



## LEGAL PROTECTION FOR CHILDREN IN CONFLICT WITH THE LAW: POLICY EVALUATION AND REFORM RECOMMENDATIONS

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### ABSTRACT

The protection of children in conflict with the law represent one of the primary challenges within the Indonesian legal system, particularly in Jakarta Province. This study aims to analyze the juridical implementation of protections for children involved in legal processes, focusing on existing regulations and policies in Jakarta. Employing a socio-legal and qualitative approach, the study relies on interviews with relevant stakeholders and case studies of child protection policies at the local level. The findings reveal that despite the implementation of various regulations to safeguard children's rights, juridical execution faces several obstacles, including limited resources, inconsistencies in law application, and inadequate inter-agency coordination. The study underscores the necessity to enhance policies and strengthen institutional capacity to bolster legal protections for children in conflict with the law in Indonesia. Thus, these findings contribute to advancing a more effective child protection system aligned with human rights principles.

## 1. Introduction

The protection of children in conflict with the law (*Anak Berhadapan dengan Hukum/ABH*) remains a highly relevant issue within the Indonesian legal system.<sup>1</sup> Children involved in legal proceedings—whether as victims or perpetrators—often encounter numerous challenges. Those who should be shielded from criminal acts can, at times, become secondary victims of a justice system that fails to prioritize

<sup>1</sup> Elmayanti Elmayanti, and Evi Deliana., Child Friendly Village Program as an Effort to Prevent Crimes of Violence against Children in Temusai Village, Siak Regency, *Jurnal Hukum Volkgeist* Vol.6, no.1, 2021, page.89.

their best interests.<sup>2</sup> In Jakarta, as the nation's capital, cases involving children in legal processes highlight the complex and often inadequate nature of existing legal protections.

According to the legal system theory put forward by Friedman, a legal system consists of three main elements: structure, substance, and legal culture.<sup>3</sup> The legal structure includes institutions that carry out the law, the substance of the law includes the applicable rules and policies, while the legal culture is the attitude and perception of the public towards the law.<sup>4</sup> In the context of ABH protection, these three elements are closely interrelated. Legal structures consisting of law enforcement officials often do not have adequate capacity to handle ABH cases. Legal substance such as Law No. 23 of 2002 on Child Protection has provided a normative framework, but inconsistent implementation has become a major obstacle. The community's legal culture that still lacks awareness of children's rights also exacerbates this situation.

In addition, the theory of legal protection as outlined by Hadjon,<sup>5</sup> emphasizes that legal protection aims to provide justice to individuals, especially in protecting their basic rights.<sup>6</sup> Legal protection is divided into two main forms, namely preventive and repressive protection.<sup>7</sup> Preventive protection aims to prevent violations of individual rights through policies and regulations, while repressive protection aims to provide justice through the judicial process when violations have already occurred.<sup>8</sup> In the context of ABH, these two forms of protection should complement each other, but the reality is that many children in conflict with the law have not received maximum protection both preventively and repressively.

Although Indonesia has ratified various international instruments such as the Convention on the Rights of the Child (CRC), which requires the state to guarantee protection for children under the age of 18, as well as passing national laws such as the Child Protection Law, the implementation of these policies still faces various challenges.<sup>9</sup> In practice, children involved in criminal cases often do

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<sup>2</sup> Zaenal Aripin., Implementation Of Laws On The Criminal Jurisdiction System Using A Restorative Justice Approach (A Case Study at Aisyiyah Legal Aid Institute, Central Java), *Law and Justice* Vol.5, no.2, 2020, page.156.

<sup>3</sup> Lawrence M. Friedman, *The legal system: A social science perspective*, New York, Russell Sage Foundation, 1975, page. 43.

<sup>4</sup> Mark Van Hoecke and Mark Warrington., Legal cultures, legal paradigms and legal doctrine: towards a new model for comparative law, *International & Comparative Law Quarterly* Vol.47, no.3, 1998, page.498.

<sup>5</sup> Philipus M. Hadjon., Peradilan Tata Usaha Negara dalam Konteks Undang-Undang No. 30 Th. 2014 tentang Administrasi Pemerintahan, *Jurnal hukum dan Peradilan* Vol.4, no.1, 2015, page.57.

<sup>6</sup> Edy Setyawan, Muhammad Chairul Huda, Afif Muamar, Didi Sukardi, and Muhammad Feby Ridho Pangestu., Legal Age for Marriage: SDGs and Masalah Perspectives in Legal Policy Change in Indonesia, *Al-Manahij: Jurnal Kajian Hukum Islam* Vol.7, no.2, 2023, page.191.

