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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Law Enforcement in Child Criminal Cases Based on The Values of Justice

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Abstract. *The purpose of this research is to identify the causes of the failure to implement justice values in the enforcement of juvenile crime cases. To identify weaknesses in justice-based law enforcement for juvenile crime cases; and to identify new regulations regarding justice-based law enforcement for juvenile crime cases. The research method uses a constructivist paradigm, a qualitative approach, and a sociological-juridical approach. The types and sources of legal materials consist of primary and secondary data. Data collection techniques include observation and interviews. Data analysis is carried out using qualitative methods using deductive logic. The results of this study are 1) The value of justice has not been implemented in the Law Enforcement of Child Criminal Cases due to the conflict between legal certainty that deviates from the value of justice. 2) With the law stating that perpetrators of child crimes are imprisoned, the parties involved in Law Enforcement think of providing a deterrent effect by imprisoning children as perpetrators, and this is not in accordance with the value of justice. 3) Reconstructing Article 71 of Law No. 11 of 2012, in point e which originally reads imprisonment is replaced with religious rehabilitation, and in Article 81 of Law No. 11 of 2012 states that imprisonment is replaced with religious rehabilitation.*

Keywords: Child Criminal Procedure; Child Criminal Procedure; Reconstruction; Regulation.

1. Introduction

Indonesia's constitutional state is inspired by the fundamental ideas of rechtsstaat and the rule of law. As a constitutional state, Indonesia requires that all attitudes, policies, and behaviors of state officials and citizens be based on



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law. The principles of the supremacy of law and legal sovereignty themselves ultimately stem from the sovereignty of the people.¹ However, the current of globalization, accompanied by economic, scientific, and technological developments, has both positive and negative impacts.

Positive impacts include rapid development, including the creation of a wide variety of high-quality, technologically advanced products, the availability of information via satellite, and increased incomes. Negative impacts include a growing moral crisis in society, which has the potential to increase the number of people violating criminal law in various forms.² The development of society, accompanied by technological advances, has made the challenges faced in law enforcement increasingly complex. Crime is on the rise in society, and among the crimes that concern the public are crimes committed by children, which often involve elements of deviant behavior. A child is defined as anyone under 18 years of age, including unborn children.

The Republic of Indonesia is a state based on law based on Pancasila as regulated in the 1945 Constitution of the Republic of Indonesia, hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia, known as the 1945 Constitution. especially in Article 1 paragraph (3) which reads: "The Republic of Indonesia is a state based on law". This means that all aspects of life in this country are governed by the rule of law. To achieve the rule of law in Indonesia, legal instruments are needed, specifically laws, to regulate all societal actions and act as a means of coercion.

The problem of children and their protection will never stop throughout the history of life, because children are the next generation of the nation and development, namely the generation that is prepared as the subject of implementing sustainable development and the holder of control of the future of a nation. Every country, including Indonesia, is responsible for protecting Indonesia's child potential and developing the whole Indonesian person, toward a just and prosperous society, both materially and spiritually, based on Pancasila and the 1945 Constitution.³

Efforts to protect children must begin as early as possible, so that they can participate optimally in the development of the nation and state. In Article 2

¹Marsiem, 2012, State Science, Lecture Materials of the Faculty of Law, Unissula Semarang.

²Marlina, 2012, *Juvenile Justice in Indonesia*, PT Refika Aditama, Bandung, 2012, p. 1.

³Nashriana, 2011, *Criminal Legal Protection for Children in Indonesia*, PT Raja Grafindo Persada, Jakarta, p. 1.



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paragraphs (3) and (4) of the Republic of Indonesia Law No. 4 of 1979 concerning Child Welfare, it is stated that: "Children have the right to care and protection during pregnancy and after birth. Children have the right to environmental protections that can endanger or hinder normal growth and development." These two paragraphs provide the basis for thinking that child protection aims to strive for correct and fair treatment, to achieve child welfare.⁴

Protecting children in a nation's society is a measure of that nation's civilization, and therefore, efforts must be made within the capabilities of the nation and state. Child protection activities are legal actions with legal consequences.⁵ Therefore, legal guarantees are needed for child protection activities. Legal certainty is essential for the continuity of child protection activities and to prevent abuses that could have unintended negative consequences in the implementation of child protection activities.⁶ Therefore, child protection activities have at least two aspects. The first aspect relates to policies and laws governing children's rights. The second aspect concerns the implementation of these policies and regulations.

