education as a citizen's obligation financed by the Government in Article 31. The placement of education in the Constitution as part of human rights shows the state's alignment with the issue of education as a citizen's need.<sup>40</sup> The state's financial involvement in education is designed to ensure equitable access, aiming to redress any disparities or injustices in the acquisition and enjoyment of education.<sup>41</sup> Article 31, paragraph (4) of the 1945 Constitution stipulates the technicalities of such financing, mandating that the state revenue and expenditure budget (APBN) allocate a minimum of 20% towards educational endeavors. In the proposed 2023 State Budget, the Indonesian Government has earmarked an education budget of 608.3 trillion rupiah, which constitutes 20% of the total budget of

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34 Yunhan Zhao et al, "Prisons as Schools: Inmates' Participation in Vocational and Academic Programs in Chinese Prisons" (2019) 63:15-16 *International Journal of Offender Therapy and Comparative Criminology* 2713-2740, online: <<http://journals.sagepub.com/doi/10.1177/0306624X19861051>>.

35 *Ibid.*

36 Alexandria Bradley & Bill Davies, "Devastation and innovation: examining prison education during a national pandemic" (2021) *Journal of Criminal Psychology*.

37 *Ibid.*

38 Silvia Lukacova et al, "Prison Education in Slovakia from the Teacher's Perspective." (2018) *Journal of Prison Education and Reentry*.

39 *Ibid.*

40 Endah Rantau Itasari, "Pemenuhan Hak Pendidikan Warga Negara Indonesia Berdasarkan the Universal Declaration on Human Rights (Udhr) 1949" (2021) *Justitia Jurnal Hukum Fakultas Hukum Universitas Muhammadiyah Surabaya*.

41 Endah Rantau Itasari, "Hak Pendidikan Di Wilayah Perbatasan Dalam Kerangka Konstitusi Republik Indonesia" (2020) *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan*.

3,041.7 trillion rupiah, marking the highest allocation in the past decade.<sup>42</sup> This allocation underscores the unwavering commitment of the Indonesian government to championing education, both from a constitutional and budgetary perspective.

To actualize the constitutional directive on education, Indonesia has promulgated several legislative instruments, notably the National Education System Law (2003) and the Child Protection Law (revised in 2016). The National Education System Law delineates both the rights of citizens and the obligations of the government concerning education. Article 5 stipulates that every citizen has the same right to quality education, and Article 17 stipulates that the state is obliged to provide services and facilities and ensure the fulfillment of quality education for every citizen aged seven to fifteen years without discrimination. The National Education System Law does not make any exceptions for not providing education, according to Article 13, which states that if formal education cannot be provided, non-formal education is provided as a substitute. The pattern of regulating rights and obligations in the law can also be found in Child Protection Law. These two laws do not regulate the right to education for juvenile inmates, but they do not provide for exceptions that allow the state not to provide access to education, meaning that juvenile who are detained or imprisoned still have the right to access education. During the enactment of these two laws, the right to education for juvenile inmates was replaced with skill training and religious guidance, and juvenile inmates were not housed separately from adult inmates.<sup>43</sup> Juvenile inmates have not been optimally prepared with educational facilities, teachers, and assistance from the Education Office because there are no specific regulations accommodating their right to education.<sup>44</sup> Thus, the National Education System Law and Child Protection Law do not adequately guarantee the right to education for juvenile inmates.

In response to the juvenile crime delinquency, the Juvenile Criminal Justice System Law was passed in 2012. This legislation is notable for introducing two pivotal institutions: the Juvenile Court and the Juvenile correctional facilities (LPKA). The underlying philosophy of this law emphasizes that punitive measures and restrictions on juvenile offenders should be employed as a last resort, termed 'ultimum remedium'.<sup>45</sup> In the administration of justice for juveniles, a restorative justice approach, termed 'diversion', is adopted. This approach facilitates informal punitive measures, aiming to offer protection and rehabilitation to juvenile offenders, thereby mitigating the risk of

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42 Katadata, "Anggaran Pendidikan RAPBN 2023 Tertinggi Sedekade Terakhir", (2022), online: <<https://databoks.katadata.co.id/datapublish/2022/08/16/anggaran-pendidikan-rapbn-2023-tertinggi-sedekade-terakhir>>.

43 Hizkia Brayen Lumowa, "Hak Pendidikan Bagi Narapidana Anak Ditinjau dari Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak" (2017) Lex Privatum.

44 Fitri Dwi Nurjannah; Levina Yustitianiingtyas, "Pelaksanaan Hak Pendidikan Anak Di LPKA Ditinjau Dari Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak" (2020) Universitas Wijaya Kusuma.

45 Rizaldi Tri Pamungkas, "Sanksi Pidana Penjara Bagi Anak yang Melakukan Tindak Pidana Pembunuhan Dalam Perspektif Ultimum Remedium" (2022) Jurist-Diction.



recidivism in their adulthood.<sup>46</sup> Three detrimental consequences arise when children engage with the criminal justice system: dehumanization, prisonization, and stigmatization. The diversion policies act as a safeguard against these adverse effects. Those juveniles who, after trial, are sentenced to incarceration are housed in the LPKA, ensuring their separation from adult inmates to prevent potential victimization and bullying.<sup>47</sup> The legislative framework governing juvenile offenders in Indonesia underscores a prevailing paradigm that recognizes the unique needs and requisite specialized treatment for this demographic.

Article 85 of the Law on the Juvenile Justice System mandates that the LPKA provide education, skills training, mentoring, and other related services. Given the paramount importance of education for the well-being of juvenile offenders, it is prioritized as the foremost obligation in this article. Rehabilitation through education emphasizes human values and the development of soft skills during their tenure in the LPKA.<sup>48</sup> Such emphasis on education has led to a perception that the restorative justice policies within Indonesia's juvenile criminal justice system seem to lean more towards the interests of juvenile perpetrators than those of the victims.<sup>49</sup> The primary rationale for integrating education into rehabilitation programs for juvenile inmates is to provide them with a realistic and constructive orientation towards their future, both during and post-incarceration. Such an approach is believed to yield better outcomes when facilitated through education.<sup>50</sup> Incarcerating juvenile offenders is fraught with controversy. While they are in a critical phase of moral development, they are simultaneously deprived of physical freedom, autonomy, familial ties, access to goods and services, security, heterosexual relationships, and stimulation, and are exposed to potential psychological disorders.<sup>51</sup> Thus, the adoption of the concept of prison education in the Juvenile Criminal Justice System Law has not only been interpreted as a human right of juvenile offenders but also as a priority obligation for the Government through LPKA.