<sup>7</sup> Rani Hendriana., Legal Protection of the Environment in Indonesia from a Green Victimology Perspective, In *International Conference on Environmental and Energy Policy (ICEEP 2021)*, pp. 180-183. Atlantis Press, 2021.

<sup>8</sup> Irene Wiczorek., A needed balance between Security Liberty and Justice. Positive signals arrive from the field of victim's rights, *European Criminal Law Review* Vol.2, no.2, 2012, page.36.

<sup>9</sup> Nicken Sarwo Rini., Protection of Children Facing the Law (ABH) in the Perspective of Law and Human Rights, *Jurnal Ham* Vol.4, no.3, 2013, page.31.

not receive protection in accordance with human rights standards.<sup>10</sup> This is due to weak coordination between institutions, lack of understanding by law enforcement officials of children's rights, and limited legal infrastructure such as rehabilitation facilities.<sup>11</sup> Previous research shows that in law enforcement in Indonesia, there are still major obstacles related to the implementation of child protection policies. The Prosecutor's Guideline No. 1 of 2021 has been issued to provide access to justice for women and children, in practice there are still many officials who do not understand the principles of child protection in handling criminal cases.<sup>12</sup>

In the context of Friedman's legal system, Indonesia's legal structure in the protection of ABH still shows significant weaknesses. For example, the role of police, prosecutors, and judges in handling ABH cases is often not integrated with social rehabilitation institutions, as revealed in the Jakarta P2TP2A report.<sup>13</sup> From the point of view of Hadjon's legal protection, preventive protection such as counseling and socialization about children's rights still does not reach all elements of society, while repressive protection through the judiciary often does not take into account the special needs of children as a vulnerable group.<sup>14</sup>

This study aims to delve deeper into the juridical implementation of child protection in the criminal justice system, especially in Jakarta, with a focus on the legal challenges faced by children in conflict with the law. This study also examines how legal system theory and legal protection can provide a conceptual framework for understanding existing problems, as well as how these policies can be improved to create a system that is more responsive to children's needs. Through this analysis, it is hoped that more comprehensive recommendations can be found to improve the quality of protection of children in conflict with the law, so that they can obtain justice in accordance with the basic rights of ABH.

## 2. Research Methods

This study uses a socio-legal qualitative approach with a case study design that aims to analyze the juridical implementation of child protection in conflict with the law (ABH) in Jakarta. The socio-legal and qualitative approach was chosen because this study aims to deepen the understanding of legal phenomena involving children as legal subjects in the criminal justice system, by paying attention to the social context and applicable policies. Jakarta was chosen as the location for the research because it is the center of national policy and has complex characteristics in terms of handling ABH cases.

<sup>10</sup> Nur Khasanah and Umar Ma'ruf., The Law Enforcement in Implementation of Diversion on Children in Confrontation with the Law, *Law Development Journal* Vol.2, no.2, 2020, page.64.

<sup>11</sup> I. Putu Yoga Bumi Pradana, Jacoba Daud Niga, and Giovany Tiran., Implementasi Program Rehabilitasi Sosial Pada Anak Yang Berhadapan Dengan Hukum (ABH), *Journal of Public Administration and Local Governance* Vol.8, no.2, 2024, page.57.

<sup>12</sup> Nurhasnah Nurhasnah., Peluang dan Tantangan Pemenuhan Hak Perempuan Pasca Cerai Gugat di Pengadilan Agama, *USRATY: Journal of Islamic Family Law* Vol.2, no.1, 2024, page.82.

<sup>13</sup> Amran Suadi, Mardi Candra, Fahadil Amin Al Hasan, and Gugun Gumilar., Legal protection of women's and children's rights after divorce through the E-MOSI CAPER App, *Jurnal Hukum Novelty (1412-6834)* Vol.15, no.1, 2024, page.59.

<sup>14</sup> Andi Akram, Agus Digdo Nugroho, Reihan Putri, and Johannes Johannes., Gender Mainstreaming through Guarantees of Legal Protection and Access to Justice for Women and Children in Religious Court, *Jurnal Hukum Dan Peradilan* Vol.12, no.2, 2023, page.287.