The Republic of Indonesia has ratified the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990. This ratification is an effort by the state to provide protection for children. Of the various issues in the Convention on the Rights of the Child, one that requires special attention is children who require special protection, including children in conflict with the law. In national law, special protection for criminal acts by children is also regulated in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System and Law No. 35 of 2014, an amendment to Law No. 23 of 2002 concerning Child Protection.

In the implementation of the juvenile criminal justice system in Indonesia is still often found that the handling of child criminal cases was not accompanied by with legal protection, proper guidance, and guaranteed implementation of children's rights. The problem, among others, is the lengthy judicial process that child suspects undergo, from the police investigation to the completion of their sentence in prison, which is a reflection of a child's grief. The events during the judicial process will be a unique experience in a child's life that will be difficult to forget. Such experiences will leave a lasting impression on them.⁷

⁴Ibid., pp. 1-2.

⁵Ibid., p. 3.

⁶Ibid., p. 3

⁷Marlina, Op. Cit., p. 12.



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Another dilemma faced by juvenile prisoners is societal stigma. Some people still believe that children who have been through the criminal justice system (committed a crime) will likely be involved in other crimes in the future. This stigma is very difficult to eradicate from the public's perspective.⁸

Law No. 11 of 2012 concerning the Criminal Justice System Children have been given special treatment for children who commit crimes, both in procedural law and in the courts. This is because the nature of children and their psychological state in certain cases require special treatment and special protection, especially against actions that could be detrimental to the child's mental and physical development. This is realized by starting with special treatment during detention, namely detaining children separately from adults. Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Article 23 paragraph (1) states: "At each level of examination, children must be provided with legal assistance and accompanied by a community counselor or other companion in accordance with the provisions of statutory regulations."

Child protection is an important job that must continue carried out by all elements of our nation. These forms of child protection are implemented in all aspects, starting with family guidance, social control over children's relationships, and appropriate handling through sound regulations established by the state.

On his journey up to now what has mandated in Law No. 11 of 2012 concerning the Child Criminal Justice System and Law No. 35 of 2014, an amendment to Law No. 23 of 2002 concerning Child Protection, is still hampered by facilities and Government-provided infrastructure, special prisons for children are only available in certain cities, and even provincial capitals like Semarang don't have any. This, of course, leads to the failure to fulfill children's rights as mandated by law and the Convention on the Rights of the Child. Furthermore, the lack of comprehensive outreach by law enforcement officials, including the police, prosecutors, and the district attorney, as well as community organizations down to the grassroots, has resulted in ineffective legal protection for children.

With the complexity of the problems related to the protection that must be given to a child in conflict With the law, efforts from various parties must be made to protect the nation's children. The police, as the vanguard in law enforcement, have a significant responsibility to synergize the duties and authorities of the Indonesian National Police (Polri), as stipulated in Law No. 2 of 2002 concerning the Indonesian National Police. Prosecutors, as law enforcers, must also provide legal counseling to the community, such as the "Prosecutors

⁸Ibid., p. 13.



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Enter Villages" program. Likewise, the Child Protection Commission, responsible for protecting the nation's children, must work extra hard to address the phenomena of children committing crimes that ultimately lead to legal action, including court proceedings.

Handling children in conflict with the law, Judgealways have to pay attention to the condition of children who are different from other peopleadults. The basic nature of children as individuals is still unstable, the future of childrenas a national asset, and the position of children in society who still need protection can be used as a basis for finding an alternative solution to prevent children from a formal criminal justice system, placing children in prison (correctional institutions), and stigmatization of children's status as prisoners.

