

Suspension of Detention for Children Acting in Self-Defense as a Form of Special Protection in the Juvenile Justice System

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ABSTRACT

Detention of children in the context of self-defense (*noodweer*) remains unregulated explicitly in Indonesia's juvenile criminal justice system. Although Article 49 of the Indonesian Penal Code (KUHP) recognizes self-defense as a justifying or excusing ground, children may still be subjected to detention under general procedural provisions in the Criminal Procedure Code (KUHAP). This creates legal uncertainty and increases the risk of disproportionate treatment. This study employs a normative juridical method with a comparative approach, analyzing the German legal system, which limits juvenile detention and emphasizes psychological, educational, and proportionality considerations. The findings show an urgent need for Indonesia to formulate specific legal norms on the suspension of detention for children who commit acts of self-defense. Such reform is crucial to uphold children's rights, prevent criminalization, and support restorative justice principles and humane treatment in the juvenile justice process.

Keywords:

Suspension of
Detention; Child;
Self-Defense;
Special
Protection;

INTRODUCTION

The state holds the obligation to protect children as future leaders of the nation, as mandated by the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia. This protection is reflected in Article 28B of the Constitution, which guarantees the rights of children to survival, growth, and protection from violence and discrimination. Further implementation is stipulated in Law No. 35 of 2014 concerning the Amendment to Law No. 23 of 2002 on Child Protection, particularly Article 59, which emphasizes special protection for children in conflict with the law. Consequently, Law No. 11 of 2012 on the Juvenile Justice System (UU SPPA) was enacted as a legal foundation for handling juvenile criminal cases.

According to Article 1 point 1 of the Juvenile Justice Law, the juvenile justice system includes all processes in resolving cases of children in conflict with the law, from investigation to post-penal guidance. Children in conflict with the law, including child offenders, are referred to in criminology as juvenile delinquents. This concept, etymologically defined by the UN in 1953, refers to young persons under a certain age who commit violations and are given special treatment under the law (Paulus Hadisuprpto, 2008). Romli Atmasasmita defines juvenile delinquency as disgraceful acts committed by children under 18 years old and unmarried, which violate legal norms and endanger the child's personal development (Romli Atmasasmita, 1984).

Data from the Ministry of Women's Empowerment and Child Protection shows that from 2020–2023, 2,000 children were in conflict with the law, with 1,467 detained and 526 convicted. In the Malang District Court, juvenile criminal cases fluctuated, with 7 cases in 2022, 6 in 2023, and a sharp rise to 10 in 2024 (Chandra Iswinarno, 2025). This increase is closely related to the child's ability to take responsibility for their actions.

In criminal law, a person is held responsible if capable of assessing their actions. The Juvenile Justice Law categorizes responsibility based on age:

1. Under 12: not held criminally responsible.
2. 12–14 years: subject only to measures, not punishment.
3. 14–18 years: subject to criminal sanctions and detention if the offense carries a minimum 7-year sentence.

Children aged 12–18 are psychologically and socially considered to have a sense of responsibility. Below 12, they require guidance and are emotionally, mentally, and intellectually unstable. The Convention on the Rights of the Child (CRC) also recommends the minimum age for criminal responsibility be above 14 or 16 years.

The law also recognizes that some people may not be held responsible, such as due to lack of free will or mental disorders, as stated in Article 44(1) of the Penal Code (Lukman Hakim, 2020). This includes grounds for excluding criminal liability, such as self-defense (*noodweer*) and excessive self-defense (*noodweer exces*), regulated in Article 49 of the Penal Code.

Self-defense (*Noodweer*) is a justification for acting in an emergency situation, allowing someone to defend themselves even if it harms the attacker, provided that there is an unlawful and immediate threat to personal safety, property, morality, or honor. *Noodweer* is a justification (*alasan membenar*), while *noodweer exces* is an excuse (*alasan pemaaf*); both can eliminate criminal liability. The requirements for *noodweer* include: unlawful assault, direct threat, and the necessity of the act as the only way to avert the danger.

