Legal Philosophy In Child Protection As A Part Of Human Rights

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Abstract

Legal philosophy in guarding child protection as part of human rights is applied through legal philosophy as well as law grows and develops in positivism legal theory, with the flow of positivism legal theory to maintain child protection in a sustainable manner, which can later make law responsive to children. The approach method used in this study uses a normative juridical approach. The results of the research obtained that Justice is an effort to find balance, equality, truth and decide if there is a Child protection is a hot topic that is always good to discuss, this happens because children are the next generation of the nation in the future. Through the philosophy of law as the basic foundation of legal science, it can be explained that the philosophy of law is very protective of the role of human rights which guarantees the protection of children. The role of legal philosophy in safeguarding child protection as part of human rights is applied through legal philosophy as well as law grows and develops in positivism legal theory, with the flow of positivism legal theory to maintain child protection in a sustainable manner, which in turn can make law responsive to children.

Keywords: Child Protection; Human Rights; Legal Philosophy;

1. Introduction

Humans, as one of the contents of the universe, are used as the object of philosophy which examines them from various aspects. One of them is regarding his behavior (ethical philosophy). Some of these behaviors are then thoroughly investigated by the philosophy of law. The relationship between philosophy and legal philosophy according to Bender O.P can be seen in the following explanation: 1) human philosophy, its genus, philosophy, 2) species philosophy, ethical philosophy, 3) philosophy of law, subspecies of philosophy. Various opinions about legal theory are expressed in various legal literatures.[1] When examined carefully, it can be formulated as follows: a) that legal theory is the same as legal philosophy, b) that legal theory has a different

1. Laurensius Arliman S, Peranan Filsafat Hukum Dalam Perlindungan Hak Anak Yang Berkelanjutan Sebagai Bagian Dari Hak Asasi Manusia, *Jurnal Hukum Doctrinal*, Vol 1, No 2 (2016), page.1-25

meaning from legal philosophy and c) that legal theory is synonymous with legal science.[2] The explanation above really explains that humans are one of the objects of philosophy, including children. Talking about children, of course very interesting.

Every human being starts from the phase of children until they become adults, then they become the phase of parents who have children. So it is really not uncommon for children today not to be properly protected. What a funny thing this country is, when we can see the news broadcast on television about child protection that is not fulfilled, for example a child is raped, done unfairly, child abuse occurs.

Even if we open mass media, both printed and electronic, we also see child protection that is also not fulfilled, this can be seen from the news that children are being exploited economically to meet family needs and even children are not given education that supports their future knowledge, as well as the fulfillment of other rights. It becomes a classic question, are people in Indonesia not tired of seeing news of child protection violations? As if we don't close our eyes to the fulfillment of child protection, we seem to forget that we started from a childhood phase too. It is better for us to start encouraging us to refuse to forget about child protection. We forget that children also need love, proper education and health, as well as needs related to other rights.

Legal protection that can be given to children must have a broad reach, this can be seen from various documents and international meetings that want the importance of legal protection for children which includes various aspects, namely: (a), protection of human rights and child freedom, (b) protection of children in the judicial process, (c) protection of children's welfare (in the family, education and social environment), (d) protection of children during periods of detention and deprivation of liberty, (e) protection of children from all exploitation (slavery, child trafficking, prostitution, pornography, trafficking/drug abuse, using children in committing crimes and so on), (f) protection of street children, (g) protection of children from the consequences of war or armed conflict, (h) child protection against acts of violence.[3]

We clearly know that children's rights are part of human rights that must be protected and fulfilled. If we examine human rights, human rights are simply basic rights that are owned since birth, where the General Assembly of the United Nations declares the rights of human rights as a general standard of success for all nations and all countries and the protection of human rights has been carried out in national law. various countries and in international law.[4]

Human rights are a right that must be applied fairly to every community, including children

2. Lili Rasjidi dan Ira Thania Rasjidi, 2010, *Dasar-Dasar Filsafat Dan Teori Hukum*, Bandung, Citra Aditya Bakti, page. 11
3. Zuraidah, Muhamad Sadi Is, Perlindungan Hukum Terhadap Hak Asasi Anak Yang Menjadi Korban Kekerasan, *Nurani*, Vol. 18, No. 1, Juni 2018, page.151-162
4. Ferdi, Mengoreksi Posisi HAM Yang Bersumber Dari Doktirn HAM 1948 Dengan Menggunakan Pancasila Untuk Mengukur Tingkat Kontrovensi Ataupun Compliance*, Jurnal Advokasi Sekolah Tinggi Ilmu Hukum Padang*, 1 (1) Januari 2007, page. 83-84.