The research subjects consist of various parties directly involved in the handling of ABH in Jakarta. Among them are the Greater Jakarta Metropolitan Regional Police (Polda Metro Jaya), which plays a role in the investigation and process of handling ABH cases, and the Indonesian Child Protection Commission (*Komisi Perlindungan Anak Indonesia/KPAI*) which has an important role in monitoring and advocating child protection policies. The Special Children's Development Institute (*Lembaga Pembinaan Khusus Anak/LPKA*) is also involved in dealing with children in conflict with the law, while the Child Protection Commission (*Komisi Nasional Perlindungan Anak/Komnas Anak*) plays a role in protecting the rights of children and women in the legal system. This research also involves social institutions such as the Child Care Social Home (*Panti Sosial Asuhan Anak/PSAA*) and the Handayani Center which handles the rehabilitation of children who are victims of violence or who are facing the law. In addition, the Indonesian Forensic Psychology Association (*Asosiasi Psikologi Forensik Indonesia/APFISOR*) also provides psychological support and evaluation of children facing the law. The Ministry of Women and Children's Empowerment formulates policies related to child protection, while the East Jakarta Correctional Center, child protection institutions and law enforcement officers play a role in fostering and protecting children's rights.

The data collection techniques in this study include in-depth interviews, documentation studies, and field observations. In-depth interviews were conducted with various stakeholders involved in handling ABH, including law enforcement officials, as well as institutions that provide protection and guidance for children. The goal is to explore their perceptions, barriers, and experiences related to the implementation of child protection policies. In addition to interviews, this study also collects secondary data through documentation studies, by utilizing relevant documents such as laws and regulations (for example, the Child Protection Law, Prosecutor's Guidelines No. 1 of 2021, Supreme Court Regulations (*Peraturan Mahkamah Agung/Perma*) No. 3 of 2017), annual reports of related institutions, and data on ABH cases recorded in Jakarta. Field observations are also carried out to assess firsthand how children are treated in the justice system and the extent to which child protection principles are applied.

Data collected from interviews, documentation studies, and observations were analyzed using qualitative descriptive analysis techniques. The analysis process begins with data reduction, which is the filtering of relevant data and its grouping according to the categories focused on the research. Irrelevant data will be removed. After that, relevant data is presented in the form of narratives or themes that emerge based on the results of interviews and observations. Conclusions were drawn after the data was presented to determine how the juridical implementation of child protection was going, the challenges faced, and policy recommendations that could improve the child protection system in the face of the law. To ensure the validity and reliability of the data, this study uses source triangulation techniques and method triangulation. Source triangulation is carried out by comparing data obtained from various parties involved, while method triangulation is carried out by

combining interviews, documentation studies, and observations to obtain more accurate and reliable data.

### 3. Results and Discussion

#### 3.1. Implementation of Protection for Children in Conflict with the Law

The implementation of child protection policies in Jakarta still faces a number of significant challenges, despite various regulations that have been designed to protect children involved in the criminal justice system. Based on the findings of the study, although there is a clear legal structure through institutions such as the Ministry of Women and Children's Empowerment (Ministry of Women's and Children's Empowerment), the Greater Jakarta Metropolitan Regional Police (*Polda Metro Jaya*), LPKA, and Child Care Social Homes (PSAA), the implementation of child protection policies is often hampered by a lack of coordination between institutions and limited resources. The existing legal structure, although formally has clear duties and authorities, cannot run optimally due to fragmentation in the system that leads to inintegration in the handling of ABH cases. This reflects that despite existing policies for the improvement of the legal system, fragmented legal structures do not adequately support comprehensive protection for children.<sup>15</sup>

From the point of view of legal system theory developed by Lawrence M. Friedman, the components of legal structure and legal substance must work in harmony to create an effective legal system. The substance of the law, which is reflected in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, expressly stipulates that children in conflict with the law must be treated with a rehabilitative and not punitive approach.<sup>16</sup> However, even though the substance of this law is clear, its application in the field is still far from hopeful. Many children involved in criminal cases are treated like adults, with an approach that prioritizes punishment over rehabilitation.<sup>17</sup> This shows that the existing legal substance is not applied consistently, which reflects the gap between regulations and practices in the field. In addition, according to Friedman's theory of the legal system, legal culture in Indonesia tends to focus more on a retributive or punitive approach to criminals, including children.<sup>18</sup> This legal culture, which prioritizes punishment enforcement, is contrary to the spirit contained in the substance of the law, which prioritizes rehabilitation

<sup>15</sup> Fiona Kelly and Belinda Fehlberg., Australia's fragmented family law system: Jurisdictional overlap in the area of child protection, *International Journal of Law, Policy and the Family* Vol.16, no.1, 2002, page.54.