One of the solutions that can be taken is in handling cases.child criminal offenseswhich is justis a restorative justice approach, which is implementedwiththroughDiversion. Diversion is the transfer of the resolution of a child's case from the criminal justice process to a process outside the criminal justice system., according to Article 1 point 7, swhile restorative justicebased on Article 1 point 6 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System,is a processsettlement of criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other related parties to jointly seek a just solution with an emphasis on restoration to the original state, and not revenge.

Restorative justice in Indonesiaais considered a new way of thinking or paradigm in viewing a crime committed by a personchildren in conflict with the law based on the juvenile criminal justice system.Therefore, it is necessary to use proportional considerations as is also done in Australia with the Family Group Conference, in Japan with the Family Court, and in China with the term Victim-Offender Reconciliation. At every stage of handling a child's case, both inside and outside the juvenile criminal justice system, the best interests of the child are considered.

In an effort to enforce the law with justice, suedForable to carry out diversionary actions in handling caseschild criminal acts. Diversion of the juvenile justice process, also known as diversion, is useful for avoiding the negative effects of the processes.Further judicial action in the administration of juvenile justice, for example, labeling due to a guilty plea or sentence. In implementing diversion for juvenile crimes, judges have a legal umbrella, namely Law No. 35 of 2014, an amendment to Law No. 23 of 2002 concerning Child Protection, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System.



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2. Research Methods

The research employs a constructivist paradigm, a qualitative research design, and a socio-legal approach. The types and sources of legal materials comprise both primary and secondary data. Data collection techniques include observation and interviews, while data analysis is conducted using a qualitative method based on deductive logic.

3. Results and Discussion

3.1. Law Enforcement In Juvenile Crime Cases Is Not Yet Based On Justice Values.

Children represent the nation's future generation and serve as a long-term investment as well as a determining factor in a nation's future progress. Providing a decent life and a good education is the best way to implement a national regeneration program to maintain the quality of human resources.

In this modern era, children need a filter to navigate their lives where parental intervention is crucial. Advances in science and technology bring both positive and negative effects, requiring parents to maintain their role in filtering children's activities to prevent them from being influenced by inappropriate information or role models.

Furthermore, environmental factors must be properly maintained. Because children are in a phase of learning, experimenting, and analyzing what they see as examples, all aspects related to this play a vital role in maintaining a child's quality.

These environmental and social pressures often lead children to be involved in criminal cases. The government's role in enforcing the law on juvenile criminal cases based on the values of justice is crucial to ensure children can exercise their rights within the juvenile criminal justice system.

The detention of children for criminal offenses should be treated specifically because the values of justice for children differ from those for adults. This requires careful consideration of the principle concerning the child's best interests.

In practice, punishment for children who commit crimes is regulated by Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), which outlines sanctions such as criminal warnings, conditional sentences, job training, institutional coaching, and imprisonment (Yuli & Sarwirini, 2022; Annisa, 2024; Rahman, 2022; Rovelita, 2024).



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Focusing on Articles 71 and 81 of the SPPA Law, imprisonment for juvenile offenders is often considered unfair because it violates restorative justice principles. The system prioritizes restoring relationships, yet detention focuses heavily on punishment rather than rehabilitation, often bypassing diversion options.

Imprisonment also violates children's human rights as outlined in the Convention on the Rights of the Child (CRC), which emphasizes that detention should be a measure of last resort and for the shortest possible duration, as it deprives children of a supportive developmental environment.

Additionally, detention triggers severe negative impacts, including psychological disturbances, social stigmatization, and exposure to bad peer environments like adult criminals, which can increase the risk of recidivism.

Addressing these issues requires a stronger emphasis on rehabilitative and restorative approaches rather than imprisonment, ensuring that the implementation of diversion and education aligns with the goals of a just and humane legal system (Suhendra, 2023).

3.2. Perpetratorchild Criminal Offenseswith Not Being Imprisoned Yetbervalue Basisjustice.

In any law enforcement process, the value of justice must be embedded throughout, including the enforcement of juvenile criminal cases where a special focus must be placed to differentiate the justice needs of children from those of adults.

