

# Protecting the Rights of Children in Conflict with the Law: The Juvenile Criminal Justice System in Indonesia

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## Abstract

Normatively, children have basic rights protected by law. The child's survival, growth, and development, as well as special rights in law enforcement, are guaranteed by law. A child in conflict with the law needs to have their basic rights protected to ensure their survival and future. This writing examines the basic rights of children for children in conflict with the law in Indonesia and the protection of the rights of children in conflict with the law in Indonesia. This writing uses a normative juridical method. The results of the study concluded that the handling of cases of children in conflict with the law is carried out based on the Child Criminal Justice System so that the protection of the rights of children in conflict with the law in Indonesia can be implemented properly and children in conflict with the law continue to receive their rights in full. Recommendations in the protection of the rights of children in conflict with the law are aimed at all law enforcers to understand

the rights of children in conflict with the law in the criminalization process.

**KEYWORDS** *Child protection, Children in conflict with the law, Principles of children's rights, Reform of the Juvenile Criminal Justice System*

## I. Introduction

For a nation, children are the next generation, and therefore their legal interests must be protected.<sup>1</sup> A nation that fails to seriously protect children's rights will bring problems to its future.<sup>2</sup> Child protection and national development must go hand in hand. Adequate education and adequate nutrition are essential components of protecting children's rights.<sup>3</sup> Improving children's skills is done through formal and informal education in the form of places to play and be creative, mental and moral development is done through education and religious development from an early age in accordance with each religion and belief. The aspect of legal protection for children is the responsibility of every citizen without exception, especially for the government as a stakeholder in Indonesia.

Legal protection in general is the nature and purpose of law, in a way. legal protection has the meaning of an effort to protect the interests of legal subjects by allocating power to them, so that all legal subjects obtain their rights.<sup>4</sup> The legal protection referred to

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<sup>1</sup> Pujiyono Adi Hardiyanto Wicaksono, 'Diversion Implementation Policy as Protection for Children in Conflict with the Law at the Prosecution Level at the Kudus District Attorney's Office', *Law Reform*, 11.1 (2015), pp. 12–42, doi:<https://doi.org/10.14710/lr.v11i1.15752>.

<sup>2</sup> Bunadi Hidayat, *Criminalization of Minors* (Alumni, 2010). Hlm.1.

<sup>3</sup> Munzier Hery Noer Aly, *The Character of Islamic Education* (Friska Agung Insani, 2003). Hlm. 49.

<sup>4</sup> Qodariah Barkah Muhamad Sadi Is, Rr Rina Antasari, 'Legal Protection of the Welfare Rights of Women Victims of Sexual Violence in Indonesia', *Jurnal Mimbar Hukum*, 35.2 (2023), pp. 119–44, doi:<https://doi.org/10.22146/mh.v35i2.5950>.

and the focus of discussion in this study is for children in conflict with the law, including child perpetrators, child witnesses, and child victims. Regulations in Indonesia have determined that children in Indonesia have the right to live, grow and develop normally without any discrimination between children in Indonesia. Therefore, children need special guidance and development so that they can develop physically, mentally and spiritually to the maximum, so that the goals of national development in Indonesia can run and be realized.<sup>5</sup>

Legal protection for children, when viewed normatively, also includes protection of the rights of children who come into conflict with the law.<sup>6</sup> Children who come into conflict with the law under criminal law in Indonesia are divided into 3 (three) types, namely child perpetrators of criminal acts, who are children who commit or participate in being perpetrators of a criminal act, then child victims, who are children who are victims of a criminal act, and child witnesses, who are children who see, hear and know about a criminal act. In this study, the focus of the study is on children in conflict with the law or children who have committed crimes.

Children in conflict with the law or children who commit crimes in Indonesia are a special problem in criminal law enforcement. It is said to be a special problem because in enforcing criminal law against children in conflict with the law or children who commit crimes, special rules (*lex specialist*) are used in every stage of criminal law enforcement.<sup>7</sup> The implementation of the juvenile criminal justice system for children in conflict with the law must be based on protecting children's rights, penalties and the

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<sup>5</sup> Laurensius Arliman S., 'Community Participation in the Border Areas of the Republic of Indonesia to Prevent Children as Objects of Human Trafficking', *Jurnal Wawasan Yuridika*, 2.1 (2018), pp. 23–42, doi:<https://doi.org/10.25072/jwy.v2i1.162>.