Even though perpetrators of *noodweer* can be exempt from prosecution, in practice they may still be subject to pretrial detention during investigation and prosecution, as regulated under Article 21 of the Indonesian Criminal Procedure Code (KUHP), which outlines subjective and objective grounds for detention (e.g., risk of flight, destruction of evidence, repeat offense, and offenses punishable by over 5 years). However, Article 31 of KUHP also allows for suspension of detention. Specifically for children, Article 32 of the Juvenile Justice Law allows detention if the child is at least 14 years old and suspected of committing an offense punishable by 7 years or more. Yet, this law does not explicitly regulate suspension of detention for children, leaving a legal vacuum and potential harm to the child.

Several court decisions in Indonesia show that children who committed offenses in self-defense—such as in Decision No. 3/Pid.Sus-Anak/2022/PN Malang, No. 1/Pid.Sus-Anak/2020/PN Kpn, and No. 4/Pid.Sus-Anak/2016/PN.Ban—were still detained during trial proceedings, even though their actions were later ruled as *noodweer*. This strips the children of their liberty and has negative physical, mental, and social effects, as well as reinforcing harmful stigma. Detention of children should consider their best interests, including their growth and development. Children acting in self-defense do not possess criminal intent (*mens rea*) and should be treated differently from ordinary offenders. The absence of specific regulations on suspension of detention in the Juvenile Justice Law creates legal uncertainty, discrimination, and disproportionate treatment.

Emergency circumstances that compel children to defend themselves should be recognized as conditions requiring special protection, as stipulated in Article 17 of the Juvenile Justice Law, which mentions emergencies such as displacement, riots, natural disasters, and armed conflict. *Noodweer*, as an emergency situation, also causes psychological pressure, requiring distinct legal treatment. Under the principle of *ultimum remedium*, criminal law for children should be a last resort, and detention

should be minimized to avoid stigma and barriers to social reintegration. The lack of regulation on detention suspension creates ambiguity and discrimination, making it crucial to study the formulation of legal provisions on suspension of detention for children acting in self-defense.

METHOD

This research employs a normative juridical approach, a type of legal research that focuses on the analysis of legal norms and rules in positive law, including legal principles, legislation, court decisions, treaties, and legal doctrines (Mukti Fajar, 2017). The primary characteristics of this approach are identifying legal vacuums, ambiguities, or conflicts of law. In this context, the research centers on the lack of legal regulation concerning protection for children who commit a criminal act due to self-defense in emergency situations, considering that Article 17 of the Juvenile Justice Law only addresses special protection in specific emergencies and does not explicitly regulate the suspension of detention for children.

To achieve these objectives, the research utilizes several methods:

1. Statutory Approach – to analyze the logical, inclusive, and systematic relationship between the Juvenile Justice Law and the Criminal Procedure Code (KUHP), particularly in relation to the general nature of detention suspension.
2. Conceptual Approach – used to clarify and reconstruct relevant legal concepts (Peter M. Marzuki, 2017), such as the mechanism for suspending detention of children in self-defense situations, which is not yet explicitly regulated.
3. Comparative Approach – to compare the provisions of noodweer (self-defense) and the detention mechanisms in Indonesia and Germany, both of which follow the civil law system.

The legal materials used include:

1. Primary legal materials: conventions, laws such as the Indonesian Penal Code (KUHP), Criminal Procedure Code (KUHP), the Juvenile Justice Law (UU SPPA), the CRC (Convention on the Rights of the Child), and German legal instruments like the *Strafgesetzbuch* (StGB) and *Strafprozessordnung* (StPO).
2. Secondary legal materials: legal literature, journals, and expert opinions.

These materials are collected through library research and online searches. The legal analysis is conducted prescriptively, aiming to provide recommendations. It is supported by:

1. Grammatical interpretation – focusing on the linguistic meaning of the law.
2. Theological interpretation – examining theoretical views on the legitimacy of self-defense as special protection.
3. Systematic interpretation – linking legal norms with the overall legal system.