(part of society), and in traditional thinking that right is fair. The traditional concept of justice seems to be neglected by the theory that claims action is right if it can maximize this good. Individual rights or claims are considered based on the happiness of others (in this case, children.

As long as the greatest good can be attained in this way, all individual rights can be neglected. Because of the implications of utilitarian theory like this, the question of justice continues to be a stumbling block to them. Since the basic idea of utilitarianism is that an action is judged right or wrong depending on whether it promotes happiness or goodness, this idea determines the application of this school when we discuss the concept of justice. In Batak philosophy states that the protection of the child is the most important and wealth for both parents, with words: *anakkon ki do hamoraon di au*.[5]

Law Number 35 of 2014 concerning child protection emphasizes that child protection providers are parents, family, government and the state, the first burden in implementing child protection falls on the parents, but in the modern era like today most parents are busy with their work and start ignore his son.[6]

Various regulations in laws, religious teachings and culture have discussed a lot about child protection, but still from year to year child protection violations continue to increase along with the times, as a result of a less visionary form of regulation that tends to be seen as a new problem.[7]

2. Research Method

The method used is a normative juridical approach. normative juridical approach. Namely, research that explains the provisions in the prevailing laws and regulations, related to the realities in the field, then analyzed by comparing the demands of ideal values that exist in laws and regulations with the reality in the field. In addition, normative juridical research is complemented by empirical research, namely direct field research on the reasons for inventors who are reluctant to register their inventions.[8]

3. Result and Discussion.

1. Legal Philosophy as a Positive Legal Basis for Child Protection

Philosophy of law, some call it the philosophy of law, is actually a sub-branch of human

5. T.M Sihombing, 2000, *Filsafat Batak, Tentang Kebiasaan-Kebiasaan Adat Istiadat*, Jakarta, Balai Pustaka, page. 7
6. Muhammad Fachri Said, Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia, *Jurnal Cendekia Hukum*, Vol. 4, No 1, September 2018, page.141-152
7. Aan Aswari, Andika Prawira Buana, and Farah Syah Rezah, Harmonisasi Hukum Hak untuk Dilupakan bagi Koran Digital terhadap Calon Mahasiswa di Makassar, *Kanun: Jurnal Ilmu Hukum*, Vol. 20, No. 1 2018, page.39-62.
8. Andri Winjaya Laksana, Pemidanaan Cybercrime Dalam Perspektif Hukum Pidana Positif, *Jurnal Hukum Unissula,* Vol.35 No.1 (2019), page.52-76

philosophy, called ethics or human philosophy. Because the philosophy of law and philosophy of law is a science that studies law in a philosophical way, its object is law. Regarding the distinction between law and law, Curzon said that the science of law includes and discusses all matters relating to law. Such is the breadth of the problems covered by this science, so that it had time to provoke the opinion of people to say, that "the boundaries are not determined".[9]

The law is spoken of and has been discussed for a period of time that is very difficult for humans to remember (time immemorial). So how long do people stop talking about the law? then the answer will be the same as the answer to the question: When did people start talking about the law? It is difficult to predict when the law will stop being discussed, if we project on the background of Von Savigny's dictum, the law will only stop being discussed when human society itself has disappeared from the face of the earth. "Et ist und wird mit dem voelke" The law will continue to be discussed as long as human life still exists. From time to time, human life changes, and this is an important reason why the law continues to be discussed. There are three ordinates, namely the people, law and environment.[10] Since modern law was born, the world of law has experienced quite dramatic changes in the search for truth and justice. The effects of the dramatic changes in the 18th century can be felt today. To be successful in legal matters, one must be skilled at mastering the rule of law and clever at playing with procedures.

Satjipto Rahardjo called this situation a tragedy of modern law. This is due to the assumption that carrying out legal regulations is almost synonymous with enforcing the law. The aspects of justice and truth have experienced massive marginalization. To bring about subsatant justice if law enforcement encounters a formal legality deadlock, then the law enforcement action that is needed is the courage to carry out non-enforcement of law, namely taking a policy not to enforce the law for the sake of greater legal objectives, for example for the sake of upholding and respecting human rights and democracy.[11] Meanwhile, according to Margarito Kamis, centralistic, classical or modern government always produces one thing, namely: the destruction of social, political, economic and legal order. It further denigrates human dignity. In a centralized government, not everyone has the same status and dignity. In the modern era, citizens are only found in autonomous communities where they break free and survive the control of feudal lords and organize themselves into walled enclaves called city or brough or cite or burger and citiyon or bourgeoise.