<sup>6</sup> Witia Oktaviani Yusnita Eva, Firdaus, 'Optimizing the Role of Law Enforcers in Protecting Children Victims of Violence in Padang City', *Mimbar Hukum*, 33.1 (2021), pp. 90–113, doi:<https://doi.org/10.22146/mh.v33i1.1951>.

<sup>7</sup> Heri Sudaryanto, 'Implementation of the Juvenile Justice System in Indonesia for Children in Conflict with the Law', *Jurnal Idea Hukum*, 7.2 (2021), pp. 138–60, doi:<https://doi.org/10.20884/1.jih.2021.7.2.276>.

imposition of penalties on children who commit crimes must consider the best interests of the child. This is not without reason that children are the future of the nation who still have a very long chance to be able to change into a better person in the future.<sup>8</sup>

Regulations on the juvenile criminal justice system in Indonesia have contained standards for the implementation of criminal penalties for children in conflict with the law. For child perpetrators starting from the investigation stage in the police, child perpetrators cannot be equated with the investigation method applied to adult perpetrators. That the next stage of investigation and prosecution as well as the trial will be carried out in private so that children's rights are not harmed, and criminal law can still be enforced, but what is emphasized is here is its implementation in practice by all law enforcement officers must apply the regulation consistently and fairly. It is important for law enforcement officers to understand the rights of children in conflict with the law, this is intended so that the implementation of children's rights can be properly applied in the juvenile criminal justice system in Indonesia.<sup>9</sup> Indonesia's status as a country that recognizes the Convention on the Rights of the Child (CRC) means that it must be able to provide maximum legal protection for children in conflict with the law.

There are 2 (two) categories of child behavior that can cause him to have conflict with the law. "First, *status offense* is a child's delinquent behavior that if done by an adult is not considered a crime, such as disobedience, skipping school or running away from home. Second, *juvenile delinquency* is a child's delinquent behavior that if done by an adult is considered a crime or violation of the law".<sup>10</sup>

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<sup>8</sup> Barda Nawawi Arief, *Anthology of Criminal Law Policy* (Alumni, 2008). Hlm. 114-115.

<sup>9</sup> Pangaribuan Luhut MP, *Criminal Procedure Code: A Compilation of Provisions of the Criminal Procedure Code and Supplemented with Relevant International Law* (Djambata, 2000). Hlm. 32.

<sup>10</sup> Dian Ety Mayasari, *Protection of Children's Rights in the Juvenile Delinquency Category* (Alumni, 2014). Hlm. 62.

In “Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is determined that children involved in the juvenile criminal justice process are known by the terminology of Child Perpetrators, Child Victims, and Child Witnesses. Child Perpetrators are those who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a crime. A child victim of a crime is a person under the age of 18 who experiences physical, mental and moral losses due to a particular crime committed by another person. Child victims have a very crucial position in the juvenile criminal justice system because their statements are very necessary to reveal criminal acts, so they must be protected in every criminal justice process.”<sup>11</sup>

Normatively, child protection is also regulated in Regulations on the protection of children's rights in Indonesia have firmly determined that children have the same rights without discrimination including in the criminal justice process. Children have the right to legal protection and social protection. Legal protection is given to children when a child is faced with the law either in the criminal law process, civil law process, or in the state administrative law process. While social protection is given to children in the social environment in society. A child who is in conflict with the law, especially criminal law, must be treated specially by law enforcement officers.<sup>12</sup>

“This writing will examine the principles of basic children's rights for children in conflict with the law in Indonesia and the protection of children's rights in conflict with the law in Indonesia. In handling cases of children in conflict with the law, the best interests of the child must be considered for the child's future. Based on the title and description above, the problems that will be discussed in this writing are as follows; What are the principles of

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<sup>11</sup> Lilik Mulyadi, *The Face of the Indonesian Juvenile Criminal Justice System* (Alumni, 2014). Hlm. 192-193.

<sup>12</sup> Irwan Safaruddin Harahap, ‘Legal Protection for Child Victims of Sexual Crimes in the Perspective of Progressive Law’, *Jurna Media Hukum*, 23.1 (2016), pp. 37-47, doi:<https://doi.org/10.18196/jmh.2015.0066.37-47>.

basic children's rights for children in conflict with the law in Indonesia? and How is the protection of children in conflict with the law in Indonesia?"