RESULTS AND DISCUSSION

1. The Urgency of Regulating the Suspension of Detention for Children Acting in Self-Defense in Law No. 11 of 2012 on the Juvenile Criminal Justice System

Detention is a form of coercive measure within the criminal justice process intended to ensure the smooth operation of legal proceedings. However, for children in conflict with the law, Law No. 11 of 2012 on the Juvenile Criminal Justice System

(UU SPPA) adheres to the principles of restorative justice and non-punitive approaches, placing detention as a last resort (*ultimum remedium*) (Andini, D. 2025). This is especially relevant in self-defense cases (*noodweer*), where a child acts to protect themselves from an actual and imminent threat—an act that legally negates the unlawfulness of their behavior.

Despite this, the current Juvenile Justice Law lacks explicit provisions regarding the suspension of detention for children who commit acts of *noodweer*. This legal vacuum may lead to the criminalization of children who should, in fact, be protected. Therefore, the formulation of legal norms regarding suspension of detention is both urgent and essential—not only to protect children’s rights but also on philosophical, juridical, and sociological grounds. According to Jimly Asshiddiqie (2006), legal norms should be constructed with careful thought, deep reflection, and oriented toward the public interest.

a. Philosophical Grounds for Suspending Detention of Children Acting in Self-Defense

The formulation of legal norms must be based on fundamental and universal values, particularly Pancasila as the foundation of the state and the source of all laws in Indonesia. In the context of suspending detention for children acting in self-defense, philosophical foundations are essential to ensure that such policies align with principles of humanity, justice, and protection of vulnerable groups. This notion is rooted in the second principle of Pancasila: “A Just and Civilized Humanity.”

The values of humanity and civilized justice emphasize respect for human rights, humane and dignified treatment without discrimination. “Just” means fair, honest, impartial, and proportional in action. “Civilized” reflects conduct guided by moral values, politeness, and noble character, obliging the state to respect moral values and human dignity, including in law enforcement (Leden, 2008).

Detention, as a law enforcement act that restricts individual liberty, is a serious intervention—especially when applied to children. It must be treated as a procedural action, not punishment, and only used as a last resort. Applying detention to children without specific considerations violates humanity and the best interests of the child. A child acting in self-defense is in a vulnerable position; detaining them without legal justification is unfair and inhumane, and potentially tarnishes the child’s reputation and dignity.

Furthermore, detaining a child also contradicts constitutional values under the 1945 Constitution, particularly:

- a) Article 28A: Guarantees the right to life and self-preservation—central to the concept of self-defense. Suspending detention is a form of respect for this right.
- b) Article 28B (2): Guarantees children’s rights to life, growth, and protection from violence and discrimination. Disproportionate detention can disrupt a child’s development.
- c) Article 28G (1): Supports the right to personal safety, dignity, and security. Self-defense aims to protect these, so detaining the child contradicts their sense of security and dignity.

- d) Article 28 I (1): Asserts the right not to be tortured and to personal liberty as non-derogable human rights. Disproportionate or traumatic detention may amount to mental torture.

b. Juridical Grounds for Suspending Detention of Children Acting in Self-Defense

The main legal issue in this research is the absence of specific regulation regarding suspension of detention for children acting in self-defense (*noodweer*) in Law No. 11 of 2012 (UU SPPA). This gap creates legal uncertainty, since the Criminal Procedure Code (KUHP) only provides general provisions that apply to both adults and children. Yet the juvenile justice system is philosophically rooted in child welfare and a humanistic approach, requiring a high level of moral sensitivity from law enforcement (Andi Z. 2023).

Key legal instruments that support the urgency of this regulation include:

