

The Implementation of International Instruments in the Formation of Juvenile Criminal Justice System Legislation

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Abstract. *This research aims to find out and analyze the implementation of international instruments and the obstacles faced in the formation of Law number 11 of 2012 concerning the Juvenile Criminal Justice System. This research uses a normative juridical approach; This research is a descriptive analysis research and is intended to describe and examine in more depth the implementation of international instruments in changes to Law number 11 of 2012 concerning the Juvenile Criminal Justice System and the obstacles it faces; Based on research, it can be concluded that Indonesia is not one hundred percent ready to implement Law 11/2012 as seen from the lack of the necessary physical facilities.*

Keywords: *Constitution; Criminal; Implementation.*

1. Introduction

The main task of the state is to provide protection to all its citizens, including children as the nation's next generation. This is explained in the Preamble to the 1945 Constitution of the Republic of Indonesia which emphasizes the protection of all Indonesian bloodshed. Children are the hope of the nation's future, and they need special treatment so they can grow and develop well, both physically

and mentally.¹They are also an important part of the young generation who have a strategic role in realizing the nation's ideals.

Indonesia as a rule of law country has a high commitment to Human Rights (HAM), as explained in the 1945 Constitution. The principles of the rule of law include the protection of human rights, division of power, government based on law, and state administrative justice. Apart from that, international law also sets standards for the protection of children, including in the context of juvenile criminal law.²

The definition of children in the context of juvenile criminal law is based on age level or a psychosocial approach. Children in conflict with the law have rights such as inability to be held accountable for criminal acts, rehabilitation, rights to services and care, as well as rights in the criminal procedural legal process. International standards, such as the Declaration of the Rights of the Child, UN Rules for the Protection of Juveniles Deprived of Their Liberty, and UN Guidelines for the Prevention of Juvenile Delinquency, stipulate the rights and obligations of states in protecting children.³

The juvenile criminal justice system is regulated by international standards to take into account the maturity level of children. Children in conflict with the law are treated as victims, even though they have committed a crime, because there is a gap in the level of maturity between children and adults, both morally and psychologically. International law has established standards of treatment that must and/or can be referred to by each country in dealing with children in conflict with the law. International law requires states to provide legal protection and respect for children in conflict with the law through the development of laws, procedures, authority and institutions.

International law is divided into legally binding instruments and instruments that are not legally binding but have moral force. Countries must comply with legally binding instruments, such as international conventions and agreements, and can

¹Darwan Prinst, *Indonesian Children's Law*, PT. Citra Aditya Bakti, Bandung, 1997, p. 98

²Anggara, *Right to Legal Aid as Part of Exception and Defense in Criminal Cases*, <http://anggara.org/2011/10/06/>, 10 July 2012

³Maulana Hasan Wadong, *Introduction to Advocacy and Child Protection Law*, PT. Grasindo, Jakarta, 2000, p. 22

refer to non-legally binding instruments as guidance.⁴ Considering the high number of criminal cases involving children, the Indonesian government proposed and approved the Juvenile Criminal Justice System Law. This law further guarantees the rights of children involved in criminal cases. Indonesia is also involved in international legal instruments relating to child protection, and positive legal changes have occurred to meet society's need for a sense of justice in juvenile criminal law.

This phenomenon is what underlies and leads researchers to carry out research on the absorption of the values contained in international legal instruments into changes in our national law, especially in juvenile criminal law, taking the title: Implementation of International Instruments in the Formation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The aim of carrying out this research is: To find out and analyze the implementation of international instruments in the Establishment of Law number 11 of 2012 concerning the Juvenile Criminal Justice System as well as the obstacles faced in the formation process.

2. Research Methods

This research uses a normative juridical approach. The reason the researcher used a normative juridical approach was to obtain a systematic solution in terms of implementing international instruments in changing Law number 11 of 2012 concerning the Juvenile Criminal Justice System. So that the law has the values of justice, benefit and certainty. This research is intended to describe and examine in more depth the implementation of international instruments in amending Law number 11 of 2012 concerning the Juvenile Criminal Justice System and the obstacles it faces.⁵

The secondary data used is additional literature data about children and other books used to support primary data. Existing data from the research results will be analyzed qualitatively deductively by comparing Law Number 3 of 1997 and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System with the aim of answering the problem in this research, namely the extent to which regulations regarding the criminal system are implemented. children contains