In the Law on the Juvenile Justice System, the emphasis on education is not consistently prioritized, particularly when considering education as a component of

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46 Sarwadi Sarwadi & Bambang Tri Bawono, "Restorative Justice Approach in Diversion System for Settlement of Criminal Cases for Children in Indonesia" (2021) *Jurnal Daulat Hukum*.

47 Simson Kristianto, "Pemenuhan Hak Narapidana Anak Di Lembaga Pembinaan Yang Bukan Khusus Anak" (2021) *Jurnal HAM*.

48 Ani Purwati, "Criminal law policy in the framework of children contact with the law" (2022) *Technium Social Sciences Journal*.

49 Ani Purwati, Filin Dwi Purwaningtyas & Jumali Sapta Agung, "Rehabilitation and reintegration policies of children victims of criminal action in the Children's Criminal Jurisdiction System" (2021) *Research, Society and Development*.

50 Wolfgang Storck, "More Education of Juvenile Offenders in Sentences of Imprisonment: a Reform and Justification Approach As a Consequence of Niklas Luhmann'S Systems Theory" (2023) *6:3 Access to Justice in Eastern Europe* 54-80.

51 Yunisa Sholikhati & Ike Herdiana, "Anak Berkonflik dengan Hukum (ABH), Tanggung Jawab Orang Tua atau Negara ?" (2015) *Psychology Forum UMM*.

sanctions. Article 83, paragraph (1), letter c, dictates that one of the sanctions for juvenile offenders is participation in education and/or skills training. Unlike traditional criminal sanctions, which are punitive in nature, these measures aim to foster the personal development of juvenile inmates, adopting a rehabilitative approach.<sup>52</sup> Such sanctions are didactic, emphasizing positive outcomes.<sup>53</sup> Within the National Education System Law, training is categorized as non-formal education, complementing the formal education system. It serves as an alternative to non-formal education in the form of PKBM. The use of the term “and/or” in the law can be interpreted both cumulatively and alternatively. This provides the Ministry of Law and Human Rights with two potential approaches. The first is a cumulative approach, where the rehabilitation program encompasses both education and training. The second is an alternative approach, allowing for the selection of either education or training based on individual needs or capabilities. This alternative can be further tailored into two sub-options: 1) opting solely for formal education or combining it with non-formal education, and 2) selecting only non-formal education. The first option is ideal as it offers a comprehensive educational experience, merging formal education with vocational or entrepreneurial skills training from non-formal education. The second sub-option, however, should be approached with caution, as it might inadvertently provide legal grounds for the lack of facility provision. In this context, the alignment between the Juvenile Justice System Law and the National Education System Law, particularly regarding non-formal education, remains imperfect.

The same symptoms are also found in the Correctional Act (2023); in Article 50, it is stated that based on the results of the examination (litmas), juvenile inmates are given education which includes formal, non-formal, and/or informal education. According to Costelloe, if we believe that education can counter the marginalization of the most vulnerable members of society and restore their rights, we must also acknowledge that education can “return prisoners to society”.<sup>54</sup> The state's commitment to ensuring access to education is not merely an act of benevolence; rather, it is a principled stance to uphold education as a fundamental right.<sup>55</sup> However, the use of the term “and/or” in the Correctional Act diverges from the mandate of compulsory education as outlined in the National Education System Law. This discrepancy becomes even more pronounced when considering the 12-Year Compulsory Education Program, a key initiative in the Nawacita Program (Presidential Vision for the 2014-2019 and 2019-2024 Periods). As a result, the goal and successful realization of providing access to formal education have

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52 Rabith Madah Khulaili Harsya, Abdul Fatakh & Umdah Aulia Rohmah, “Penetapan Sanksi Pidana Dan Tindakan Sebagai Sistem Pemidanaan Di Indonesia” (2022) *YUSTISIA MERDEKA : Jurnal Ilmiah Hukum*.

53 Hariman Satria, “Restorative Justice: Paradigma Baru Peradilan Pidana” (2018) *Jurnal Media Hukum*.

54 Kate O'Brien et al, “Education as the practice of freedom?” - prison education and the pandemic” (2022) 74:3 *Educational Review* 685-703, online: <<https://www.tandfonline.com/doi/full/10.1080/00131911.2021.1996335>>.

55 Pratyay Amrit et al, “Prisoner’s rights and prison reform in India” (2022) *International journal of health sciences*.

only reached 19% of the total juvenile inmate population.<sup>56</sup> The National Education Survey of 2022, conducted by Statistics Indonesia (Badan Pusat Statistik), reports a rising school dropout rate across all educational levels. Specifically, 22 out of every 100 children aged 16-18 are not in school. This age bracket corresponds with the age range of juvenile inmates, defined as those between 14 and 18 years old by both the Juvenile Justice System Law and the Penitentiary Law. It is clear, therefore, that these laws not only fall short in guaranteeing prison education but may also be contributing factors to the increasing dropout rate.

### III. IMPLEMENTATION OF THE PRISON EDUCATION POLICY IN JUVENILE CORRECTIONAL INSTITUTIONS

#### 1. Challenges in Education Accessibility Amidst the Decline in Juvenile Inmates Numbers

The Juvenile Justice System Law, enacted in 2012, has notably succeeded in reducing the count of juvenile inmates over the past five years. Data from the Directorate General of Corrections reveals a marked decline in these numbers. In 2018, the number of juvenile inmates reached 3,067 children, but this number drastically decreased to 1,123 children in 2022.<sup>57</sup> This represents a significant 273% reduction in the number of juvenile inmates from 2018 to 2022. A major factor behind this trend is the law's diversion policy. Diversion refers to the redirection of case resolutions from the criminal justice process to an external system. This approach is mandatory at every stage of examination, including investigation, prosecution, and court proceedings<sup>58</sup> The weakness of the diversion regulation is in the type of crime committed by juveniles; they can only be sought for diversion if the crime committed is punishable by imprisonment of not more than seven years and they are not recidivists.<sup>59</sup> However, the substantial 273% decrease in juvenile inmate numbers suggests that most committed offenses are relatively minor, and victims are generally inclined towards non-punitive resolutions.