This study is different from previous studies that discuss the problems of children in conflict with the law, such as research on children who repeatedly commit crimes: a legal psychology perspective.<sup>13</sup> The next study is to examine the problems in giving sanctions to children in conflict with the law.<sup>14</sup> "Other studies discuss the concept of *doli in capax* for children in conflict with the law in the future.<sup>15</sup> In addition to the above research, there is also other research that examines the application of customary law in children's cases. <sup>16</sup> Other studies focus on discussing the law enforcement model for children in conflict with the law in the investigation process."<sup>17</sup> When compared with previous studies which also discuss the problems of children in conflict with the law, it can be stated that this study is different from previous studies.

The approach method in this writing is normative juridical, which includes research on positive legal inventory, research on legal principles, clinical legal research, legal research examining the systematics of legislation, legal research on synchronizing legislation, comparative legal research, and legal history research.<sup>18</sup> The data used is secondary legal data as the main

<sup>13</sup> Ratnawati, 'Children's Recidivists Who Conducted Criminal Act: Legal Psychology Perspective', *Hasanudin Law Review*, 6.2 (2020), pp. 142-48, doi:http://dx.doi.org/10.20956/halrev.v6i2.1676.

<sup>14</sup> Handar Subhandi Bakhtiar Rafika Nur, 'The Imposition of Sanctions for Children', *Hasanudin Law Review*, 6.2 (2020), pp. 1-15, doi:http://dx.doi.org/10.20956/halrev.v6i2.2493.

<sup>15</sup> Umi Rozah Imam Subaweh Arifin, 'The Concept of Doli In Capax Towards Children in Conflict with the Law in the Future', *Journal of Indonesian Legal Development*, 3.1 (2021), pp. 1-15, doi:https://doi.org/10.14710/jphi.v3i1.1-15.

<sup>16</sup> Hadibah Z Wadjo, 'Application of Customary Law in the Settlement of Children's Cases', *Journal of Indonesian Legal Development*, 5.1 (2023), pp. 1-10, doi:https://doi.org/10.14710/jphi.v5i1.1-10.

<sup>17</sup> Dyah Irma Permanasari Hamidah Abdurrachman, Fajar Ari Sudewo, 'Law Enforcement Model for Children in Conflict with the Law in the Investigation Process', *Pandecta : Jurnal Penelitian Ilmu Hukum*, 10.2 (2015), pp. 167-79, doi:https://doi.org/10.15294/pandecta.v10i2.4951.

<sup>18</sup> Amiruddin and H. Zainal Asikin, *Pengantar Metode Penelitian Hukum* (PT. Raja Grafindo Persada, 2015). Hlm. 114.

research data.<sup>19</sup> Secondary data is research data that comes from a second party, where the second party is directly related to the main source of the research, then the second party in question writes it in a work and the work then provides secondary data to the author to research this topic.

The data collection method used in this research is literature study. This research uses a qualitative analysis method, which is carried out by analyzing secondary data and tracing legislation and library materials which are then written descriptively analytically. Literature study along with the development of the era has also experienced developments that were originally libraries in the physical sense, currently libraries also include digital meanings such as research results published digitally in the form of journals and digital books. Therefore, secondary data collection in this study was also carried out through digital searches.<sup>20</sup>

## **II. Basic Rights of Children in Conflict with the Law in Indonesia**

The basic rights that children have since birth must be protected. The basic rights of children are the right to education, the right to health, and the right to a decent standard of living. These basic rights of children must be protected by the government so that children can grow and develop properly.<sup>21</sup> The right to education is the main right for children because this right is the main source of progress and welfare of society, the right to education for children is also in line with the opening of the 1945 Constitution of the

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<sup>19</sup> Depri Liber Sonata, 'Metode Penelitian Hukum Normatif Dan Empiris Karakteristik Khas Dari Metode Meneliti Hukum', *Fiat Justisia Jurnal Ilmu Hukum*, 8.1 (2014), pp. 15-35, doi:<https://doi.org/10.51749/jphi.v2i1.14>.

<sup>20</sup> Muhaimin, *Metode Penelitian Hukum* (Mataram Universty Press, 2020). Hlm. 57.

<sup>21</sup> Hardianto Djanggih, 'Konsepsi Perlindungan Hukum Bagi Anak Sebagai Korban Kejahatan Siber Melalui Pendekatan Penal Dan Non Penal', *Mimbar Hukum*, 30.2 (2018), pp. 316-30, doi:<https://doi.org/10.22146/jmh.32017>.