<sup>16</sup> Dyah Listyarini., Juvenile Justice System through Diversion and Restorative Justice Policy, *Diponegoro Law Review* Vol.2, no.1, 2017, page.175.

<sup>17</sup> Dina Imam Supaat., Restorative Justice for Juvenile Drugs Use in Indonesian Court: A Criminological Approach, *Lex Publica* Vol.9, no.1, 2022, page.99. See to, Syarief Husien., Legal Uncertainty Regarding the Status of Children Born Out of Wedlock in the Perspective of Hifdzu al-Nasl, *Jurnal Hukum*, Vol.40, no.2, 2024, page.67.

<sup>18</sup> Subekti Subekti, Hartiwiningsih Hartiwiningsih, and I. Gusti Ayu Ketut Rachmi Handayani., Implementation of Psychological Rehabilitation for Child Performers of Crime of Sexual Violence, In *International Conference for Democracy and National Resilience 2022 (ICDNR 2022)*, pp. 224-231. Atlantis Press, 2022.

and social reintegration for children involved in criminal acts.<sup>19</sup> This lack of in-depth understanding of children's rights among law enforcement officials worsens child protection in the legal process, and often children do not receive adequate psychological assistance, which should be part of child protection policies.<sup>20</sup>

According to Hadjon,<sup>21</sup> legal protection should not only involve preventive and repressive protection, but also a deep understanding of the basic rights of children as legal subjects.<sup>22</sup> Preventive protection, which should include preventive measures to prevent children from falling deeper into the legal system, is often not implemented properly. On the other hand, repressive protection that is more often applied only comes after the child has experienced a fairly serious impact due to the legal process.<sup>23</sup> Effective preventive protection can include providing legal assistance and education to children who are potentially involved in crime, which unfortunately is often too late or inadequate. Nurdin emphasized that preventive legal protection is much more effective than relying only on repressive protection, but in this ABH case, preventive protection is still very limited.<sup>24</sup>

Satjipto Rahardjo,<sup>25</sup> also argues that legal protection is an effort that involves allocating human rights to the individual concerned to act for his or her interests. In the context of ABH, children should be given the right to protection and rehabilitation from the beginning, which includes appropriate legal, psychological and educational assistance. However, the gap between theory and practice is still very large in this regard.<sup>26</sup> The findings of this study show that although regulations have regulated the rights of children in conflict with the law, such as the right to psychological rehabilitation, in reality many children do not get the assistance they need, which has the potential to

<sup>19</sup> Stuart N. Hart and Danya Glaser., Psychological maltreatment–Maltreatment of the mind: A catalyst for advancing child protection toward proactive primary prevention and promotion of personal well-being, *Child Abuse & Neglect* Vol.35, no.10, 2011, page.759.

<sup>20</sup> Michael G. Wessells., Bottom-up approaches to strengthening child protection systems: Placing children, families, and communities at the center, *Child abuse & neglect* Vol.43, no.4, 2015, page.18. See to, Farida Nurun Nazah, and Muslimin Muslimin., The Judges Legal Reasoning on Child Welfare's Perspective in the Hadanah Cases at Banten Religious Courts, *Jurnal Hukum*, Vol.40, no.1, 2024, page.21.

<sup>21</sup> Philipus M. Hadjon., *Perlindungan hukum bagi rakyat-sebuah studi tentang prinsip-prinsipnya, penanganannya oleh pengadilan dalam lingkungan peradilan umum dan pembentukan peradilan administrasi negara*, Surabaya, Bina Ilmu, 1987, page. 56.

<sup>22</sup> Yudi Hendarto and Umar Ma'ruf., Diversion In Children Criminal Justice System Through Restorative Justice, *Jurnal Daulat Hukum* Vol.1, no.2, 2018, page.331.

<sup>23</sup> Okta Thaharah Susanto, Yusup Hidayat, and Aris Machmud., Law Enforcement in Cases of Maltreatment of Minors According to Positive Law and Islamic Law Case Study of Decision Number 4/Pid. Sus/2022/Pn Tte, Decision Number 39/Pid. Sus-Anak/2021/Pn Mks, and Decision Number 12/Pid. Sus/2022/Pn Soe, *Journal of Law, Politic and Humanities* Vol.5, no.3, 2025, 1719.