- a) Criminal Procedure Code (KUHP), Article 31
 Provides a general basis for suspension of detention. However, in cases of *noodweer*, its application must consider child protection and the best interest of the child. Children in self-defense situations may be eligible for exoneration. Detaining them may cause psychological and social harm and violate the principle of special protection. Thus, Article 31 KUHP can serve as a legal foundation, provided it is interpreted in context with the child's vulnerability and legitimate self-defense.
- b) Law No. 11 of 2012 (UU SPPA)
 Contains several provisions supporting the establishment of norms for detention suspension:
 - 1) Article 2 outlines key principles: protection, justice, non-discrimination, best interest of the child, survival and development, proportionality, and deprivation of liberty as a last resort. These emphasize prioritizing child welfare. Detaining a child acting in self-defense—without criminal intent—risks psychological harm and undermines the principle of liberty deprivation as a last measure.
 - 2) Article 32(1) states that detention may not be applied if there is a guarantee from parents/guardians or institutions ensuring the child will not flee, destroy evidence, or repeat the offense. However, this article lacks clear mechanisms and does not specifically address self-defense cases, leading to inconsistent application among law enforcers and reliance on KUHP, which ignores the unique principles of UU SPPA.
- c) Law No. 35 of 2014 on Child Protection (amending Law No. 23 of 2002)
 Strengthens the legal foundation for comprehensive child protection, including during legal processes.
 - 1) Article 3 emphasizes protecting children's rights to live, grow, develop, and participate in line with human dignity and free from violence and discrimination. Detention in self-defense cases may conflict with this goal if officials disregard lawful justification.
 - 2) Article 16 reaffirms children's rights against abuse, torture, or inhumane punishment, and to liberty according to law. Detention must only be a last resort. In self-defense cases, detention may violate justice and inflict psychological trauma.

Together, these legal instruments—KUHP, KUHAP, UU SPPA, and the Child Protection Law—form a strong juridical basis for regulating suspension of detention for children acting in self-defense. They promote principles of *ultimum remedium*, best interest of the child, and procedural fairness. Under Article 3 of KUHAP, the principle *nullum iudicium sine lege* (no judgment without legal basis) confirms the need for explicit provisions to avoid abuse of power (Moeliono, T. 2015).

c. Sociological Grounds for Suspending Detention of Children Acting in Self-Defense

The sociological approach is essential in formulating criminal policy, including child detention. Law must be seen as a social product, responsive to societal needs and developments. For children who are in a critical stage of development and identity formation, detention causes not only physical and psychological harm, but also obstructs socialization and education. Especially when detention follows acts of emergency self-defense, it can produce social injustice and conflict with the rehabilitative goals of juvenile justice.

A humanistic and proportional approach, such as detention suspension, can serve as social protection and more humane treatment, because indiscriminate detention leads to stigma, isolation, and long-term psychosocial damage (Nur Latifah, 2022).

Empirical data show that detention of children acting in self-defense still occurs. For example, in Decision No. 4/Pid.Sus-Anak/2016/PN.Ban, although the court acknowledged the stabbing was a justified emergency action to save the child's father from a serious threat (Article 49(1) of the Penal Code), the child was still detained for 39 days.

The public prosecutor appealed to the Supreme Court, arguing that the child should have sought other alternatives (like calling for help) and that defense should be proportional (*subsidiarity principle*). The Supreme Court upheld the lower court's ruling, stating the child's act was legally justified as the only way to protect his parent from a violent attack. The assault happened suddenly, fulfilling the conditions of *noodweer*.

Even though the child was eventually acquitted, the 39-day detention caused serious harm. The child likely faced stigma as a "criminal" or "troublemaker." A 2022 study by the Indonesian Child Protection Institute (LPAI) found that over 65% of detained children experienced emotional distress, reduced academic performance, and damaged social relationships (LPAI, 2024). Society often equates detention centers with criminality, further hindering social reintegration (Dita Adistia, 2015).

Thus, ideal law enforcement must be just and non-discriminatory, not merely formalistic. Law should align with public conscience, needs, and order, to hold moral legitimacy. The social reality shows a gap between legal norms and actual social protection needs for children. When children acting in self-defense are detained without special consideration, the state reproduces stigma and reinforces social exclusion.