This community is different from the servants who are loyal to the local authorities. Socio-economic and economic formations are characterized by feudalistic economic systems,

9. Carl Joachim Friedrich, *Filsafat Hukum: Perspektif Historis*, Nuansa dan Busamedis, Bandung, 2004, page.239.
10. Satjipto Rahardjo, *(Ilmu Hukum) Dari Abad Ke Abad, di dalam kumpulan karangan Butir-Butir Pemikiran Dalam Hukum, Memperingati 70 Tahun Prof. Dr. B. Arief Sidharta*, Bandung, Refika Aditama, page. 29.
11. Suteki, 2015, *Masa Depan Hukum Progresif*, Yogyakarta, Thafa Media, page.36-37.

functioning as production units that are no longer based on the feudal model family. These groups are units built on the basis of an ascriptive status in a highly hierarchical and authoritarian structure. Citizens who live in enclaves and guilds have manufacturing secondary production business activities in autonomous cities, participate in a limited manner in the economic and political fields. Participation can be carried out directly, such as in various policies in Ancient Greece or Borouhgs in the era of European feudalism. They are what are called citizens or civilians with the status of freemen or free people.[12]

Bila kita kembali ke pemikiran filsafat bangsa Yunani kuno, sejumlah penulis barat yang dikatakan oleh Homer, bahwa para Furies atau Erinyes akan berkeliaran di tengah malah, mencari, mengejar, dan menghukum tiap anak manusia yang dalam pengamatan mereka telah menjadi pelaku kejahatan. Selain itu mereka juga menjatuhkan kutukan atas tiap tindak kejahatan yang oleh anak-anak manusia itu telah dilakukan.

A number of other ancient Greek writers, described that the Furies will try to chase, haunt, and curse anyone involved in cases: 1) homicide (murder); 2) sexual crimes (adultery and rape); 3) cases of same-sex relations (LGBT people); 4) cases of oath violation (perjury) and civil cases; 5) broken promises and 6) violations of hospital rites.[13] Dari sudut pandang hukum modern dan hukum Yunani kuno sudah very clear about the need for law and the perspective of legal philosophy in law-conscious societal life. Since ancient times until now the law has been embedded in human life. Philosophy of law also gives life to the justice of human life, in this case, of course, the authors put it in the philosophy of child protection law. On the basis of legal philosophy, we know how positive law is formed and how progressive law is embedded in child protection law. Do we refuse to forget about providing child protection?

As for the problems of legal philosophy are: a) the problem of legal objectives, b) the problem of why people obey the law, c) the problem of why the state has the right to punish, d) the problem of law with the rule of law, e) the problem of legal development. achieved by law, especially seen from a philosophical aspect, is the highest achievement of law, namely the essence of law, through the foundation of humanitarian compassion (especially affection for a child), justice guided by the direction of God's grace. This of course also relates to legal development, where legal development is basically an effort or a journey from real conditions or real conditions (reality) to desiderata (i.e. a kind of vision to be realized by carrying out the development mission in the light and under the guidance of paradigm) Humans as regulators and directors of the rhythm of development efforts, for this it is better if faith and religious

12. Margarito Kamis, 2004, *Gagasan Negara Hukum Yang Demokratis Di Indonesia, Studi Sosio Legal Atas Pembatasan Kekuasaan Presiden Oleh MPR 1999-2002*, Depok, Disertasi, Fakultas Hukum Program Pasca Sarjana Universitas Indonesia page. 58.
13. Herman Bakir, 2007, *Filsafat Hukum, Desain dan Arsitektur Kesejarahan*, Bandung, Refika Aditama, page. 104-105.

values play a role in it.[14]