<sup>24</sup> Abidin Nurdin., Pencegahan dan Perlindungan Anak Berbasis Gampong di Aceh, *Jurnal Harkat: Media Komunikasi Gender* Vol.14, no.2, 2019, page.116.

<sup>25</sup> Satjipto Rahardjo. *Membangun polisi sipil: Perspektif hukum, sosial, dan kemasyarakatan*. Jakarta, Gramedia Pustaka Utama, 2007, page.76.

<sup>26</sup> Arisa Murni Rada, Muhaimin Limatahu, and Ahmad Mufti., The Right To Special Protection For Children Facing The Law In Ternate City, *Cepalo* Vol.7, no.1, 2023, page.57.

worsen the psychological impact they experience.<sup>27</sup>

In addition, Setiono stated that legal protection must be a guarantee against arbitrary actions by the authorities, and aims to maintain the dignity and human rights of every individual.<sup>28</sup> In the context of children, especially those who are dealing with the law, this legal protection prioritizes the recognition of children's rights to be treated in a way that suits their developmental needs, not just as perpetrators of crimes that must be punished.<sup>29</sup> Unfortunately, a legal culture that prioritizes a punitive approach to children hinders the implementation of this protection to the fullest.<sup>30</sup> Therefore, a more focused approach on child recovery, through a system that supports rehabilitation and social assistance is urgently needed to overcome the misalignment between regulations and practices in the field.

By integrating the legal system theory from Lawrence M. Friedman and the legal protection theory from experts such as Hadjon, Satjipto Rahardjo, and Setiono, it can be concluded that the implementation of child protection policies in Jakarta still faces many challenges. The existing legal structure, legal substance, and legal culture must be harmonized so that child protection can be carried out more effectively. Better inter-agency coordination, as well as intensive training for law enforcement officials in the implementation of child protection policies, are urgently needed to realize a more responsive and fair legal system for children involved in the legal process.

### **3.2. Addressing Challenges in the Juvenile Justice Implementation**

The challenges in the implementation of the children in conflict with the law policy in Jakarta are not only related to the lack of resources, but also to the existing legal structure, legal substance, and legal culture. Although various regulations and policies have been formulated to protect children in conflict with the law, the reality is that the implementation of these policies still faces significant obstacles. Based on the findings of the study, the main challenges found are the lack of coordination between institutions, the limited capacity of institutions, and the gap between regulations and practices in the field.

One of the main challenges found in this study is the lack of coordination between institutions involved in handling children in conflict with the law. Institutions that are supposed to coordinate with each other, such as the Ministry of PPPA, Polda Metro Jaya, LPKA, and PSAA, often do not work synergistically. Although each institution has a clear authority and role in providing protection to children in conflict with the law, this disharmony in

<sup>27</sup> Abidin Nurdin., Pencegahan dan Perlindungan Anak Berbasis Gampong di Aceh, *Jurnal Harkat: Media Komunikasi Gender* Vol.14, no.2, 2019, page.118.

<sup>28</sup> Sutiono Sutiono., Sebuah Tinjauan Hak Asasi Manusia Berdasarkan Hukum Islam Dalam Konstitusi Indonesia, *Synotic Law: Jurnal Ilmu Hukum* Vol.1, no.1, 2022, page.65.

<sup>29</sup> Nia Yulianti and Zudan Fakrulloh., Protection against Children Who Conflict with the Law Due to the Delinquency Reviewed from the Juvenile Criminal Jurisdiction System, In *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE*. 2021.

<sup>30</sup> Romi Asmara and Hadi Iskandar., Penerapan Restorative Justice Terhadap Anak Yang Berhadapan Dengan Hukum, *Jurnal Hukum Samudra Keadilan* 16, no. 2 (2021): 320-332.

coordination causes child protection policies to not be implemented effectively.

According to Friedman, an uncoordinated legal structure can create irregularities in the implementation of policies.<sup>31</sup> This is reflected in the findings that children who need psychological assistance and social rehabilitation often do not get it, although there are institutions that specifically deal with the problem, such as the Handayani Center and PSAA. The disharmony between these institutions also leads to incoherence in the handling of ABH cases which requires a comprehensive approach, which includes psychological, social, and legal aspects.