⁴Hartuti Hartikusnowo, Challenges and Agenda for Children's Rights, www.portal.hukum.com, p. 1

⁵Ronny Hanitijo Soemitro, Legal Research Methods and Jurimetry, Ghalia Indonesia, Jakarta, 1988, p. 11.

international principles/instruments regarding children and what obstacles are faced/arise in the implementation of these laws.⁶

3. Results and Discussion

3.1. International Conventions as One of the Guidelines in Making Law no. 11 of 2012

International law has established standards of treatment that must and/or can be referred to by every country in dealing with children in conflict with the law. Countries are required to provide legal protection and respect for children in conflict with the law through the development of laws, procedures, authority and institutions. The application of UN standards and norms is a useful tool in increasing respect for and advancing human rights and the criminal justice system.⁷

International instruments, such as the Convention on the Rights of the Child which was ratified in 1989, have great significance in the context of protecting children who have problems with the law.⁸The ratification of the Convention on the Rights of the Child by the Indonesian Government requires the state to implement these children's rights into national law, which is reflected in Law no. 3 of 1997 concerning Children's Courts and Law no. 23 of 2002 concerning Child Protection. However, Law 3/1997 is no longer in accordance with the

⁶Esmi Warassih, 2011, *Legal Institutions A Sociological Study*, Diponegoro University Publishing Agency, Semarang, page 11

⁷Anonymous, *Children in Conflict with the Law from the Perspective of International Human Rights Law*, Opinion, Child Rights Monitoring Foundation, 2011, p. 11.

⁸Ibid

development and legal needs of society. This law does not comprehensively protect children who are in conflict with the law, especially in the context of criminal law. Therefore, the Law on the Juvenile Criminal Justice System needs to be formed to overcome these weaknesses.

Law 3/1997 was originally intended to protect children in conflict with the law and give them the opportunity to develop into independent and responsible individuals. However, in practice, children are often treated as objects and experience detrimental treatment. This is contrary to the principles of the Convention on the Rights of the Child which has been ratified by Indonesia. Draft Law Law 11/2012 notes that Law 3/1997 is no longer in accordance with current developments, the influence of international law, national law, developments in methods of justice, as well as developments in science and technology. Therefore, Law 11/2012 was drafted to replace Law 3/1997 and guarantee the best protection for children in conflict with the law.⁹

Replacing Law 3/1997 with Law 11/2012 is Indonesia's concrete step in ensuring the protection of children in conflict with the law in accordance with international standards.¹⁰This follows the world's spirit of protecting children's rights, especially children in conflict with the law. Law 11/2012, known as the

⁹Supreme Court of the Republic of Indonesia, Needs More Study in the Draft Law Concerning the Juvenile Justice System, <https://www.mahkamahagung.go.id/rnews.asp?jid=8&bid=3129>, accessed 9 February 2015

¹⁰RM Panggabean, Response to the Bill on the Juvenile Justice System, Socialization of the Bill on the Juvenile Criminal Justice System, Medan, 2010, p. 2.

Law on the Juvenile Criminal Justice System, sets the goals of the juvenile criminal justice system in line with international instruments such as The Beijing Rules and the Convention on the Rights of the Child. These international instruments play an important role in the formation of Law 11/2012, especially in the context of protecting children in conflict with the law.¹¹

Law 11/2012 uses the principles of restorative justice to handle cases involving children, rehabilitation, and introduces a new idea, namely diversion as the main solution. The idea of diversion was stated in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice or The Beijing Rules (UN General Assembly Resolution 40/33 dated 29 November 1985), where diversion is stated in Rule 11.1, 11.2, and Rule 17.4. Applying the principles of restorative justice through one of the ideas of diversion which has been proclaimed in one of the international instruments regarding the protection of the rights of children in conflict with the law, namely The Beijing Rules, conclusions can be drawn regarding the positive and negative impacts of the process of adopting these international regulations. The positive impacts include:¹²¹³

1) Better Protection of Children's Rights: Implementation of the principles of restorative justice through diversion helps Indonesia ensure the protection of the

¹¹Damang, Questioning the Revision of Juvenile Criminal Justice (Short Notes to Law Number 11 of 2012), <http://www.negara Hukum.com/ Hukum/menyoal-revisi-peradilan-pidana-anak-cepatan-angkat-undang-nomor -11-an-2012.html>, accessed 9 February 2015.

¹²Setya Wahyudi, Loc. Cit.