The differences in justice values between children and adults lead to variations in how they are handled during investigation, prosecution, trial, and sentencing, ensuring children are not subjected to undue pressure while prioritizing rehabilitation and personality development.

Improving children's behavior must be prioritized during punishment since they are still in a learning phase and prone to instability, reflecting Law No. 17 of 2016 which mandates the state to protect children and maintain future human resource quality.

Despite this state mandate, child criminal perpetrators are frequently sentenced to prison, which induces negative impacts such as social stigmatization, trauma from psychological and physical stress, and worsening behavior.

According to Lawrence M. Friedman, effective law enforcement relies on three interconnected elements within the legal system: legal structure, legal



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substance, and legal culture, where any weakness across these areas prevents the system from functioning optimally.

The legal structure framework faces severe hurdles such as a lack of specialized correctional facilities for children, systemic overload, and insufficient inter-institutional coordination that often forces minors into environments with adult criminals.

Legal substance issues persist because provisions in the Juvenile Criminal Justice System Law (Law No. 11 of 2012) still lean toward imprisonment and lack rigorous alignment with international principles like the Convention on the Rights of the Child.

Legal culture weaknesses—such as community stigmatization, public views supporting criminalization, and reactive paradigms among law enforcement officers—frequently treat children as hardened criminals rather than individuals requiring guidance.

Social norms that tolerate discrimination against vulnerable minors, combined with a lack of legal literacy and disregard for the child's best interests, further trap children into formal and punitive criminal proceedings.

To resolve these systemic deficiencies, child imprisonment must be avoided and comprehensively replaced with rehabilitation and diversion programs that prioritize behavioral recovery and protect the future of the nation's next generation.

3.3. Reconstruction Of Criminal Law Enforcementchild Criminal Offensesbased On Law Number 11 Of 2012 Concerning The Juvenile Criminal Justice Systemwhich Isvalue Basisjustice

Indonesia is a country based on law, as explicitly stated in Article 1 paragraph (3) of the 1945 Constitution, which requires the state to ensure the proper implementation of law accompanied by a sense of justice for all individuals, including children. However, justice for children requires a special concern because their needs differ significantly from those of adults, yet existing practices still subject child offenders to prison sentences that deprive them of essential rights such as proper education, protection, and a decent standard of living.

Imprisoning children fails to provide the necessary behavioral rehabilitation to improve their future, contradicting the Indonesian government's national mandate to protect children and maintain the quality of future generations. In contrast, rehabilitation serves as a more effective solution that enables children to correct their behavior, become good individuals after release, and smoothly



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adapt to their social environment. Addressing child morality requires a comprehensive approach rooted in local customs, culture, and religious values, which have consistently proven effective in guiding society toward good deeds and shifting the concept of punishment toward religious rehabilitation.

Developed countries recognize that children are the next generation who determine future national quality, implementing serious rehabilitation efforts through specialized institutions. For example, the United States utilizes Juvenile Detention Centers to address communication problems, provide mental health healing, and prevent crime repetition, while Norway employs Burnout Detention Centers under the Juvenile Penal Act to foster self-improvement through therapy, education, and skills training. Similarly, Sweden provides institutional care via The Swedish Juvenile Care Act, where children receive comprehensive psychological, trauma, and family therapy under secure supervision. These international models consistently integrate daily spiritual routines, demonstrating that even developed nations value the spiritual and religious dimensions of youth rehabilitation.

Imprisoning child criminals directly conflicts with Article 59 and Article 64 paragraph (1) of Law No. 35 of 2014 concerning Child Protection, which mandates special protection, rehabilitation, and psychological recovery that cannot be achieved through incarceration. Therefore, Articles 71 and 81 of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System require significant normative reconstruction to remove provisions leading to child imprisonment and replace them with religious rehabilitation incorporating psychological, skill, educational, and communication elements.