The observed decline in juvenile inmate numbers seems to correspond with the rising targets and actual achievements in providing educational access within the LPKA on a national scale. During the same timeframe, the decrease in these numbers appears to align with an increased target and achievement in providing educational access within LPKA on a national scale. In 2008, the initial target for educational access was set at 25%,

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<sup>56</sup> Ditjenpas Kemenkumham, *supra* note 3.

<sup>57</sup> *Ibid.*

<sup>58</sup> Wahab Aznul Hidayat, "Penerapan Diversi Dalam Sistem Peradilan Pidana Anak" (2019) JUSTISI.

<sup>59</sup> Johari Johari & Muhamad Arif Agus, "Analysis of Diversion Terms in Child Criminal Justice System" (2021) Journal of Correctional Issues.

but 30% was achieved. By 2022, this target was raised to 65%, and a realization of 68% was successfully reached. Over this 5-year span, while the number of juvenile inmates decreased by 273%, the target for providing educational access increased by 260%, with an actual achievement rate of 226%. Despite these seemingly proportional figures, a notable 31% of the juvenile inmate population still lacks educational access. The 2022 Annual Report highlighted that 15% of this group had independently pursued education, while the remaining 16% faced administrative barriers.<sup>60</sup> The primary challenge, as outlined in the report, is the lack of follow-through in collaboration between the Ministry of Law and Human Rights and the Ministry of Education, especially at the local levels between the LPKA and the District/City or Provincial Education Offices. Consequently, while there's a positive correlation between the decline in inmate numbers and the rise in educational access targets and achievements within the LPKA, the situation remains not ideal.

The constraints of local cooperation affected the forms of access to education received by 69% of the juvenile inmate population. These challenges have resulted in four scenarios for educational access in LPKA. First, LPKA offers both formal and non-formal educational access simultaneously. The LPKA has successfully collaborated with two educational institutions, formal schools, and equivalency educational institutions (PKBM). This approach is the most effective and supports the successful reintegration of inmates back into society, minimizing the probability of recidivism, because the program provided encompasses both education and training.<sup>61</sup> Second, LPKA provides only formal educational access, meaning the LPKA collaborates solely with formal schools. In this scenario, juvenile inmates benefit from catching up academically, but the primary motivation to engage in the educational program is to earn credit points to reduce their sentence length.<sup>62</sup> Third, LPKA offers only non-formal educational access, collaborating only with PKBM to provide equivalency education. This scenario arises when juvenile inmates face specific conditions due to advanced age or illiteracy.<sup>63</sup> Fourth, LPKA does not provide any educational access, indicating a failure to collaborate with both formal schools and PKBM, but only offers skills training. In this scenario, LPKA adopts a traditional paradigm, rehabilitating inmates with a pragmatic orientation, preparing them for immediate but perhaps menial employment due to limited financial support and facilities.<sup>64</sup> The primary aim of rehabilitation in prison is to prevent recidivism, and ideally, this goal is achieved with the spirit of implementing the first

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60 Ditjenpas Kemenkumham, *supra* note 3.

61 Loise Davis et al, "How Effective is Correctional Education and Where do We go From Here?" (2014) RAND corporation.

62 Ila Rosmilawati, Suherman & Dadan Darmawan, *The Benefit of Prison Education: Inmate Students' Self Reflection* (2020).

63 Oki Wahyu Budijanto, "The Fulfillment on the Right To Education for Juvenile Criminals in the Juvenile Special Correction Facility" (2017) *Jurnal Ilmiah Kebijakan Hukum*.

64 Zhao et al, *supra* note 34.

scenario, providing both education and training, so that juvenile inmates can lead a dignified life post-incarceration.

The National Education System Law delineates three educational categories: formal, non-formal, and informal. Formal education represents a systematic continuous learning program, encompassing primary, secondary, and tertiary levels. For individuals unable to access this conventional route, non-formal education is offered, commonly referred to as 'equality education'. Informal Education constitutes an autonomous educational process conducted by families and their respective communities. However, the Juvenile Criminal Justice System Law does not acknowledge informal education, typically characterized as family-based education. As per the 2022 annual report, out of the 69% (or 776) juvenile inmates with educational access, 19% (or 222) received formal education, while 48% (or 554) were exposed to non-formal education. Indonesia houses a single LPKA in each of its provinces, totaling 33 LPKAs. This count reflects the situation prior to North Kalimantan's establishment as the 34th province on October 25, 2022. Among these 33 LPKAs, 6 (or 18%) offer both formal and non-formal education, 2 (or 6%) provide only formal education, 15 (or 45%) exclusively offer non-formal education, and 10 (or 30%) are unable to grant any educational access. These 10 LPKAs are distributed across provinces such as Aceh, Riau, Lampung, East Kalimantan, Central Sulawesi, South Sulawesi, Bali, Maluku, Papua, and West Papua.<sup>65</sup> As articulated by the Director General of Corrections, "educational activities within this framework can be executed via diverse methods, incorporating creative innovations tailored to the specific circumstances of each LPKA."<sup>66</sup> There is a similar pattern in unequal access to education: the percentage of those who do not have access to education at all (31%) is almost the same as the percentage of LPKAs that are unable to provide such access (30%).

While the population of juvenile inmates in LPKA who have not accessed their right to education is in the minority, a population of 31% remains significant. The right to education is a fundamental human right widely recognized by the United Nations and within international human rights instruments.<sup>67</sup> As part of fundamental rights, education is structured as a constitutional right,<sup>68</sup> held by every individual to attain the highest level of education possible.<sup>69</sup> The right to access and enjoy education should be available to

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65 Ditjenpas Kemenkumham, *supra* note 3.