Therefore, regulating suspension of detention for children in self-defense cases must be explicitly included in the juvenile justice system. Detaining children who are defending themselves ignores the justification of their actions and

causes long-term social and psychological damage. This norm formation aims to fill the legal void and ensure that law enforcement aligns with justice, child protection, and societal needs, consistent with Lawrence M. Friedman's view that a legal system must integrate structure, substance, and culture to retain sociological legitimacy (Friedman, 1975).

d. Suspension of Detention for Children Acting in Self-Defense as a Form of Special Protection

Legal protection for children in conflict with the law is the state's responsibility to realize social justice and guarantee human rights. The concept of legal protection, as put forth by Philipus M. Hadjon, is relevant here, where protection must be not only formal, through legal regulations, but also substantive, by safeguarding inherent human rights of individuals as legal subjects (M. Philipus Hadjon, 1987). This includes:

- a) Preventive legal protection: preventing violations and ensuring public participation before final decisions;
- b) Repressive legal protection: restoring rights through judicial processes after violations occur.

In this framework, child protection becomes urgent as a state obligation to ensure optimal development free from threats. This includes creating a supportive environment where children can exercise their rights and duties equally, enhancing physical, mental, and social growth, and placing the best interests of the child as a primary consideration.

The legal principles of child protection found in the Convention on the Rights of the Child (CRC) highlight Hadjon's substantive legal protection, such as:

- a) Non-discrimination (Article 2(1) CRC) Every child must be treated equally regardless of background (race, gender, language, religion, etc.). This aligns with preventive legal protection by ensuring fair policies that avoid rights violations.
- b) Best Interests of the Child (Article 3(1) CRC) Any decision, action, or policy concerning a child must prioritize the child's best interests, ensuring their welfare and development above all other considerations.
- c) Right to Life, Survival, and Development (Article 6 CRC) Every child has an inherent right to life, and the state must maximize efforts to ensure their survival and full development.
- d) Respect for the Child's Views (Article 12 CRC) children have the right to freely express their views in matters affecting them, and these views must be given weight in accordance with the child's age and maturity, recognizing the child as a legal subject with a voice.

These four principles form a protection framework that is not only legal-formal but also value-based and substantive. In the case of children who commit acts of self-defense (noodweer), these principles justify that all legal actions, specially detention—must consider the child's voice, prioritize their best interests, and prevent rights violations, discrimination, and disruption to development.

This aligns with the special protection concept found in Law No. 35 of 2014 on Child Protection.

- a) Article 1 point 15 defines "Special Protection" as ensuring the safety of children in certain situations that threaten their well-being and development.

- b) Article 59(2) states that children in conflict with the law are entitled to protection from torture, inhumane treatment, and degrading punishment, as well as protection from arrest, detention, or imprisonment—except as a last resort and for the shortest time possible.

These provisions reflect Hadjon's preventive legal protection concept, which seeks to prevent rights violations through sensitive legal policies, especially for vulnerable groups like children. Thus, the legal norm of special protection for children under the Child Protection Law is a concrete implementation of a humanistic legal protection model grounded in human dignity.

Detaining a child who acted in self-defense contradicts their right to legal protection. The state should develop law enforcement decision-making mechanisms that are sensitive to children's social and legal conditions, rather than just fulfilling formal requirements of procedural law. Protecting children as legal subjects with special needs demands that every legal action be measured by child protection standards. Therefore, detaining children who are proven to have acted in self-defense should be regarded as a legal error that violates the spirit of child protection.

2. Comparison of Suspension of Detention for Children Acting in Self-Defense Between Indonesia and Germany

Germany adopts a Continental European legal system (civil law), characterized by comprehensive codification, such as in the *Bürgerliches Gesetzbuch* (BGB). This system is influenced by legal positivism, which views written statutes as the primary source of law ((Edward J. et al., 2009). Germany's legal structure follows the Stufenbau theory, with a hierarchy beginning from the constitution (Staatsgrundgesetz), followed by codified laws, implementing regulations, and administrative instructions. While legislation dominates, the German legal system also recognizes customary law, jurisprudence, doctrine, and general legal principles as secondary sources. Jurisprudence plays an important role in filling legal gaps but is not binding like in common law systems. Judges may refer to previous rulings for justice and legal certainty, but are not obliged to follow precedent (M. Rustamaji, 2017).

Germany's legal structure, based on legality and codification, allows flexibility through a tiered approach and cautious principles in enforcement. The systematic legal hierarchy combined with recognition of secondary sources like jurisprudence and equity allows for responsive law enforcement, especially in juvenile justice, where the focus is on protection and rehabilitation, not retribution.