¹³Arifin, Education of Children in Conflict with the Law; Convergence Model Between Functionalists and Religious, CV. Alfabeta, Bandung, 2007, p. 12.

rights of children in conflict with the law in accordance with international standards. This creates a legal system that is fairer and oriented towards child protection.

2) Conformity with the Convention on the Rights of the Child: Indonesia is becoming more in line with the Convention on the Rights of the Child by implementing diversion in its laws (UU 11/2012). This reflects the country's commitment to protecting children's rights more effectively and humanely.

3) Coaching Approach: Diversion promotes a rehabilitation and coaching approach for children in conflict with the law. This allows children to improve their behavior and avoid imprisonment, except in the last case.

4) Change in Community Paradigm: Diversion helps change the view of society and law enforcement officials towards children who are in conflict with the law. This creates an opportunity to reduce stigmatization and give children second chances.

Then the negative impacts of implementing ideas in international instruments into Indonesian law include:

1) Additional Budget: Implementing diversion requires additional budget allocations to train specialized personnel, establish new institutions, and run diversion programs. This could be a financial burden for the government.

2) Lack of Understanding: If law enforcement officials do not properly understand the concepts and principles of diversion, then implementation may not be effective. Adequate training and education for law enforcement officers is very important.

3) Unpreparedness or lack of understanding in applying new laws can lead to chaos in implementation, which may result in inconsistent and unfair decisions.

Indonesia faces several challenges in the preparation and implementation of Law no. 11 of 2012 relating to child law enforcement. Law enforcement is a process that is strongly influenced by legal regulations, and legal reform is an effort to increase the effectiveness of law enforcement.

Law 11/2012 aims to change the approach towards children in conflict with the law, encouraging alternatives such as peace without compensation, community service, or education, and involving investigators, prosecutors and judges who

have sensitivity towards children. However, implementing this law requires both physical and non-physical preparation.

Physical facilities such as children's correctional institutions (LPKA), temporary child placement institutions (LPAS), and social welfare organizing institutions (LPKS) are not yet available, even though the law requires changes to the system within 3 years. Apart from that, preparation of human resources involving child investigators, child prosecutors, child judges, community counselors and professional social workers has also not been realized. This law also requires various institutions such as the police, prosecutor's office and courts to have investigators, public prosecutors and juvenile judges, as well as building various facilities. However, until now, there has been no concrete plan from the government to build this facility.¹⁴

Implementing Law 11/2012 requires not only an understanding of the new law, but also correct procedures in accordance with the law. Even though many law enforcement officers already understand this law through outreach and seminars, good cooperation between various institutions and adjusting perspectives and paradigms is still a challenge. In conclusion, Indonesia is not yet fully ready to implement Law 11/2012 because the necessary physical facilities are not yet available. Effective implementation requires comprehensive preparation, including appropriate physical facilities and human resources. Laws without readiness for implementation will not provide the expected benefits for children in conflict with the law.¹⁵

3.2. Implementation of the Principles of Forming Good Legislative Regulations in Law no. 11 of 2012

The principles of forming good regulations have been described in the previous chapter. There are several principles that legislators must pay attention to, namely those listed in Article 5 and Article 6 of Law 12/2011. Likewise, in the

¹⁴Umi Supraptiningsih, *Readiness of Law Enforcement in Pamekasan Regency in the Implementation of Law no. 11 of 2012 concerning the Juvenile Criminal Justice System*, Nuances, STAIN Pamekasan, Vol. 11 No. 1 January – June 2014, p. 173.

¹⁵*Ibid.*, 164.

process of forming Law 11/2012, it must contain all the principles of formation and material principles of the content of good statutory regulations.

The first principle is the principle of clarity of purpose, Law 11/2012 has aims and objectives to be achieved, namely to replace Law 3/1997 which is no longer in accordance with the development and legal needs of society. Then, another most important aim of this law is to maintain honor and dignity and provide special protection for children who are in conflict with the law. Institutional principles or appropriate forming officials, Law 11/2012 has been created and formulated by the appropriate law-forming officials, namely the People's Representative Council (DPR).

The principle of conformity between type, hierarchy and content material. Law 11/2012 adopts new ideas from International Conventions which uphold the protection of children's rights. Therefore, this law is a reform of the Indonesian juvenile criminal law system, which means it concerns law enforcement agencies which require clear legal rules so that they are passed into law. It is hoped that the principle of can be implemented, the new ideas contained in Law 11/2012 can be implemented well and apply effectively because they are made in accordance with philosophical, sociological and juridical basics.