66 detikcom, "Ditjen PAS Jamin Anak Berperkar Hukum Tetap Dapat Pendidikan", (2020), online: *detik.com* <<https://news.detik.com/berita-jawa-barat/d-5104946/ditjen-pas-jamin-anak-berperkar-hukum-tetap-dapat-pendidikan>>.

67 Sophorn Tuy, "Discrimination against Women in Accessing Higher Education in Cambodia" (2019) *Journal of Southeast Asian Human Rights*.

68 S Shofiyullah, "Target Usia Perkawinan Bagi Perempuan: Studi Di Pondok Pesantren Darussalam Dukuhwaluh Purwokerto" (2019) 14:2 *Yinyang : Jurnal Studi Islam, Gender dan Anak* 201-220.

69 Dina Indriyani, "Hak Asasi Manusia dalam Memperoleh Pendidikan" (2017) 7:1 *Jurnal Pendidikan Politik, Hukum, dan Kewarganegaraan* 1-12.

everyone without exception,<sup>70</sup> meaning education for juvenile inmates is also included in the fulfillment of children's rights. Imprisonment aims to restrain physical freedom as state compensation to victims and society, but this punishment does not include restricting the basic rights and liberties of the offender.<sup>71</sup> Education is not only about human rights but also about the utility of rehabilitation programs in LPKA, aiming to prepare juvenile inmates for their future after release.<sup>72</sup> According to Muhlhausen (2019), those who receive education in prison are 12% more likely to find employment after release compared to those who don't.<sup>73</sup> LPKA Indonesia should ensure the educational rights of children; if unable to provide formal education, it would be prudent to optimize access to equivalency education (non-formal), ensuring the fundamental rights of juvenile inmates are not compromised and the rehabilitation program offers benefits beyond merely restricting physical freedom

The prevailing national rehabilitation policy appears to overlook the dual significance of formal education for juvenile inmates, both as a fundamental right and as being in their best interest. The evaluation of educational facilities is predominantly quantitative and tangible, with success narrowly defined by the mere existence of these facilities, without assessing their appropriateness. Given their closed nature, juvenile correctional institutions are recognized for their gradual and often ineffective adaptation to programmatic reforms.<sup>74</sup> Rehabilitation and prisons are not mere “imaginary penalties,” as rehabilitation legitimizes the imposition of prison sentences by offering an approach focused on juvenile inmates.<sup>75</sup> An inclusive educational approach is the ideal method for treating them as subjects, enabling them to comprehend what they need to prepare for after release. There are contradictions in the implementation of prison education policy in Indonesia, and there are technical regulations that allow education not to be provided to juvenile inmates. The Minister of Law and Human Rights Decree stipulates that juvenile correctional facilities should provide an opportunity for juveniles to accept or decline formal education, shifting the responsibility from the ministry to juvenile inmates.<sup>76</sup> In other words, juveniles who are not yet psychologically mature are given the opportunity to make choices that will impact their long-term future. The

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70 Itasari, *supra* note 41.

71 Ebad Rouhi, Leila Raisi Dezaki & Mahmoud Jalali Karveh, “Protection of Prisoner’s Human Rights in Prisons through the Guidelines of Rule of Law” (2016) *Journal of Politics and Law*.

72 Farrah Syamala Rosyda, “Implementasi Pemenuhan Hak Pendidikan untuk Anak Pidana di Lembaga Pembinaan Khusus Anak Kutoarjo” (2020) *Amnesti Jurnal Hukum*.

73 David Muhlhausen & Hugh Hurwitz, “First Step Act: Best Practices for Academic and Vocational Education for Offenders” (2019) *Federal Sentencing Reporter*.

74 Helen Johnston, *Corrupting and Saving: Moral Contamination, Prison Education and Prison History* (2021).

75 Lorraine Higgins, “Exploring the Relationship Between Education and Rehabilitation in the Prison Context” (2021) *Journal of Prison Education and Reentry*.

76 according Decree of the Minister of Law and Human Rights No. M.HH-03.OT.02.02 of 2014 concerning Guidelines for the Correctional Center (BAPAS), Juvenile Detention Center (LPAS) and Juvenile Correctional Center (LPKA).

typology of collaboration that has been developed has resulted in contrasting variations of prison education. For instance, LPKA Kutoarjo solely provides non-formal education, while LPKA Blitar exclusively offers formal education. Consequently, the realization of the right to education is often contingent upon the capabilities of individual juvenile correctional facilities. This approach not only undermines rehabilitation, but also risks perceiving juveniles merely as objects of punitive measures.

## 2. The Inadequacies of Prison Education as a Rehabilitation Policy for Juvenile Inmates

Educational access within Indonesian LPKAs remains inequitable. Remarkably, 10 out of 33 LPKAs have yet to facilitate educational access, prompting concerns about the educational quality in those LPKAs that do. This study examines two LPKAs, LPKA Kutoarjo and LPKA Blitar, chosen for their contrasting educational provisions and their proportional similarities. Both LPKAs are situated on Java Island, a hub for government and commerce. Notably, neither are located in their respective provincial capitals, unlike LPKAs in Tangerang (Banten Province), Jakarta, Bandung (West Java Province), and Yogyakarta. Instead, Central Java Province's LPKA is in Kutoarjo (Purworejo Regency), while East Java Province's LPKA is in Blitar. The distinctions are evident; LPKA Kutoarjo offers only non-formal education to 62 juvenile inmates and skills training to 65, whereas LPKA Blitar provides formal education to 49 juvenile inmates and skills training to just seven.<sup>77</sup> Based on the aspect of integrality between education and skills training, there is a pattern of access to formal education that is not optimally integrated with skills training, as opposed to access to non-formal education.