Republic of Indonesia (UUD NRI 1945), namely to educate the life of the nation, the goal of the Indonesian nation can be realized if the state is able to provide guarantees of the right to education for its citizens, especially for children.<sup>22</sup> The right to health for children includes the right to receive health services with good standards, the right to receive preventive measures for diseases, the right to receive medicines, the right to receive health insurance for the reproductive system for both mothers and babies, and the right to receive health insurance for children.<sup>23</sup> The right to a decent standard of living requires that everyone can enjoy adequate food and nutrition, clothing, shelter and special care conditions in the conditions needed, the fulfillment of the right to a decent standard of living is also related to the right to a decent place to live and the right of children to work.<sup>24</sup> Children's rights are important because adults can advocate for their rights so that they are not violated, but unlike children, children are a vulnerable group because they are not yet physically and mentally able to fight for their rights if they are violated.

One of the violations of children's rights that may occur is in the process of enforcing criminal law against children in conflict with the law, especially against children in conflict or children who have committed crimes. The principle of the basic rights of children in conflict with the law (ABH) in Indonesia currently uses the principle of the basic rights of children as stated in the Convention on the Rights of the Child (CRC) and several national laws and regulations. "The regulation of children's rights in Indonesia is currently regulated in Law Number 23 of 2002 concerning Child

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<sup>22</sup> Emmanuel Sujatmoko, 'Citizens' Rights to Obtain Education', *Jurnal Konstitusi*, 7.1 (2010), pp. 188–218, doi:<https://doi.org/10.31078/jk718>.

<sup>23</sup> Intan Permata Putri Rima Yuwana Yustikaningrum, Ananthia Ayu Devitasari, *Children's Rights (Right to Education, Right to Health, Right to a Decent Standard of Living)*. (Raja Grafindo Persada, 2021).

<sup>24</sup> Irfan Fachrudin, 'Fulfillment of the Rights of Former East Timorese Citizens to Get a Decent Life', *Jurnal HAM*, 13.3 (2022), pp. 401–13, doi:<http://dx.doi.org/10.30641/ham.2022.13.401-412>.



Protection and Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child. The definition of children's rights as stipulated in Article 1 point 12 of Law Number 23 of 2002 concerning Child Protection, that children's rights are part of human rights that must be guaranteed, protected, and fulfilled by parents, families, communities, government, and the state. Meanwhile, children's rights in Indonesia are generally stipulated in Articles 4-18 of Law Number 23 of 2002 concerning Child Protection.”

The definition of a child in conflict with the law according to “Law Number 11 of 2012 concerning the Juvenile Criminal Justice System is a person who is 12 years old but not yet 18 years old who is suspected of committing a crime. A child in conflict with the law can be called a child perpetrator. Meanwhile, the definition of a naughty child according to the previous regulation Law Number 3 of 1997 concerning Juvenile Court is a person who has reached the age of 8 but not yet 18 years old and is not married who commits acts that are declared prohibited for children, both according to laws and regulations and according to other laws that are alive and applicable in society.”

The definition of a child in relation to juvenile *delinquency* is usually based on age. This age limit can be seen in international documents, such as *the Task Force on Juvenile Delinquency Prevention* which determines that the age limit for determining a person as a child in the context of criminal responsibility is set at the lowest age of 10 (ten) years and the limit between 16 (sixteen) years - 18 (eighteen) years and according to United Nations Resolution Number 40/33 concerning *the United Nation Standard Minimum Rules for the Administration of Juvenile Justice ( Beijing Rules )* the child limit is someone aged 7 (seven) years - 18 (eighteen) years.<sup>25</sup>

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<sup>25</sup> Nashriana, *Criminal Legal Protection for Children in Indonesia* (Raja Grafindo Persada, 2012). Hlm.3.

“In relation to the above understanding, the formulation of the child is in accordance with the formulation of *the United Nations Task Force on Juvenile Delinquency of the President's Commission on Law Enforcement and Administration of Justice* (1967):”

*“Delinquency includes cases of children alleged to have committed an offense, if committed by an adult would be a crime, it also includes cases of children alleged to have violated specific ordinances or regulatory laws that apply only to children”.*

The formulation of delinquency in the form of criminal acts and other actions that are declared academically forbidden for children is divided into 2 (two) categories of terms, namely:

a. *Offender Status*

“is juvenile delinquent behavior that if carried out by adults would not be considered a crime, for example disobedience, playing truant from school, and running away from home.”