The principle of efficiency and usability, Law 11/2012 was created to meet the needs of new legislation to improve the rights of children in conflict with the law.

This law will be useful for protecting children's rights and for the future interests of children in conflict with the law.¹⁶

The principle of clarity of formulation. Law 11/2012 was made in accordance with the technical requirements of statutory regulations, systematics and choice of words or terminology, and the legal language is clear and easy to understand, so that it does not give rise to various kinds of interpretations in its implementation. Then the last one is the principle of openness. The process of forming Law 11/2012 starting from planning, preparation, drafting and discussion is transparent and open. In this way, all levels of society have the widest possible opportunity to provide input in the process of forming legislative regulations.

After that, the content material in Law 11/2012 must reflect several principles. The first principle is the principle of protection. This law clearly functions to protect and provide protection to children. Moreover, there is the idea of diversion which can create peace for the perpetrator and victim. Second, the principle of humanity. Law 11/2012 is a means of protecting human rights, in this case children. And also to protect the dignity of children as human beings.

The principle of nationality, even though this law adopts an idea from an international convention, namely diversion, this idea was created to suit the

¹⁶Chaerudin and Syarif Fadillah, *Crime Victims in the Perspective of Victimology & Islamic Criminal Law*, Gradhika Press, Jakarta, 2004, p. 82-86.

pluralistic nature and character of the Indonesian nation. The principle of kinship, the idea of diversion formulated in this law, in its implementation is preceded by deliberation to reach consensus between the perpetrator/parents and the victim. So it is clear that the principle of kinship is contained in the material of Law 11/2012.

The principle of archipelagoism, Law 11/2012 always takes into account the interests of all children in Indonesia, without exception. The principle of unity in diversity, this law was made in general to accommodate the diversity of population, religion, ethnicity and class, special regional conditions and culture in the life of Indonesian society. The principle of justice, Law 11/2012 is expected to reflect proportional justice for every Indonesian child without exception and also for the victims.

The principle of equal standing in law and government, this law does not differentiate the status of children or victims based on their background, religion, ethnicity, race, class, gender or social status. The principle of order and legal certainty, the material of Law 11/2012 reflects the guarantee of legal certainty for children and victims and also creates order in society.

The principles of balance, harmony and harmony. This law was created without ignoring the balance, harmony and harmony between the interests of children, parents, victims and society in general. These are the principles of making good

content and material in statutory regulations. So it can be concluded that Law 11/2012 is in accordance with the principles of making good legal regulations and the principles of content material based on Article 5 and Article 6 of Law 12/2011.

3.3. Implementation of Law no. 11 of 2012 according to Islamic Law Studies

Law 11/2012 adopts several basic ideas in several international conventions. One of them is the idea of diversion in the juvenile criminal justice system. The application of these international ideas certainly requires a more in-depth study according to the laws and culture of Indonesian society so that their implementation does not collide or conflict with positive Indonesian law.

Indonesian society is a religious society, namely a society that believes and is devoted to God Almighty, loves the country, loves others, likes to work and is willing to make sacrifices for others. In this regard, Indonesia is also one of the countries where the majority of its people or residents embrace Islam. Therefore, the existence of Law 11/2012 which adopts several ideas from the international world needs to be studied for its compatibility with Islamic law.

Several principles or principles that must be considered in implementing legal sanctions in Islamic law, namely:

- 1) Principle of legality;

The principle of legality is emphasized in the Al-Qur'an, surah Al-Isro verse 15, that Allah will not punish a people until we send an Apostle. This verse emphasizes the function of the apostle as a carrier of a mission to humans which contains a number of commands and prohibitions, and provides a justification for humans to apply sanctions for a violation. This principle also contains:

a) The existence of legal certainty, both in determining criminal sanctions and in imposing criminal sanctions;

b) Nash-nash revealed does not apply retroactively.

2) Principle of balance;

In Islamic law, excessive punishment is not permitted at all, except for aggravation. In fact, the Shari'ah urges, especially to the injured party (victim) to apologize for the perpetrator's actions, for example to jarimah qishosh. Another thing that can be understood from this principle is the balance between the interests of realizing public order on the one hand and the interests of protecting the human rights of individual perpetrators and victims on the other hand.