Education, as a fundamental right, must be widely available with the same standards. Education is a fundamental right as stipulated in the Universal Declaration of Human Rights (1948),<sup>78</sup> and when this right isn't provided equitably, it leads to social inequalities.<sup>79</sup> Lazenby (2016) described two aspects of educational equality: first, that education can be a means to realize equality of opportunity through education, and second, that educational facilities are provided equally (equality of educational opportunity).<sup>80</sup> Meyer (2016) clarified this concept by stating that equity in education focuses on educational outcomes, not just on equality of opportunities, as those who face learning challenges should receive more attention and additional educational resources

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77 Ditjenpas Kemenkumham, *supra* note 3.

78 Patrick Schuck & Markus Sebastian Feser, *Science Education as a Human Right: A Systematic Review of the Literature* (2022).

79 Jian Li & Eryong Xue, "Unpacking the Policies, Historical Stages, and Themes of the Education Equality for Educational Sustainable Development: Evidence from China" (2022) Sustainability (Switzerland).

80 Hugh Lazenby, "What is equality of opportunity in education?" (2016) 14:1 Theory and Research in Education 65-76.

than others.<sup>81</sup> The contrasting differences between LPKA Blitar and LPKA Kutoarjo exemplify educational inequality for juvenile inmates. LPKA Blitar's success in providing formal education access is influenced by its collaboration with a public school managed by the Muhammadiyah Foundation and Yayasan Pendidikan (YP Foundation).<sup>82</sup> LPKA Kutoarjo failed to provide similar access because collaborations were only done with equivalency education at PKBM Tunas Mekar.<sup>83</sup> This variation in educational standards for juvenile inmates will inevitably result in different opportunities for life post-prison. Those who only receive equivalency education will face more complex challenges than those attaining formal education.

The PKBM serves as a non-formal education mechanism designed to substitute formal education through an equivalency exam scheme, ensuring that the outcomes are recognized as formal education. Equivalency education, characterized by its diverse student age and conditions, operates on a unique learning schedule and often encounters a range of challenges necessitating immediate resolution.<sup>84</sup> The design of non-formal education is community empowerment, which aims to solve the problems of school dropout rates and poverty.<sup>85</sup> Numerous studies by Indonesian researchers have highlighted PKBM as an educational public policy in need of significant enhancement. Sutjipto (2016) identified four primary weaknesses in the PKBM curriculum: its development subsequent to the formal education curriculum (indicating a lack of priority), absence of concrete policy indicators, inadequate preparation in knowledge and competencies for employment, and a lack of orientation towards life skills.<sup>86</sup> Aini (2019) further emphasized that the PKBM has yet to support the 9-Year Compulsory Education Policy, noting that while assessment standards for students are high, the provided material does not align with the desired outcomes.<sup>87</sup> Additionally, Sari (2023) pointed out the absence of guidance and counseling services in PKBM, leading to a failure in identifying personal, social, learning, and career challenges faced by students.<sup>88</sup> The

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81 Kirsten Meyer, "Why should we demand equality of educational opportunity?" (2016) *Theory and Research in Education*.

82 *Laporan Kinerja Kanwilkuham Provinsi Jawa Timur 2022*, by Kanwilkuham Provinsi Jawa Timur (2023).

83 Lembaga Pembinaan Khusus Anak Klas I Kutoarjo, "Lulus, Kepala LPKA Klas I Kutoarjo Serahkan Ijazah Kejar Paket", (2023), online: *Kumparan* <<https://kumparan.com/pembinaanlpkakta/lulus-kepala-lpka-klas-i-kutoarjo-serahkan-ijazah-kejar-paket-1zkbTyFmZsL/full>>.

84 Kamaruzzaman, "Peran Supervisi pada Lembaga Pendidikan Kesetaraan" (2021) *Al-Mabhat: Jurnal Penelitian Sosial Agama*.

85 Dinda Alifatul Laila & Salahudin Salahudin, "Pemberdayaan masyarakat Indonesia melalui pendidikan nonformal: Sebuah kajian pustaka" (2022) *Jurnal Pembangunan Pendidikan: Fondasi dan Aplikasi*.

86 Sutjipto Sutjipto, "Pengembangan Kurikulum Pendidikan Kesetaraan" (2016) *JIV-Jurnal Ilmiah Visi*.

87 Wirdatul Aini, "Kesulitan-Kesulitan Pelaksanaan Pendidikan Kesetaraan di Wilayah Sumatera" (2019) *KOLOKIU* Jurnal Pendidikan Luar Sekolah.

88 Selly Mayang Sari et al, "Konsep Bimbingan Konseling Non Formal Khususnya Pada Pendidikan Kesetaraan" (2023) *MUHAFADZAH*.



reliance on non-formal education in LPKA underscores the institution's current capacity to offer only equivalency education rather than traditional formal education.

LPKA Kutoarjo's conditions are discussed in this section, as LPKA Blitar is thought to have offered appropriate access to education. The availability of access to non-formal education in LPKA Kutoarjo is relatively affected by three issues according to three informants in LPKA Kutoarjo, namely the ability to collaborate with the education department, the state of the facilities, and the issue of overcapacity. Head of LPKA Kutoarjo responds to the issue of collaboration, that "the distance between LPKA Kutoarjo and the Central Java Provincial Education Office is 135 km, in this province the office has 13 branch but does not include Purworejo District. Generally, juvenile inmates are of Senior High School age and managed by the Provincial, not the District". This situation is a consequence of the enactment of Law Number 23 of 2014 on Regional Government, driven by the desire to enhance the quality of educational services by dividing authority between Provinces which manage senior high schools, and Districts/Cities which oversee elementary and junior high school levels.<sup>89</sup> This model contradicts the decentralization concept emphasized in the law, as this shift in authority distances educational services from the community,<sup>90</sup> complicates bureaucracy,<sup>91</sup> and hinders effective monitoring and evaluation.<sup>92</sup> LPKA Kutoarjo was not an LPKA from the beginning, so the facilities were not designed for learning, according to Informant 2 that "The education provided is in the form of pursuing packages A, B, and C, each consisting of 3 groups, so it requires 9 rooms but only 4 are available. The teachers are from PKBM Tunas Mekar, but they do not always teach, even though they are scheduled five days per week. As there are only a few books available, we take over the teaching as it is not possible to study independently". Gashi (2021) explains that teachers assigned to prisons are never prepared to carry out educational duties within the incarceration setting.<sup>93</sup> They require specialized guidance to adapt to the prison environment in order to enhance the quality of teaching juvenile inmates.<sup>94</sup> Overcapacity was explained by the

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89 Wilda Sumarsyah, Jendrius Jendrius & Roni Ekha Putera, "Implementasi Kebijakan Pengalihan Kewenangan Pendidikan Menengah Dari Pemerintah Kabupaten/Kota Ke Pemerintah Provinsi (Studi Di Provinsi Sumatera Barat)" (2020) 13:2 Jurnal Niara 37-45, online: <<https://journal.unilak.ac.id/index.php/niar/article/view/4745>>.