The philosophy of law in the reform era can be revealed that on the one hand, he wants law as the commander or law that regulates economic, political, cultural and other social issues. On the other hand, it can be seen in people's attitudes towards the law, it actually functions the law as a political tool, an economic, cultural, and other social tool.[15] The conflict between the need for individual rights and the assurance of legal transactions is subject to the national economic plan, and the need for contracts, property rights and other legal institutions.[16] When applied to the phenomenon of law, the law also does not exist, before humans respond to it. This is probably just another language of Rene Descarters's famous statement: cogito, ergo sum (I think, so I am). The law exists, then we exist. Parallel to this position is for example Hart's view which states that a habit is treated as law, only when a judge's decision affirms it as such. That is, different from humans who respond to colors or sounds that are present independently of humans, in a legal context whose source is humans themselves, human recognition of the law is institutionalized within the judge.[17] The problem is, however much the best government that can exist in the world wants to uphold a just order, an order of order faces challenges.[18]

In the world of literature, the philosophy of positivism is known through the work of the French philosopher, Augeste Comte. His very famous work on the philosophy of positivism is entitled cours de philosofie positive. Broadly speaking, Comte's posivism philosophy contains his philosophical views on the theory of knowing the development of science, the historical development of western society and the bases for improving the state of society at his time. From the point of view of Comte's logic, human history is the gradual development of man's own way of thinking. By arguing that empirical thinking is rational and positivistic, then humans will be able to explain the reality of life not speculatively but concretely, with certainty even absolute truth.[19] When applied to thoughts of law, positivism requires the release of meta-juridical thinking about law as espoused by the supporters of natural law schools (naturalists) or natural law schools. Therefore, according to positivism, every legal norm must exist in its

14. R. Otje Salman, 2012, *Filsafat Hukum (Perkembangan & Dinamika Masalah)*, Cetakan Ketiga, Bandung, Refika Aditama, page. 54.
15. Zainudi Ali, 2010, *Filsafat Hukum*, Cetakan Keempat, Jakarta, Sinar Grafika, page. 18.
16. W. Friedmann, Tanpa Tahun, *Teori & Filsafat Hukum, Hukum & Masalah-Masalah Kontemporer (Susunan III)*, Jakarta, PT. RajaGrafindo Persada, page. 10.
17. Budiono Kusumohamidjojo, 2011, *Filsafat Hukum, Problematik Ketertiban Yang Adil*, Bandung, Mandar Maju, hlm. 108.
18. Budiono Kusumohamidjojo, Ketertiban Yang Adil Versus Ketidakadilan: Beban Sosial Ekonomi Yang Hidtoris Dari Hukum, *Jurnal Veritas Et Justicia Fakultas Hukum Universitas Parahyangan*, 2 (1) Juni 2016, page. 7.
19. Teguh Prasetyo dan Abdul Halim Barkatullah, 2012, *Filsafat, Teori & Ilmu Hukum, Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermarbat*, Jakarta, PT. RajaGrafindo Persada, page. 177-186.

objective nature as positive norms, and be affirmed in the form of a concrete contractual agreement between citizens or their representatives. Here, law is no longer conceptualized as abstract meta-juridical moral principles concerning the nature of justice, but rather ius which has experienced positivation as or lex, in order to guarantee certainty about what is considered law, and anything that even if normative must be stated as things that are not considered legal.[20]

Legal positivism is the fact that law is made and abolished by human actions, so apart from morality and norm systems themselves,[21] in other words it can be stated that the law stands alone and is strictly separate from morals (between the applicable law and the law that should be, between das sein and das sollen), even in a positive school law is identified with all the orders of the authorities. The normative view itself adheres to a pragmatic theory of truth, meaning that a theory is true if it functions satisfactorily. Positivismee of law (positive law school) sees the need to separate strictly between law and morals (between applicable law and the law that should be, between dass sein and dass sollen). In the view of the positivists there is no law other than the order of the ruler. Even the part of the positive law school known as the legism school has a more firm opinion, that law is law. Based on the concept of positivism philosophy, the positivism school of law formulates a number of premises and postulates regarding law which produce the basic views of the positivism school of law that: a) the legal system of a country applies not because it has a basis in social life, or in the spirit of the nation, and is also not based on law nature, but gets the positive form from the competent authority; b) law must be viewed solely from its formal form, thus it must be separated from its material form, c) the content of law or legal material is recognized as existing, but does not become material for legal science, because it can damage the scientific truth of legal science.[22]

Of course, if we dare to try to conclude a little about positive law, it is the study of laws that apply in a certain country, at a certain time and for certain people, while the difference between law and positive law can explain that legal theories learn the meaning -the definition of law theoretically and is generalized (generalized), while positive law studies the law that applies in a particular country, so it is specific (individualized). This is because the law develops gradually and in stages like a pyramid shape (stufen), starting from the highest general and abstract to the lowest concrete, special (individualizad) and executing verses. Lower laws get the legality of higher laws, where each level is at the same time the creation of new laws and is the implementation of higher laws (create and apply).[23]