In German criminal law, self-defense (Notwehr) is explicitly regulated in § 32 of the Strafgesetzbuch (StGB):

§ 32 StGB – Notwehr (Self-defense):

(1) A person who commits an act which is required as self-defense does not act unlawfully.

(2) Self-defense means any defensive act that is necessary to avert a present unlawful attack against oneself or another. Further, § 33 StGB regulates Excessive Self-defense (Überschreitung der Notwehr):

§ 33 StGB: *“If the perpetrator exceeds the limits of self-defense due to confusion, fear, or fright, he shall not be punished.”*

For a self-defense claim to be valid under German law, three elements must be present (M. Bohlander, 2009):

- a. Rechtswidriger Angriff – the attack must be unlawful,
- b. Gegenwärtig – the attack must be ongoing,
- c. Erforderlich – the defense must be the only effective means to stop the attack, even if disproportionate morally.

In cases involving children, German law provides special protection by restricting detention. Under § 72 of the Jugendgerichtsgesetz (JGG) or Juvenile Court Act:

§ 72 JGG – Untersuchungshaft (Pre-Trial Detention):

(1) Pre-trial detention may only be ordered and executed if its purpose cannot be achieved by a temporary measure for education or other interventions. When assessing proportionality (§ 112 para 1 sentence 2 StPO), the special burdens of detention on juveniles must be considered.

(2) If the juvenile is under 16, detention for flight risk is only permitted if they have already evaded proceedings or lack a fixed residence.

Further governed by § 112 StPO (Criminal Procedure Code), detention must only be applied when strong suspicion exists and it is not disproportionate to the severity of the offense. § 116 StPO provides for suspension of detention, allowing release under conditions like reporting duties, travel restrictions, or social supervision.

In practice, children involved in violence due to self-defense are rarely detained immediately. Law enforcement evaluates whether the child acted in response to a present unlawful attack (Jescheck, et al., 2005). For example, in the case Landgericht Münster 1 Ks 30 Js 123/18 22/18, a 16-year-old child defended himself with a bottle and knife during an attack. The court found that Notwehr requirements were met, and the child was never detained, as no legal grounds under § 112 StPO were present.

This reflects Germany’s application of the *Opportunitätsprinzip* (principle of opportunity). Unlike the *Legalitätsprinzip* (principle of legality), which mandates prosecution for all proven crimes the opportunity principle allows prosecutors to dismiss a case when public interest is lacking, the offense is minor, or restitution has occurred. In juvenile cases, this principle helps avoid harmful legal processes that could damage the child’s future.

Thus, Germany’s criminal justice system shows strong commitment to child protection, particularly when self-defense is involved. Detention is not only restricted by law, but also practically avoided, prioritizing education, psychological well-being, and moral development.

Meanwhile, in Indonesian law, self-defense (*noodweer*) is regulated under Article 49 of the Indonesian Penal Code (KUHP), which states that a person is not punishable if they commit an act of defense against an unlawful and immediate attack, whether to protect themselves, others, honor, decency, or property. Furthermore, excessive self-defense (*noodweer excès*) committed due to extreme emotional distress is also not punishable.

The elements of self-defense include (R. Soesilo, 1991):

- a. Necessity to defend oneself in an emergency (principles of proportionality and subsidiarity),
- b. Protection of legal interests such as life, body, honor, and property,
- c. The attack must be unlawful and sudden, and
- d. If the defense exceeds limits due to emotional shock, the perpetrator is still not punishable.

Legal scholars such as Van Hamel and Pompe emphasize that psychological disturbances may include fear, anger, or even compassion (Lamintang, 2014).

On the other hand, child detention in Indonesia is regulated by Article 32 of Law No. 11 of 2012 on Juvenile Criminal Justice (UU SPPA), which states that a child may not be detained if there is a guarantee from a parent/guardian or institution ensuring the child will not flee, destroy evidence, or repeat the offense. Detention is allowed only if the child is at least 14 years old and suspected of committing a crime punishable by 7 years or more. However, the law lacks detailed mechanisms for these guarantees. As a result, requests for suspension of detention still refer to Article 21 of the Criminal Procedure Code (KUHAP), requiring a money guarantee or personal guarantee. A money guarantee is deposited to the court clerk, while a personal guarantee involves a responsible party ensuring the child's compliance with legal proceedings.