90 Dewi Sendhikasari, "Pengalihan Kewenangan Manajemen Pendidikan Menengah Dari Kabupaten/Kota Ke Provinsi" (2016) Info Singkat Pemerintahan Dalam Negeri.

91 Andi Fahri Faisal, "Analisis Pengalihan Kewenangan Pengelolaan Pendidikan Menengah dari Pemerintah Kabupaten/Kota ke Pemerintah Provinsi di Kabupaten Maros" (2022) Indonesian Journal of Intellectual Publication.

92 Harsya Harun, "Penyelenggaraan Urusan Pemerintahan Daerah: Studi Penyelenggaraan Urusan Bidang Pendidikan Menengah Di Kota Palopo Provinsi Sulawesi Selatan" (2018) DIALEKTIKA : Jurnal Ekonomi dan Ilmu Sosial.

93 Ergin Gashi, "Prison Education Characteristics and Classroom Management by Prison Teachers" (2021) SEEU Review.

94 Gert Hurkmans & Els Gillijns, "Mentoring Teachers in Prison Education - Experiences in Three Correctional Facilities in Belgium" (2012) Procedia - Social and Behavioral Sciences.

Section Head of Rehabilitation, who said, 'This prison is only for 65 children but houses 82 children. While the Juvenile Justice System Law mandates a minimum sentence of one year, several were only given six months.'. Based on this information, LPKA Kutoarjo is not ready to facilitate access to formal education and faces serious problems in facilitating non-formal education.

The issue of collaboration was specifically addressed by the Head of Education Department of Purworejo District, who stated, "The children find it difficult to fulfill education administration requirements. Administrative documents from their previous schools, such as report cards, diplomas, or national student identification numbers, are often difficult to obtain. If these documents are not input into the database within the specified period, they cannot participate in the national exams. The coordination between us and the juvenile correctional facility is limited to exam arrangements, and there is currently no collaboration for the learning process." This insight underscores that the responsibility of continuing education predominantly falls on the family. However, families often seem to relinquish their child's fate to the LPKA, suggesting a scenario where juvenile inmates feel forsaken by all involved parties. This situation highlights the dominant reliance of LPKA on external parties to provide educational access. According to Dewey and Prohaska (2022), correctional institutions need skilled professional staff who is willing to engage in cross-professional dialogue, as inmates are experiencing disadvantage.<sup>95</sup> Educational access is crucial, as education can reduce the likelihood of someone being reincarcerated for new crimes or parole violations after their release.<sup>96</sup> Such staffs are responsible for addressing administrative issues that hinder educational access and initiating administrative solutions through collaboration with other institutions.

In an effort to understand the educational environment within LPKA Kutoarjo, interviews were conducted with 10 juvenile inmates in June 2022. The demographic profile of these interviewees revealed that they were predominantly male, aged between 16 and 18, with a background in vocational high schools. The nature of their convictions was largely non-violent, encompassing offenses such as inappropriate relations with minors and theft. Notably, only three out of the ten had committed violent crimes, suggesting a relatively low propensity for dangerous behavior within this cohort. A significant finding from the interviews was the inmates' desire for better educational access. Seven out of ten expressed a preference for education in a conducive environment, emphasizing the need for improved facilities, especially the availability of clean water. Interestingly, only two inmates expressed a specific inclination towards vocational training, while one highlighted the need for a dedicated study space. In terms of current educational access, six inmates reported receiving some form of informal

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95 Susan Dewey & Ariane Prohaska, "You're a product of your environment for sure': Correctional educators on their perceptions of and contributions to prison social climate" (2022) *Crime, Law and Social Change*.

96 Jill McCorkel & Robert DeFina, "Beyond Recidivism: Identifying the Liberatory Possibilities of Prison Higher Education" (2019) *Critical Education*.

education. In contrast, the remaining four indicated a complete lack of educational opportunities. However, it was noted that provisions were made for physical activities, serving as a means to mitigate feelings of monotony. Among those who had access to education, there was a discernible trend: half of them prioritized the comfort of the learning environment over the specificity of the training provided. This research underscores the importance of understanding the unique educational needs and preferences of juvenile inmates, emphasizing the need for tailored interventions that prioritize both comfort and quality of education.

The prison education policy at LPKA Kutoarjo operates with limited facilities and lacks a specific curriculum. Juvenile inmates are entitled to an education equivalent to that offered in traditional public schools<sup>97</sup> Education within the Juvenile Correctional Facilities should not just be available but should also have a standard and accredited curriculum.<sup>98</sup> The curriculum standard doesn't have to match regular schools as long as there's a rationale aligned with specific needs, such as in America where the curriculum focuses on reading comprehension and vocabulary development.<sup>99</sup> Generally, juvenile inmates are not high-risk offenders. However, the constrained environment, marked by limited facilities, can exacerbate learning disabilities among these inmates, making their reintegration into regular school's post-release a formidable challenge.<sup>100</sup> Such limited facilities often hint at cost-cutting measures. A study in Florida revealed that Juvenile Correctional Facilities managed by private for-profit entities tend to reduce costs. While these measures might result in short-term savings, they can inadvertently increase recidivism rates.<sup>101</sup> Consequently, the subpar facilities and compromised quality of education in Juvenile Correctional Facilities may inadvertently contribute to higher recidivism rates.