20. Soetandyo Wignjosoebroto, 2002, *Hukum Paradigma, Metode dan Dinamika Masalahnya*, Jakarta, Elsam & Huma, page. 96.
21. Hans Kelsen, 1995, *Teori Hukum Murni (General Theory Of Law and State)*, dialih bahasakan oleh Somardi, Bandung, Rimdi Press, page. 115.
22. Teguh Prasetyo dan Abdul Halim Barkatullah, *Op.cit*, page. 200-202.
23. H.M Agus Santoso, 2012, *Hukum, Moral & Keadilan,* Jakarta, Kencana Prenada Media Group, page. 57.

The positivism school is also based on several principles, namely: a) only what appears in experience can be called true, this principle was taken over from the empirical philosophy of Locke and Hume; b) only what is absolutely certain to be true can be called true. That means that not all experiences can be called true, but only experiences find reality; c) only through science can it be determined whether something experienced is really a fact.[24]

Therefore legal positivism can be divided into two types, namely 1) the analytical positive law school pioneered by Jhion Austin and 2) the pure law school pioneered by Hans Kelsen. These two features also inspired the birth of child protection regulations in Indonesia, given the development of a child as a human being in law and also the protection that society gives to a child in the eyes of the law.

2. The Role of Legal Philosophy in Guarding Child Protection as Part of Human Rights

As an independent social being, everyone has various rights to guarantee and defend life in the midst of their society. The rights that a person has in his life, we can basically distinguish between two main types when viewed according to their nature, namely: 1) rights that are human in nature, namely rights that must exist for everyone to be able to live naturally as an individual who is also a member. society is in line with their dignity as an honorable person, 2) rights that are not human in nature, namely rights that can reasonably be owned by a person or a party due to their special relationship with other people or parties at a certain place and time as well as situations and conditions which is deemed appropriate.

What is meant by rights that are human in nature are rights that are owned by everyone and may not be contested by anyone for any reason, as long as that person does not abuse that right or do something that endangers or harms other people. In other words, human rights are rights inevitably must accompany the life of every person in the sense that is proper and should be. Meanwhile, rights that are not human in nature are rights that can be put aside from someone's life because of the existence of one or several more compelling interests. If in that case the absence of a human right, the dignity of a person as a human being is reduced, then this is not the case with this unfair right..[25]

Alasdair MacIntyre argues that modern moral expression must be understood as a series of fragments of past life struggles: the ruins of the past ethical system still survive, but no social glue can give them strength. Unfortunately appeared, the screams of justice and blasphemy of injustice appeared in these pieces. Then what is the fate of justice for children who are guaranteed as human rights? Of course this is guaranteed in a legal rule. According to Hans Kelsen, the law itself is a human order. Order is a system of rules. The law is not, as it is sometimes said, a rule. Law is a set of rules that contain a kind of unity that we understand

24. Theo Huijbers, 1993, Filsafat Hukum Dalam Lintasan Sejarah, Yogyakarta, Pustaka Pelajar, page. 122.
25. Purnadi Purbacaraka dan A. Ridwan Halim, 1986, *Hak Milik Keadilan dan Kemakmuran Tinjauan Filsafah Hukum*, Cetakan Kedua, Jakarta, Ghalia Indonesia, page.7-8.

through a system. It is impossible to grasp the essence of the law if we limit our attention to a single rule. The relationships that link the special rules of a legal order are also important for the nature of the law. The nature of law can only be perfectly understood based on a clear understanding of the relationships that make up the legal order. The statement that the law is an order of human actions does not mean that the legal order is only compatible with human actions; that nothing but human action is included in the content of legal regulations. Any attempt to define a concept must start from its general usage of the word, which indicates the concept being discussed.[26] Talking about the law, there must be an assessment or measure of justice for all people, including children. The will of someone who is LGBT in nature so as to treat children arbitrarily must not have a philosophical viewpoint, or maybe they have a confused philosophy, so that it has a negative output, especially towards the protection of children (both girls and boys) .

According to Muhammad Erwin, an assessment of something should always be measured by its usefulness to achieve an essential goal. As human beings who are aware and can use our minds, of course we don't want to only understand, but we want to understand in order to act. From what we do from that understanding, it can be expected to achieve the goal of nature. From there we can see that there is a strong relationship (which influences and complements) between the mind and the will in our soul. Even philosophy in its development has also been used as an ideology for a nation and state.