The Theory of Legal Protection put forward by Hadjon<sup>32</sup> states that legal protection for the people must be carried out by avoiding arbitrary actions and providing a holistic guarantee of protection.<sup>33</sup> In this context, child protection policies must prioritize an approach that does not only involve one institution, but also includes the coordination of all institutions involved in handling ABH. Preventive protection that is expected to prevent psychological harm to children before they are entangled in the legal process must be carried out by involving all relevant parties in the juvenile criminal justice system.

Another challenge is the limited capacity of institutions that handle ABH, both in terms of facilities and human resources. For example, although institutions such as LPKA and PSAA have an important role to play in child rehabilitation, limited facilities and the number of professionals hinder these institutions from providing optimal rehabilitation services for children involved in the justice system. This shows that the existing legal structure, although theoretically sound, still faces challenges in terms of effective implementation, especially at the operational level in the field.

According to Friedman, a legal structure that is not equipped with adequate facilities will reduce the effectiveness of legal policies.<sup>34</sup> The substance of the law that is supposed to provide rehabilitative protection for children, as stated in Law No. 11 of 2012, is not optimal if the institutions involved do not have sufficient capacity to provide appropriate protection. This limitation worsens the condition of children, who often do not receive psychological assistance, education, or even social coaching that is in accordance with their needs as children in conflict with the law.

The Legal Protection Theory of states that legal protection must allocate human rights to individuals, in this case children, to act in their interests.<sup>35</sup> However,

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<sup>31</sup> Lawrence M. Friedman., *The legal system: A social science perspective*. New York, Russell Sage Foundation, 1975, page.79.

<sup>32</sup> Philipus M. Hadjon., *Perlindungan hukum bagi rakyat-sebuah studi tentang prinsip-prinsipnya, penanganannya oleh pengadilan dalam lingkungan peradilan umum dan pembentukan peradilan administrasi negara*, Surabaya, Bina Ilmu, 1987, page.76

<sup>33</sup> Aju Putrijanti., Jurisprudence of State Administrative Courts in The Development of State Administrative Law, *Jurnal Penelitian Hukum De Jure* Vol.21, no.2, 2021, page.161.

<sup>34</sup> Lawrence M. Friedman., *The legal system: A social science perspective*. New York, New York: Russell Sage Foundation, 1975, page.45

<sup>35</sup> Satjipto Rahardjo, and Biarkan Hukum Mengalir., *Catatan Kritis tentang Pergulatan Manusia dan* 164



without adequate support from institutions that handle ABH, children's rights to legal protection and rehabilitation cannot be maximized. Therefore, improving the capacity of institutions that handle ABH must be a priority so that child protection policies can be implemented effectively.<sup>36</sup>

Furthermore, another major challenge is the gap between existing regulations and practices taking place on the ground. Although there is a Prosecutor's Guideline No. 1 of 2021 that regulates access to justice for children and various other regulations, the findings of this study show that practices in the field are often not in accordance with the substance of the existing law. Many children involved in criminal cases are treated like adults, with an approach that prioritizes punishment over rehabilitation.

Friedman's legal system theory reminds us that the successful implementation of law depends heavily on the integration between legal structure, legal substance, and legal culture.<sup>37</sup> When the existing legal culture prioritizes punitive approaches, the legal substance that regulates the rehabilitative and restorative approaches to children will not be applied consistently.<sup>38</sup> The substance of the law that prioritizes rehabilitation, as stated in Law No. 11 of 2012, should guide practice in the field. However, in reality, many law enforcement officials have not fully understood or applied these rehabilitative principles.<sup>39</sup>

In this case, Setiono's theory of legal protection reveals that legal protection must provide guarantees against arbitrary actions, which in this context leads to fair and humane treatment of children in conflict with the law.<sup>40</sup> Existing regulations should provide preventive protection for children by supporting a more rehabilitative and restorative system, not just punishment.<sup>41</sup> However, practices that favor a more restorative approach hinder the achievement of these protection goals.<sup>42</sup>

### **3.3. Legal Reform and Institutional Strengthening in the Protection of Children in Conflict with the Law**

Based on the findings identified in this study, the implementation of ABH policy in Jakarta faces considerable challenges, especially related to legal structure,

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*Hukum*, Jakarta, Penerbit Buku Kompas, 2007, page.43.

<sup>36</sup> Jurnal Ilmu Sosial Mamangan., Social Rehabilitation Constraints in Children Facing the Laws Management, *Jurnal Ilmu Sosial Mamangan* Vol.7, no.2, 2018, page.66.