1) *Juvenile Delinquency*

“is juvenile delinquent behavior which, if carried out by adults, would be considered a crime or violation of the law.”<sup>26</sup>

In principle, children in conflict with the law have basic rights that must be protected. The basic rights of children according to the Convention on the Rights of the Child are the right to life, the right to protection ( *non-discrimination* ), the right to growth and development, and the right to participate. A child when faced with the law, then the potential for his rights to be violated by the state is greater than an adult who commits a crime. This potential is because children are human beings who in their lives and livelihoods still depend on the intervention of other parties. The doctrine of Human Rights categorizes this group as a vulnerable group , the legal consequences of which are that this group should receive more attention from the state. In relation to this group, the Covenant on Civil and Political Rights emphasizes that every child

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<sup>26</sup> Ni Made Martini Tinduk Purnianti, Mamik Sri Supatmi, *Analysis of the Juvenile Justice System in Indonesia* (UNICEF, 2003). Hlm. 48.

has the right to receive protection measures because of their status as minors towards their family, society, and the state.

### III. Legal Protection for Children in Conflict with the Law

According to Arif Gosita, child protection is a result of interaction due to the interrelation between existing phenomena and mutual influence.<sup>27</sup> "Therefore, we must know whether child protection is good or bad and appropriate or not. Child protection is closely related to 5 (five) pillars, namely parents, family, community, government, local government, and the state. All five are related to each other as organizers of child protection. In its simplest form, child protection seeks to ensure that every child's rights are not harmed. As stated in Law Number 23 of 2002 concerning Child Protection Article 20, namely:" "The State, Government, Local Government, Community, Family, and Parents or Guardians are obliged and responsible for the implementation of Child Protection".

Protection of children in the legal field has been regulated in "Law 3 of 1997 concerning Juvenile Courts *in conjunction with* Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Legal protection of children in Indonesia has been regulated in various laws and regulations, but is specifically regulated in Law Number 23 of 2002 concerning Child Protection. In the perspective of Law Number 23 of 2002 concerning Child Protection, it does not place age limits as someone who is qualified as an adult or not, but who has the right to children's rights in accordance with the convention on the rights of the child and Law Number 23 of 2002 concerning Child Protection. In child protection activities, there are at least 2 (two) aspects. The first aspect is

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<sup>27</sup> Arif Gosita, *Problems of Crime Victims (Collection of Essays)* (Bhuana Ilmu Popular, 2004). Hlm. 240.

related to policies and laws and regulations governing the protection of children's rights. The second aspect is related to the implementation of these policies and regulations."<sup>28</sup>

In relation to legal protection for children in Indonesia, it has been emphasized in Article 34 of the 1945 Constitution of the Republic of Indonesia that "The poor and neglected children are cared for by the State". Following up on this, the government has made various laws and regulations containing children's rights. Wagiati Soetodjo in his book *Child Criminal Law* classifies it as follows:

- a. Legal Sector, through Law Number 3 of 1997 concerning Juvenile Courts *in conjunction with* Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
- b. Health Sector, through Law Number 9 of 1960 concerning Health Principles (Article 1, Article 3 paragraph (1), and Article 9 paragraph (2)).
- c. Field of education
  - a) The 1945 Constitution of the Republic of Indonesia (Article 31 paragraph (1)).
  - b) Law Number 12 of 1954 concerning the Basics of Education and Teaching in Schools (Article 17 and Article 19).
- d. Employment Sector, through the Ordinance dated December 17, 1925 concerning Regulations on Restrictions on Child Labor and Night Work for Women *in conjunction with* the Ordinance dated February 27, 1926, No. 87 of 1926 stipulated on May 1, 1976 concerning Regulations Concerning Occupational Safety of Children and Young People on Ships *in conjunction with* Law Number 1 concerning Occupational Safety in conjunction with Law Number 208 of 1947 *in conjunction with* Law Number 1 of 1951 which enforced the Employment Law Number 12 of 1948 in the Republic of Indonesia.

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<sup>28</sup> Nashriana, *Op. Cit.*, p. 3.

- e. Social Welfare Sector, through Law Number 4 of 1979 concerning Child Welfare.<sup>29</sup>

Child protection must be the main basis in handling child cases with the aim of the best interests of the child. As previously stated, in substance, the regulations on protecting the rights of children in conflict with the law have explicitly determined children's rights, but their implementation needs to be applied consistently and fairly. If they are not applied according to the regulations, the goal of protecting children's rights cannot be realized.

The Juvenile Criminal Justice System is the entire process of resolving cases of children in conflict with the law, including children in conflict with the law, starting from the investigation, prosecution, trial, to the guidance stage after serving a sentence. Which is based on the principles of protection, justice, *non-discrimination*, the best interests of the child, respect for the child, the survival and development of the child, proportionality, deprivation of liberty, and punishment as a last resort and avoidance of retaliation.