Philosophy is a weltanschauung, a way of life, a state philosophy. This ideology is a basic value in national beliefs, the soul and personality of the nation, even as national dignity. As we understand that the activity in philosophy is in the form of deep contemplation to get to the point. With the results of our contemplation, we can live a more conscious life as humans. With this awareness we can know our strengths and weaknesses and their limits. Therefore, a legal philosophy is needed as a basic basis for studying law.

In simple terms, it can be said that the philosophy of law is a branch of philosophy, namely the philosophy of behavior or ethics, which studies the nature of law. In other words, philosophy of law is the study of law in a philosophical manner. So, the object of legal philosophy is law, and this object is studied in depth down to its core or basis, which is called essence, because law is a means to ensure that humans not only live but also live prosperously (eu zen) and become as sublime as possible, and it is such a law which can be assumed to be true as is the goal to be attained by a good archer and understands eternal beauty and neglects everything, be it wealth or the kind that has no virtue (arate).[27]

26. Hans Kelsen, 2015, *Teori Umum Tentang Hukum dan Negara (General Theory of Law and State)*, alih bahasa oleh Raisul Muttaqien, Bandung, Nusamedia, page. 3-4.
27. Carl Joachim Friedrich, 2004, *Filsafat Hukum Perspektif Historis (The Philosophy of Law in Historical Perspective)*, dialih bahasakan oleh Raisul Muttaqien, Bandung, Nusamedia, page. 22-23.

In this new age, the philosophy of law is mainly caused by the confrontation with which jurists face their daily work in dealing with problems of social justice. Of course, these interests include: a) interests regarding protection of the state of peace and order (peace and order), protection of health and safety (of health and safety), protection of the security of agreements and income (security of transactions acquistions); b) security regarding social institutions which includes protection of relations in the household and protection of political and economic institutions which have long been recognized in legal regulations to guarantee or protect the family as a social institution; c) social interests regarding general morality pay attention to the moral order of society; d) the interests of the community in the maintenance of social resources; e) social interest regarding general progress (the social interest in general progress).[28] Surely this is all related to protecting the child's life from the time they are in the womb until they reach the age limit of adulthood or the parents feel ready to let go of their child as an adult.

If moral judgments are rational and based on objective considerations and are recognized as generally accepted, how can it be explained that unity of opinion is often not achieved? There are three reasons why it is often difficult to achieve a unity of moral opinion. First, the problems we face; second, we often approach the problems we face not rationally and objectively, but rather emotionally or in terms of self-interest; third, it also happens that a person is openly unwilling to act properly, fairly and honestly. So people refuse to act morally. In ethics it is said that the unity of moral understanding can only be achieved, if we are willing to occupy the starting point of the moral, the moral point of view. With the moral starting point, it means that people must first be willing to take a moral attitude, only then can the basis be reached together to seek appropriate judgments. So the attempt to achieve a unity of moral opinion can only be successful if certain conditions are met.[29] Moral awareness itself raises awareness of the obligation to always seek correct norms objectively. Assisting in that quest is a normative ethical task. Its task is a critical study of all the norms that are put forward as moral obligations either by certain institutions, or by our own conscience.[30] Of course, through this conscience we can find out how the role of legal philosophy affects child protection as part of human rights.

4. Conclusion.

Child protection is a hot topic that is always good to discuss, this happens because children are the next generation of the nation in the future. Through the philosophy of law as the basic

28. Soetiksno, 2008, *Filsafat Hukum, Bagian 2*, Edisi Kesepuluh, Jakarta, Pradnya Paramita, page. 76-78
29. Franz Magnis Suseno, 1987, *Etika Dasar Masalah-Masalah Pokok Filsafat Moral*, Yogyakarta, Kanisius, page. 75-76.
30. Franz Magnis Suseno, 1992, *Filsafat Sebagai Ilmu Kritis*, Yogyakarta, Kanisius, page.35.

foundation of legal science, it can be explained that the philosophy of law is very protective of the role of human rights which guarantees the protection of children. The role of legal philosophy in safeguarding child protection as part of human rights is applied through legal philosophy as well as law grows and develops in positivism legal theory, with the flow of positivism legal theory to maintain child protection in a sustainable manner, which in turn can make law responsive to children.

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