<sup>37</sup> Lawrence M. Friedman., *The legal system: A social science perspective*. New York, Russell Sage Foundation, 1975, page.121.

<sup>38</sup> Putri K. Amanda, Shaila Tiekken, Sharyn Graham Davies, and Santi Kusumaningrum., The juvenile courts and children's rights: good Intentions, flawed execution, *The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia* Vol.2, no.5, 2019, page.273.

<sup>39</sup> Beni Puspito and Ali Masyhar., Dynamics of Legality Principles in Indonesian National Criminal Law Reform, *Journal of Law and Legal Reform* Vol.4, no.1, 2023, page.121.

<sup>40</sup> Sutiono Sutiono., Sebuah Tinjauan Hak Asasi Manusia Berdasarkan Hukum Islam Dalam Konstitusi Indonesia, *Synotic Law: Jurnal Ilmu Hukum* Vol.1, no.1, 2022, page.61.

<sup>41</sup> Norse Indraswati Ardiansyah and Noviaty Kresna Darmasetiawan., Psychological well-being and workplace relations gaps on generational differences, *Advances in Social Science, Education and Humanities Research, volume* Vol.308, no2, 2019, page.91.

<sup>42</sup> Rian Dawansa and Echwan Iriyanto., Penghentian Penuntutan Berdasarkan Keadilan Restoratif, *Jurnal Hukum*, Vol.39, no.1, 2023, page.24.

legal substance, legal culture, and coordination between institutions. Therefore, the proposed policy recommendations should pay attention to these aspects to increase the effectiveness of legal protection for children in conflict with the law. In this case, the analysis will use the legal system theory of Lawrence M. Friedman and the legal protection theory of Hadjon, Satjipto Rahardjo, and Setiono to provide guidance in formulating more comprehensive and applicable policies.<sup>43</sup>

The first is improving coordination between institutions. One of the main challenges identified in this study is the lack of coordination among institutions involved in handling ABH. Based on Friedman's theory of legal structure, an effective legal system requires synergy between various institutions involved in law enforcement. Institutions such as the Ministry of PPPA, Polda Metro Jaya, LPKA, PSAA, and other non-governmental institutions, although they have an important role in handling ABH, often do not cooperate optimally. Closer coordination between these institutions is essential to create a system that is responsive to the needs of children in conflict with the law.<sup>44</sup>

Policy recommendations that can be proposed are the establishment of an inter-agency coordination forum consisting of law enforcement officials, rehabilitation institutions, and social institutions that work specifically for children. This forum can serve to harmonize policies and identify gaps in the handling of ABH cases. In addition, joint training for law enforcement officials and other social institutions on children's rights, rehabilitative approaches, and regulations related to child protection can also increase the effectiveness of coordination between institutions.

Based on Friedman's theory of legal structure, the effectiveness of child protection policies also depends on the capacity of the institutions involved. Many institutions that deal with ABH, such as LPKA and PSAA, often experience limited facilities and human resources, which hinders them from providing adequate rehabilitation for children in conflict with the law. These limitations lead to the institution's inability to provide optimal protection for children.

To overcome this, it is necessary to increase the capacity of institutions that handle ABH, both in terms of facilities, budget, and human resources. In this case, the addition of rehabilitation facilities and psychological assistance in institutions such as LPKA and PSAA must be a priority. Increased training for staff working in these institutions, so that they better understand the principles of child rehabilitation, as well as provide education and skills for children in conflict with the law, is also urgently needed. Therefore, adequate budget allocation and assistance from professionals are urgently needed to

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<sup>43</sup> Henny Saida Flora and Ratna Deliana Erawati., The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System, *Jurnal IUS Kajian Hukum Dan Keadilan* Vol.11, no.1, 2023, page.121.

<sup>44</sup> Ridwan Arifin, Cahya Wulandari, Indah Sri Utari, and Tri Imam Munandar., A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory, *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* Vol.6, no.2, 2023, page.213.

strengthen the capacity of these institutions.

Next, it is necessary to strengthen a more humanistic and rehabilitative legal substance. Although the substance of the law in Law No. 11 of 2012 regulates child protection with a rehabilitative approach, there are still many children involved in criminal acts who do not receive appropriate protection. Many of them are treated like adults, with an approach that prioritizes punishment over rehabilitation. This shows that there is a misalignment between the existing legal substance and its implementation in the field.