3) The principle of delaying punishment;

The principle of delaying punishment is understood in the hadith of the Prophet narrated by Baihaqi:

"Suspend the imposition of huddud punishment if there is any doubt" (HR. Baihaqi).

In another hadith from Abu Hurairah it is stated:

"That the Prophet Muhammad SAW once detained someone on a charge for one day and one night in the hope that he would tell the truth and confess frankly."

Postponement of sentencing can be done if it turns out that the evidence obtained does not convince the judge, or the judge can even abort it because the elements of the criminal act (jarimah) are not fulfilled. To determine whether there is a criminal element, in fiqh there is known *thuruqul itsbat*, namely the means used to determine the existence of a jarimah which includes:

- a) Pledge (recognition);
- b) Witness (shahadah);
- c) Oath (qosamah); And
- d) Instructions (*qoiranul ahwal*).

Imam Syafi'i stated that every judge can decide cases based only on the judge's knowledge and beliefs, except for criminal cases where it is feared that their knowledge and beliefs will be used as justification for tyrannizing, slandering and killing someone without legal reasons.

4) Principle of justice.

In the Qur'an, many people are told to do justice in enforcing the law, especially to law enforcers without distinction of position, race and religion. In relation to the principles of punishment in Islamic criminal law, every sentence imposed must be based on efforts to:

A) Complete all actions to maintain security stability;

B) Improving the behavior of convicts so that they do not repeat their actions again.

The threat of punishment in Islamic criminal law is determined by the classification of the criminal act, namely:

a) Uqubah hudud;

b) Uqubah qishosh diyat;

c) Uqubah ta'zir.

Uqbah hudud is a threat of punishment that has been determined and must be carried out, for crimes whose target is the interests of the general public. If the interests of the individual who is the target of a crime (murder, abuse) and the threat of punishment has been determined and its implementation can be replaced with another form of punishment called uqubah qishosh diyat, and if the interests of the community or individual as the target of the crime and the threat and implementation of the punishment are left to consideration and policy judge, called uqubah ta'zir.

Jarimah who are threatened with uqubah hudud cannot be pardoned, whereas Jarimah who are threatened with uqubah qishosh diyat and uqubah ta'zir can receive forgiveness from the victim or the injured party.

Regarding crimes committed by children, in Islamic criminal law, the condition of children is the cause of the abolition of the law. This means that children who commit prohibited acts cannot be punished. In Islamic criminal law, the condition of children is one of the conditions (causes) for the abolition of punishment. According to Islamic law, criminal responsibility for children is based on two things, namely looking at the power of thought and choice (iradah and endeavor). Therefore, the position of children varies according to the different periods of their lives, starting from their birth to the period of these two cases. The fuqaha say that there are three periods, namely:

1) A period of absence of the ability to think;

2) Period of weak thinking ability;

3) The period of full thinking ability.

The period of lack of thinking ability begins at birth and ends at the age of seven. At that time a child is considered to not have the ability to think, and the child is called a child who has not yet tamyiz. Therefore, criminal acts (criminal acts) committed by children under the age of seven are not subject to punishment, either as a criminal punishment or as a teaching.

The period of weak thinking ability, starting from the age of seven until reaching maturity (balig), and most jurists limit it to the age of fifteen. During this period, a child is not subject to criminal responsibility for the crimes he has committed, but he can be sentenced to instruction. Children are in the phase of full thinking ability, starting when a child reaches the age of intelligence (sinnur-rusydi), namely after reaching the age of fifteen or eighteen years. During this period, a child can be held criminally liable for the crimes they commit.

Law 11/2012 prioritizes restorative justice, namely a model for resolving criminal cases that prioritizes restoration of victims, perpetrators and society. The main principle of restorative justice is the participation of victims and perpetrators, participation of citizens as facilitators in resolving cases, so that there is a guarantee that children or perpetrators will no longer disturb the harmony that has been created in society.

Regarding the age limit for children, Law 11/2012 has regulated that before the age of 18 (eighteen) years, a person is said to be a child. However, regarding the age limit for children who can be subject to criminal sanctions, Law 11/2012 does not clearly state it in its article. However, it is formulated in Article 32 paragraph (2) letter a that detention of children can only be carried out on condition that the child is 14 (fourteen) years old or more. From this formulation it can be said that the minimum age that a child can be detained is 14 (fourteen) years of age, even though Islamic law sets a limit that children aged 7 (seven) to 15 (fifteen) years are still in a period of weak thinking ability and in their infancy. Children are not subject to criminal responsibility but are given instruction. So, according to Islamic law, This age also cannot be subject to detention. From here there are differences between the regulations in Law 11/2012 and Islamic law. Indeed, Law 11/2012 regulates that those who are categorized as children are those who are not yet 18 (eighteen) years old. However, the existence of Article 32 paragraph (2) letter a creates confusion in terms of handling children who commit criminal acts.