The negative impacts of conventional incarceration further justify replacing prison sentences with rehabilitation, as prisons increase the tendency toward physical violence due to harsh and unsafe environments lacking proper protection. Furthermore, facilities fundamentally designed to deter adults are entirely inhospitable for minors, causing severe psychological disorders and lifelong trauma stemming from limited self-development opportunities and a lack of individualized attention. Children who serve time in prison also face severe social stigmatization upon release, being labeled as ex-convicts or delinquents, which hinders community acceptance and normal life adaptation. Ultimately, these compounding negative consequences degrade children's morals and behavior, frequently driving them to become recidivists who commit unlawful acts again after release.

Conversely, religious rehabilitation for minors delivers profound positive impacts by strengthening moral and ethics values such as honesty, responsibility, and



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empathy through structured spiritual teachings. Spiritual activities like prayer, meditation, and reflection foster increased emotional stability, helping children manage negative emotions like anger, anxiety, and sadness while leaving behind harmful behaviors such as substance abuse. This approach provides positive social support through accepting communities, instills a deeper sense of purpose in life, and improves family relationships by teaching children mutual respect and love for their relatives. Most importantly, religious rehabilitation guides children toward repentance and self-improvement, effectively preventing the repetition of wrongful actions in the future.

To realize this vision, the legal framework must be reconstructed, specifically by amending Article 71 and Article 81 paragraph 5 of Law No. 11 of 2012 to replace "Prison" with "Religious rehabilitation". The mechanism for executing religious rehabilitation must follow strict child protection principles starting with an initial individual assessment by a multidisciplinary team of psychologists, religious educators, and social workers alongside parental consultation. Children should then be placed in child-friendly religious rehabilitation institutions—such as Islamic boarding schools or faith-based centers—strictly separated from adult perpetrators to receive integrated religious guidance, psychological counseling, formal education, and practical skills training.

Sustaining this system requires the establishment of a specialized state institution named the National Child Religious Rehabilitation Agency (BRRAN) to oversee national operations, regulatory compliance, infrastructure development, and human resource training. This agency would coordinate multi-party collaborations across government ministries, religious organizations, local communities, and international bodies to maintain rigorous monitoring and post-rehabilitation support. Implementing this holistic structural reform eliminates the trauma associated with traditional prisons, rebuilds children's character, shields them from social stigma, and fully enacts the principle of the best interests of the child as mandated by international conventions and juvenile justice laws.

4. Conclusion

Children represent an important factor in the implementation of justice values, requiring a distinct differentiation between the justice needs of children and adults. However, the enforcement of child crimes under Articles 71 and 81 of Law No. 11 of 2012 concerning the Child Criminal Justice System provides prison sentences for minors, which is deemed unjust because it violates restorative justice principles, breaches children's human rights, causes negative psychological impacts, deviates from educational and rehabilitation approaches,

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and suffers from ongoing detention practice problems. Consequently, a regulatory reconstruction is necessary to prioritize a rehabilitation approach for children who commit criminal acts. According to Lawrence M. Friedman, effective law enforcement depends on three main factors: legal structure, legal substance, and legal culture. In the context of juvenile criminal cases, these three elements exhibit significant weaknesses, such as a lack of special correctional facilities for children, an overload on the judicial system, a lack of coordination between agencies, and insufficient budget support. These structural and systemic shortcomings hinder the legal system from achieving true justice and proper implementation. To improve this framework, international models from other countries can be examined, such as the United States with its Juvenile Detention Centers, Norway with its Youth Detention Centers under the Juvenile Penal Act, and Sweden with its Closed and Open Juvenile Institutions governed by The Swedish Juvenile Care Act, all of which integrate rehabilitation, therapy, and religious or spiritual factors into their youth programs. By evaluating these international practices alongside the severe negative impacts of youth imprisonment and the benefits of religious rehabilitation, a legal reconstruction of Articles 71 and 81 Paragraph 5 of Law No. 11 of 2012 is required to replace "Prison" with "religious rehabilitation," supported by new state institutions and mechanisms dedicated to the long-term recovery of children.

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