Policy recommendations that can be submitted are improvements in the application of rehabilitative principles in legal practice. One of the efforts that can be made is the preparation of clearer guidelines for law enforcement officials regarding juvenile justice procedures that prioritize rehabilitative and restorative approaches. This could include establishing a separate juvenile court from the general court and focusing more on the rehabilitation and social reintegration of children involved in criminal acts. In addition, intensive psychological and social assistance during the legal process needs to be strengthened so that children involved in the criminal justice system can go through the process with adequate support.

Based on the theory of legal protection from Hadjon,<sup>45</sup> effective legal protection should include preventive protection that aims to prevent the occurrence of law violations or legal problems in children.<sup>46</sup> However, preventive protection for children in conflict with the law in Indonesia is still very limited. Many children only get protection after they are caught up in the legal process, which has already resulted in a considerable psychological impact.

Therefore, policy recommendations that can be given are the establishment of education and legal assistance programs for minors, especially in areas with high crime rates or where children are at high risk of involvement in criminal acts. This program can be in the form of legal education in schools, skills training, and mentoring for families to support the healthy development of children. This preventive protection program is expected to reduce the number of children involved in criminal acts, by providing them with knowledge of their rights and ways of solving problems that do not involve criminal acts.<sup>47</sup>

Lastly, a shift in legal culture that prioritizes a rehabilitative approach to children is urgently needed to ensure more effective implementation of child protection policies. Based on the study's findings, many law enforcement officials do not fully comprehend the importance of child protection within the legal process. The prevailing legal culture, which emphasizes punitive

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<sup>45</sup> Philipus M. Hadjon., *Perlindungan hukum bagi rakyat-sebuah studi tentang prinsip-prinsipnya, penanganannya oleh pengadilan dalam lingkungan peradilan umum dan pembentukan peradilan administrasi negara*, Surabaya, Bina Ilmu, 1987, page.98.

<sup>46</sup> Alycia Sandra Dina Andhini and Ridwan Arifin., Analisis perlindungan hukum terhadap tindak kekerasan pada anak di Indonesia, *Jurnal Ilmu Hukum* Vol.3, no.1, 2019, page.43.

<sup>47</sup> Hasnah Aziz, Imam Rahmaddani, and Kuntadi Kuntadi., Child Perpetrators of Drug Crimes: Legal Protections and Effectiveness in Indonesian Juvenile Justice. *Lex Publica*, Vol.9, no.2, 2022, page.113.

measures against children in conflict with the law, must be transformed to better support their recovery and social reintegration.<sup>48</sup>

The policy recommendation in this case is to provide more intensive training to law enforcement officials on children's rights and a rehabilitative approach that is more in accordance with existing regulations. This training program should include material on the psychological role of children, the need for different treatment for children, and the principles of child-friendly justice. In addition, there is also a need to make efforts to increase public awareness of the importance of child protection and children's rights in the legal system, so that the public is more supportive of policies that prioritize recovery rather than punishment for children in conflict with the law.

#### 4. Conclusion

The implementation of child protection policies in Jakarta still faces challenges related to coordination between institutions, limited institutional capacity, and inconsistency between legal substance and practice. Based on the legal system theory of Lawrence M. Friedman, the main problems lie in the poorly coordinated legal structure, the substance of the law that has not been fully implemented, and the legal culture that prioritizes a punitive approach. The main challenges faced are the inconsistency between regulations and practices in the field, as well as the lack of synergy between institutions that handle ABH. This hampers the effectiveness of child protection policies. Policy recommendations include improving coordination between institutions, increasing the capacity of institutions that handle ABH, strengthening legal substance with a rehabilitative approach, and developing preventive protection to prevent children from being involved in criminal acts from an early age. In addition, there needs to be a change in the legal culture that emphasizes more on the recovery of children than on punishment. With better coordination, stronger institutional capacity, and a more humane approach, child protection policies against the law can be implemented more effectively.

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<sup>48</sup> Afinzha Masar and Syofiaty Lubis., Implementation of Regional Regulation No. 3 Of 2022 Regarding Child Friendly District in Langkat District Viewed from the Perspective of Fiqh Siyasah, *Jurnal Hukum*, Vol.39, no.1, 2023, page.99. See to, Paul Atagamen Aidonjio, and Ong Argo Victoria., The Societal and Legal Missing Link in Protecting a Girl Child against abuse before and Amidst the Covid-19 Pandemic in Nigeria, *Jurnal Hukum*, Vol.38, no.1, 2022, page.69.

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