Regarding the punishment given to children who commit a criminal act, Islam regulates that minors who commit criminal acts or criminal acts cannot be punished criminally. However, the parents of minor children are punished civilly by paying compensation to the victim, if the result of the criminal act committed by their child causes material losses to the victim. Parents are burdened with the obligation to pay compensation due to criminal acts or crimes committed by their children as a result of the child's wrong upbringing. As a consequence, parents must be responsible for criminal acts or crimes committed by their children. However, if a minor commits a criminal act or causes major harm to the victim then of course he or she must be given consistent guidance so that the child does not grow up to become a criminal. Giving punishment to minors must solely be directed as an effort to educate and teach the child, not as revenge for their actions.

Judging from the types of punishment that can be imposed on children according to Islamic law, Law 11/2012 has the same regulations. According to Law 11/2012 Article 5 paragraph (3) it is formulated that in the criminal justice system children are subject to coaching sanctions which include providing understanding, protection, recovery and prevention to help children understand and be responsible for their actions and improve the quality of children as independent and responsible individuals. . Meanwhile, according to Law 11/2012 Article 16 paragraphs (1) and (2) regulations regarding criminal sanctions against children only cover limited punishment and indirect punishment.

However, in some cases that are considered very serious, such as murder or crimes involving drugs, Law 11/2012 also gives the juvenile court the authority to impose criminal sanctions in the form of limited sentences. This limited punishment, according to Law 11/2012 Article 17 paragraph (1), can only be applied to children who are at least 14 (fourteen) years old.

Regarding diversion, the principles applied in Law 11/2012, namely that the juvenile court will consider implementing diversion if:

1. The perpetrator is a child under 12 years old.
2. The perpetrator is a child aged 12 to 18 years and the crime committed is a light or moderate crime, or a crime punishable by a maximum prison sentence of 5 years.

However, if the perpetrator is a child aged 12 to 18 years and the crime committed is a serious crime, then the juvenile court still has the authority to impose criminal sanctions in the form of limited sentences. If diversion is implemented, the juvenile court can determine appropriate action according to the child's situation and needs, such as providing warnings, counseling, rehabilitation, or supervision by authorized officials.

In general, Law 11/2012 has an approach that is in line with the principles of restorative justice, namely prioritizing the recovery of children as the main objective of criminal sanctions. In addition, Law 11/2012 also recognizes the importance of separating children from adult criminals and providing treatment appropriate to the child's age and development.

In the context of Islamic law, a restorative justice approach is also possible

accepted because it prioritizes the recovery and development of children as the main priority. However, it is important to provide an approach that is sensitive to Islamic values and teachings and ensure that the criminal sanctions given are in accordance with the principles of Islamic law. In terms of determining criminal sanctions against children, Law 11/2012 also pays special attention to children by ensuring that the sanctions given are appropriate to the child's age and development. This is in accordance with the principles of Islamic law which also prioritizes an approach that is sensitive to individual conditions and development.

In essence, Law 11/2012 and the principles of Islamic law have similarities in a restorative justice approach which prioritizes the recovery and development of children as the main priority. However, in implementing Law 11/2012 in Indonesia, it is important to pay attention to the values and teachings of the Islamic religion and ensure that the criminal sanctions imposed are in accordance with the principles of Islamic law.

4. Conclusion

Draft Law 11/2012 is based on Indonesia's active role in following international conventions and replaces Law 3/1997 which is not in line with current developments and science. Law 11/2012 bases the concept of restorative justice on The Beijing Rules which is in line with Pancasila values. The influence of international instruments is clearly visible in the drafting of this Law, adapting it

to international law. The implementation of Law 11/2012 has had a positive impact greater than negative, especially through the concept of diversion which leads to fulfilling children's rights, prioritizing guidance rather than prison sentences, and changing the paradigm for handling children. However, the main obstacle is the unpreparedness of the community, government and law enforcement officials in adapting to these changes, especially regarding budgets, socialization,

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