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97 Deneil Christian, "Education Behind Bars: A Review of Educational Services in Juvenile Correctional Facilities" (2022) *Safety & Emergency Services Journal*, online: <<https://cesjournal.columbiasouthern.edu/education-behind-bars-a-review-of-educational-services-in-juvenile-correctional-facilities/>>.

98 Vicente Garrido & Luz Anyela Morales, "Serious (Violent or Chronic) Juvenile Offenders: A Systematic Review of Treatment Effectiveness in Secure Corrections" (2007) *Campbell Systematic Reviews*.

99 Min-Chi Yan & Kimber L Wilkerson, "Reading Instruction in Juvenile Correctional Facilities for Students with and without Disabilities" (2017) *Journal of Correctional Education* (1974-).

100 Barry Holman & Jason Ziedenberg, "The dangers of detention" (2006) Washington, DC: Justice Policy Institute.

101 Patrick Bayer & David E Pozen, "The effectiveness of juvenile correctional facilities: Public versus private management" (2005) *Journal of Law and Economics*.

### 3. Future of Prison Education Policy

Almost ten years ago, the National Law Development Agency (BPHN) assessed the prison education policy in its Final Report on Legal Studies: Child Rehabilitation Model Based on Child-Friendly Education in the Correctional System. This report endorsed the Un-Absolute Individual Treatment Model, suggesting that in specific instances, juveniles should undergo individual development, such as during the assessment phase. However, when it comes to the rehabilitation of juvenile inmates in the context of ensuring their right to education, a group approach is recommended, while still considering the individual conditions of the juveniles.<sup>102</sup> The report further suggests that the responsibility for providing education to juvenile inmates should be entirely entrusted to the Ministry of Education, encompassing curriculum design, infrastructure provision, funding, and human resources. This includes the issuance of diplomas and expertise certificates without referencing the LPKA as the educational institution.<sup>103</sup> Such a recommendation underscores the heavy reliance of the Ministry of Law and Human Rights on the Ministry of Education. Notably, the 2022 Performance Report from the Ministry of Education omits any mention of juvenile inmates, indicating a lack of emphasis on prison education. The report highlights that the dropout rate for 2022 among children aged 13-15 years stands at 6.84% of the population, primarily attributed to poverty-driven early entry into the workforce.<sup>104</sup> The BPHN's proposed model for prison education policy remains unimplemented, suggesting a potential relinquishment of responsibility towards juvenile inmates.

Non-formal education, initially conceived to complement formal education within juvenile correctional facilities, has regrettably become a substitute for formal education. This shift undermines the significance of formal education in personality development. The delivery of formal education within these facilities should not be approached superficially, as doing so risks reducing it to a mere routine.<sup>105</sup> As a result, the standards of formal education might be neglected and not incorporated into the daily rehabilitation activities. The successful reintegration of juveniles into society hinges significantly on the educational programs offered within the correctional setting.<sup>106</sup> The rehabilitation of juvenile inmates should be executed with a prison education policy that seamlessly integrates both formal and non-formal education. At the senior high school level, the model of vocational high schools (SMK) can be introduced. Interviews with 10 juvenile

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102 Nurini Aprilianda, "Laporan Akhir Pengkajian Hukum Tentang Model Pembinaan Anak Berbasis Pendidikan Layak Anak Dalam Sistem Pemasarakatan" (2014) Pusat Penelitian dan Pengembangan Sistem Hukum Nasional, BPHN, Kementerian Hukum dan HAM.

103 *Ibid.*

104 *Laporan Kinerja Kementerian Pendidikan dan Kebudayaan 2022*, by Kemendikbud (Jakarta, 2023).

105 Little Ross, "Paying the price: consequences for children's education in prison in a market society" (2020) *International Journal of Educational Development*.

106 Alexandru Petre & Mihaela Tomita, "Education in prisons-an essential factor in preventing recidivism. The role of detention officers in the educational process" (2022) 22:2 *Journal of Community Positive Practices* 99-106, online: <<http://jppc.ro/index.php/jppc/article/view/526>>.

inmates at LPKA Kutoarjo revealed that six out of ten participated in an integrated education program between PKBM (Non-Formal) and skills training in sewing and gamelan arts (Karawitan). Of these six, two expressed a preference for industry-based training, such as automotive, while the remaining four were primarily concerned with prison facility aspects, like clean water. Their aspirations align with Yunhan's research in China,<sup>107</sup> suggesting that inmates are more likely to engage optimally in an accommodating environment. In essence, the capability to provide access to education in the LPKA should correspond positively with the ability to offer suitable educational facilities.

Access to education and skills training in LPKA is not uniformly distributed. In 2022, 69% of the juvenile inmates population had access to education, while 77% had access to skills training.<sup>108</sup> In the period from 2017 to 2021, the rehabilitation focus was primarily on physical and spiritual development (36%) and sports activities (29%), with skills training seemingly sidelined (8%).<sup>109</sup> Effective rehabilitation of juvenile inmates hinges on the integration of both education and skills training, especially if the aim is to present education as a valuable support system.<sup>110</sup> The motivation for juvenile inmates to engage in formal education often stems from recognizing their own life aspirations.<sup>111</sup> Inclusive learning environments, complemented by dedicated classroom spaces and a well-defined curriculum, underscore the importance of education within the prison system.<sup>112</sup> Access to formal education outside prison walls is intrinsically linked to social justice initiatives aimed at addressing the structural issues of poverty and exploitation.<sup>113</sup> Within juvenile correctional facilities, mitigating poverty, and exploitation significantly enhances the prospects of treating juvenile inmates as educational subjects. These inmates typically view their rehabilitation needs in terms of skills that will bolster their future careers as productive members of society. However, they anticipate these skills to be delivered within a therapeutic framework, encompassing enhanced self-esteem, critical thinking, and emotional intelligence.<sup>114</sup> Limited access to education and training is constrained for approximately 23-31% of the juvenile inmates' population, which is a relatively difficult task because the priority is not quality, but quantitative achievements must be appreciated.

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107 Zhao et al, *supra* note 34.

108 Ditjenpas Kemenkumham, *supra* note 3.

109 *Ibid.*

110 Lynne Rogers et al, "The aspirations and realities of prison education for under-25s in the London area" (2014) London Review of Education.