"The Juvenile Criminal Justice System according to Article 1 number 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System is the entire process of resolving cases of children in conflict with the law, from the investigation stage to the guidance stage after serving a sentence. The establishment of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System is to maintain the dignity and honor of children, and children have the right to receive special protection, especially legal protection in the justice system."

Settlement of children's cases in relation to child protection has been regulated in "Article 6 of Law Number 11 of 2012 concerning the Child Criminal Justice System which is carried out through diversion, namely the transfer of settlement of children's

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<sup>29</sup> Melani Wagiaty Soetodjo, *Criminal Law for Children* (Refika Aditama, 2010). Hlm. 67-68.

cases from the criminal justice process to a process outside the criminal justice system. Or with a *restorative justice approach*, namely the settlement of criminal cases by involving the parties involved to jointly seek a fair solution, but not with retaliation. Settlement of children's cases in this way aims so that children in conflict with the law do not end up in court, let alone being imprisoned. Because if children in conflict with the law end up in court, let alone being imprisoned, it will disrupt the child's physical, mental, and developmental processes.”

The aim of the criminal justice system according to Muladi is to:

- 1) Resocialization and rehabilitation of criminal offenders.
- 2) Eradication of crime.
- 3) To achieve social welfare.<sup>30</sup>

Based on Muladi's opinion on the criminal justice system, the objectives of the integrated juvenile criminal justice system are more emphasized on the first effort (resocialization and rehabilitation) and the third effort (social welfare). While the functions that should be carried out by the integrated criminal justice system are:

- a. Protecting society through efforts to handle and prevent crime, rehabilitate perpetrators of crime, and make *incapacity efforts possible* for people who pose a threat to society.
- b. Upholding and advancing *the rule of law* and respect for the law, by ensuring *due process of law* and fair treatment of suspects, defendants and convicts, prosecuting and acquitting innocent persons accused of crimes.
- c. Maintain law and order.
- d. Punish the perpetrators of crimes in accordance with the adopted criminal philosophy.

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<sup>30</sup> Abintoro Prakoso, *Reform of the Juvenile Criminal Justice System* (Aswaja Pressindo, 2016). Hlm. 142-143.

e. Helping and advising victims of crime.<sup>31</sup>

The application of diversion in child criminal cases in Indonesia is actually a manifestation of the child criminal justice process that is oriented towards the best protection for the interests of children in conflict with the law, so that children do not experience negative stigma when they later become part of society.

“The purpose of implementing the juvenile criminal justice system is to realize justice that upholds the best rights for children, both child perpetrators, child victims and child witnesses who are in conflict with the law. Which is so that children who are in conflict with the law do not experience physical or psychological disorders in the criminal justice process.”

The objectives of the Juvenile Criminal Justice System according to the Convention on the Rights of the Child are stated in Article 3, namely: “In all actions concerning children, whether undertaken by social welfare institutions, public or private, judicial bodies, administrative bodies or legislative bodies, the best interests of the child shall be a primary consideration. States Parties undertake to ensure such protection and care as is necessary for the well-being of the child, taking into account the rights and duties of the child's parents, legal guardians or other persons legally responsible for the child, and to this end shall take all appropriate legislative and administrative measures.”

States parties shall ensure that institutions, services and facilities responsible for the care and protection of children shall conform to standards established by competent authorities, particularly with regard to the safety, health, number and suitability of their staff, and competent supervision.

## **IV. Conclusion**

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<sup>31</sup> Muladi, 'Supervisory Institution: Integrated Justice System', *MAPPI FH UI*, 2003 <[www.pemantauperadilan.com](http://www.pemantauperadilan.com)>.



Based. Criminal law enforcement against children in conflict with the law is oriented towards the best interests of the child because the child still needs attention and guidance in growing and developing into adulthood. In taking action against children in conflict with the law, it must be done effectively and as well as possible to maintain and protect the rights of the child so that the child continues to receive his rights, namely the right to education, the right to health and the right to a decent life in full and for the good of the child's future.

The current laws and regulations related to child protection are quite good in Indonesia in protecting children, especially children in conflict with the law. The settlement of children's cases through diversion and *restorative justice* in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System has been felt to provide justice for children in conflict with the law, what needs to be continuously improved is the correct understanding for all law enforcement officers, especially those handling child crimes, so that they have the same understanding that criminal law enforcement against children in conflict with the law must continue to uphold the rights of children in conflict with the law.

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