Thus, the mechanism for suspension of detention in Indonesia remains administrative, but lacks explicit legal protection for children in self-defense contexts.

The urgency of a specific legal formulation regarding suspension of detention for children who act in self-defense in Indonesian law cannot be overstated. While Indonesia has normatively recognized both child protection principles (through UU SPPA) and the concept of self-defense (via Article 49 KUHP), there is no integrated regulation that merges these two critical aspects into a comprehensive legal framework.

This legal incompleteness results in several serious problems:

- a. Lack of early recognition of self-defense potential in investigations and prosecutions, leading to children being treated like ordinary suspects and subjected to detention.
- b. No mandatory mechanism for law enforcers to assess the psychological and situational context of the child's actions, as seen in Germany's § 72 JGG.
- c. The current guarantee system for detention suspension is administrative and does not reflect the best interest of the child, nor does it account for emergency scenarios like self-defense.
- d. There is no consideration of proportionality or psychosocial effects on children detained despite being victims or acting in emergencies.

Learning from the German model, it becomes clear that protecting children in self-defense cases requires not just substantive criminal provisions (e.g., Article 49 KUHP), but also a procedural framework that enables early filtering of defensive cases. Indonesia must formulate procedural norms within the juvenile justice system or amend UU SPPA to mandate law enforcement to assess self-defense indicators before assigning suspect status or ordering detention.

Additionally, an interdisciplinary approach should be adopted, involving psychologists, social workers, and rehabilitation institutions from the outset of the legal process.

It is also important to develop technical guidelines for police and prosecutors on early identification procedures for self-defense acts committed by children. In this context, a legal formulation that adopts the limited opportunity principle (similar to Germany's *Opportunitätsprinzip*) could provide a legal basis for case dismissal or detention avoidance in the interest of child protection.

Such guidelines should affirm that children who act under justifiable self-defense and whose actions can be objectively verified and supported by psychological conditions, should not be detained, and should instead be directed towards educational and restorative approaches.

The reform of juvenile criminal procedure in Indonesia must aim at integrating child protection, the principle of self-defense, and human rights guarantees into a concrete and implementable system. This effort aligns with the Convention on the Rights of the Child, which Indonesia ratified via Presidential Decree No. 36 of 1990, and answers the demand for a fairer, more humane juvenile justice system.

CONCLUSION

The suspension of detention for children acting in self-defense is an urgent legal necessity within Indonesia's juvenile justice system. Although Law No. 11 of 2012 (UU SPPA) and Article 49 of the Indonesian Penal Code recognize both child protection and lawful self-defense, they are not yet integrated into a procedural framework that ensures fair treatment for children in emergency situations. The absence of explicit regulation creates legal uncertainty, risks criminalizing children without *mens rea*, and contradicts the principle of the best interest of the child.

Comparative analysis with Germany demonstrates that child protection in cases of *Notwehr* (self-defense) requires both substantive and procedural safeguards, emphasizing minimal use of detention, early assessment of context, and restorative approaches. Detaining children who acted out of necessity not only causes long-term psychosocial harm but also undermines legal legitimacy and justice in child protection.

Acknowledgment

To ensure stronger protection for children within the juvenile justice system, it is crucial for Indonesia to reform existing legislation, particularly by amending Law No. 11 of 2012 to explicitly regulate the suspension of detention for children who act in self-defense. This regulation should include clear procedures, assessment mechanisms, and institutional responsibilities. Law enforcement officers must be equipped with technical guidelines and interdisciplinary support to identify elements of self-defense early in the legal process. Additionally, integrating a modified principle of opportunity would allow for the dismissal or diversion of cases where punitive measures are not in the child's best interest. Emphasizing restorative justice and educational alternatives, while also promoting public awareness to reduce stigma, will help create a more humane, just, and child-centered legal framework.

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