111 Reaz Ahmed et al, "Cons and pros: Prison education through the eyes of the prison educated" (2019) Review of Communication.

112 Kirstine Szifris, Chris Fox & Andrew Bradbury, "A Realist Model of Prison Education, Growth, and Desistance: A New Theory." (2018) Journal of Prison Education and Reentry.

113 Hugo Rangel Torrijo, "Cooperation and education in prison: A policy against the tide in the Latin American penitentiary crisis" (2019) 65:5 International Review of Education 785-809, online: <<http://link.springer.com/10.1007/s11159-018-9747-5>>.

114 Mertanen & Brunila, *supra* note 30.

Establishing schools within juvenile correctional facilities is pivotal for the effective delivery of formal education to juvenile inmates. The inclusion of qualified teachers from the outset of the rehabilitation program, rather than relying on external personnel with added duties, is essential for its success. Merely having general teaching skills, often acquired in educational faculties, is insufficient for facilitating effective classes within these institutions.<sup>115</sup> Nevertheless, their direct involvement can foster insightful discussions about crafting formal education curricula tailored to the specific needs of juvenile inmates, thanks to opportunities for in-depth interactions. A commendable initiative by the Ministry of Law and Human Rights is the integration of medical professionals, such as doctors and nurses, into the organizational structure of correctional facilities. This ensures the provision of primary healthcare services without depending on external sources. The existence of 704,503 teachers without definitive employment status (honorary teachers) within Indonesia's total teacher population (24%) highlights a segment of educators facing significant welfare challenges.<sup>116</sup> This situation offers a timely opportunity to engage them actively in rehabilitation programs. Given the myriad challenges associated with organizing formal education, the decision to establish schools within juvenile correctional facilities is both judicious and well-conceived. It not only emphasizes a commitment to improving educational access for juvenile inmates but also provides a practical solution to the intricacies of the rehabilitation process.

Teacher fulfillment in prison education policies can adopt the concept of clinics in prisons, where institutions recruit their staff. In 2021, the Ministry conducted a civil servant candidate (CPNS) selection, allocating 50 general practitioners across 26 Regional Offices, 180 nurses in 33 Regional Offices, and specialists in 23 fields across 18 Regional Offices.<sup>117</sup> Similarly, in 2019, the selection followed this pattern, earmarking positions for 47 doctors and 56 nurses across 22 Regional Offices.<sup>118</sup> This approach aligns with the Decree of the Director General of Corrections which stipulates the Basic Health Care Service Standards.<sup>119</sup> According to this decree, the minimum health workforce in correctional institutions should comprise 1 doctor, 1 dentist, 2 nurses, 1 midwife, 1 pharmacy assistant, 1 laboratory analyst, 1 nutritionist, 1 psychologist, 1 sanitarian, and 2 recording officers<sup>120</sup> The Ministry of Religious Affairs also did the same

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115 Gashi, *supra* note 96.

116 Katadata, "52% Guru di Indonesia Berstatus PNS", (2022), online: <<https://databoks.katadata.co.id/datapublish/2022/01/12/52-guru-di-indonesia-berstatus-pns>>.

117 Sekretariat Jenderal Kemenkumham, "Seleksi CPNS Kemenkumham 2021", (2021), online: <<https://jatim.kemenkumham.go.id/attachments/article/9728/Pengumuman-CPNS-2021.pdf>>.

118 Sekretariat Jenderal Kemenkumham, "Seleksi CPNS Kemenkumham 2019", online: <<https://bali.kemenkumham.go.id/attachments/article/3138/Pengumuman-CPNS-2019.pdf>>.

119 according Decree of the Director General of Corrections No. Pas-32.PK.01.07.01 of 2016 concerning Standards for Health Care in Correctional Facilities (LAPAS), Detention Centers (RUTAN), Correctional Center (BAPAS), Juvenile Correctional Center (LPKA), and Juvenile Detention Center (LPAS)

120 Balitbangkumham, *Analisis terhadap Pelaksanaan Layanan Kesehatan bagi Tahanan, Narapidana, dan Anak Didik Masyarakat* (Jakarta: Percetakan Pohon Cahaya, 2018) at 54.

thing to meet the needs of teachers and lecturers without having to rely on the Ministry of Education, in 2019, 1,991 teachers and 2,131 lecturers were recruited.<sup>121</sup> This trend of directly hiring government employees without dependence on other ministries has become evident. Such a strategy can be emulated by the Ministry of Law and Human Rights to diminish its reliance on the Ministry of Education.

#### IV. CONCLUSION

This study reveals that the prison education policy in juvenile correctional facilities has not significantly enhanced access to formal education. There exists a regulatory disconnect in designating education as a compulsory and prioritized component of the rehabilitation program. Simultaneously, there has been insufficient emphasis on ensuring adequate educational facilities and the availability of teachers, even though Indonesia has witnessed a marked decrease in the number of juvenile inmates. International regulations, evolving over time, have heightened global consciousness about the essential need for juvenile inmates to access formal education. Such education should be prioritized and supplemented with skills training to equip them for competitive job markets. However, the national rehabilitation policy for juvenile inmates appears to resist this global shift, aligning them with adult inmates and emphasizing skills training, even though existing research questions its effectiveness.

This study's limitations stem from its scope, which restricts the examination of formal education access to a specific juvenile correctional facility. Data from interviews were exclusively sourced from the Kutoarjo Juvenile Correctional Facility, which may not provide a comprehensive view of the internal conditions of prison education. Further studies are essential to gain insights into other juvenile correctional facilities. Additionally, in-depth investigations into the efficacy of prison education as a tool for controlling recidivism rates are recommended. Rehabilitation embodies a paradigm where inmates, including juveniles, are reintegrated into society. In this context, education plays a pivotal role in nurturing personality development, a crucial factor in their successful reintegration.

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121 Sekretariat Jenderal Kemenag, "Seleksi CPNS Kementerian Agama 2019", (2019), online: <<https://kepri.kemenag.go.id/public/files/a7223686e260798801cc3360a2fdd751.pdf>>.

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