

## **CHILDREN'S RIGHTS BEFORE THE LAW: A ROLE OF LOCAL GOVERNMENT IN THE CHILD PROTECTION SYSTEM**

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### **Abstract**

Protection of children's rights before the law has been regulated in Law No. 11 of 2012 concerning the child protection system and is specifically followed up in the Local Regulation of Bone Regency No. 1 of 2014. Children's inability in legal matters makes the State provide protection to children in conflict with the law. Legal protection for children is the obligation of the State as a mandate of the 1945 Constitution. The problem that arises is that cases of children dealing with the law continue to increase, so it is important to see the form of the role of the government in giving rights to children in conflict with the law. This research is a normative empirical study with a normative juridical legal research approach. Analyzing legal theories and statutory regulations, comparison of laws (comparison approach). The findings of this study indicate that children who are in conflict with the law, the government has provided diversion protection, namely protection at the level of the judicial process, investigation and prosecution. The position of diversion is given by the government to children as victims, perpetrators and witnesses in criminal acts. Local governments in providing productive protection for children in trouble by providing educational and economic assistance. The implication of this finding shows that children are the generation of the nation who deserve protection from the State, even though these children are in conflict with the law.

Melindungi hak anak yang berhadapan dengan hukum telah diatur dalam Undang-Undang Nomor 11 Tahun 2012 tentang sistem perlindungan anak dan secara khusus ditindaklanjuti dalam Peraturan Daerah Kabupaten Bone Nomor 1 Tahun 2014. Ketidcakapan anak dalam soal hukum, menjadikan Negara memberikan perlindungan kepada anak yang berkonflik dengan hukum. Perlindungan hukum bagi anak menjadi kewajiban Negara sebagai amanah dari Undang-Undang Dasar Tahun 1945. Problematikan yang muncul adalah kasus anak yang berhadapan dengan hukum terus mengalami peningkatan, sehingga

penting untuk melihat bentuk peran pemerintah dalam memberikan hak terhadap anak yang berhadapan dengan hukum. Penelitian ini bersifat normatif empiris dengan pendekatan penelitian hukum yuridis normatif. Menganalisis teori-teori hukum dan peraturan perundang-undangan, perbandingan hukum (*comparison approach*). Temuan penelitian ini menunjukkan bahwa anak yang berhadapan dengan hukum, pemerintah telah memberikan perlindungan *diversi*, yakni perlindungan dalam tingkat proses peradilan, penyidikan dan penuntutan. Posisi *diversi* yang diberikan oleh pemerintah terhadap anak baik sebagai korban, pelaku dan saksi dalam tindak pidana. Pemerintah daerah dalam memberikan perlindungan secara produktif terhadap anak yang berkasus dengan memberikan bantuan pendidikan dan ekonomi. Implikasi temuan ini menunjukkan bahwa anak adalah generasi bangsa yang patut mendapatkan perlindungan dari Negara, kendatipun anak berhadapan dengan hukum.

**Keywords:** *Protection; Child; Social Services; Local Regulation.*

## **INTRODUCTION**

Children are a mandate and a gift from God who are inherent in their dignity as a whole human being. Every child has a dignity that should be upheld and every child who is born must get his rights without the child asking for it.<sup>1</sup> In essence, children cannot protect themselves from various kinds of actions that can cause mental, physical, and social harm in various fields of life and livelihood, therefore children as the next generation need and or must be given protection of their rights. Protecting means providing protection for human rights that have been harmed by others and that protection is given to the community so that they can enjoy all the rights provided by law.<sup>2</sup>

Protection of children's rights is a form of protection of human rights.<sup>3</sup> The human rights of children in question are a set of rights inherent in the nature and existence of children as creatures of God and are His gifts that must be respected, upheld and protected by the state, law and Government, and everyone for the sake of honor and protection of human dignity. This is in accordance with the 1945 Constitution of the Republic of Indonesia Article 28B which states that: "Every child has the right to live, grow and develop and has the right to protection from violence and discrimination".<sup>4</sup>

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<sup>1</sup>Rika Saraswati, *Hukum Perlindungan Anak di Indonesia* (1<sup>st</sup> Print; Bandung: PT Citra Aditya Bakti, 2009), p. 1.

<sup>2</sup>Satjipto Rahardjo, *Ilmu Hukum* (1<sup>st</sup> Print; Bandung: Citra Aditya Bakti, 2000), p. 54.

<sup>3</sup>Republic of Indonesia, *Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UUSPPA)*.

<sup>4</sup>Republic of Indonesia, *Law No. 39 of 1999 concerning Human Rights*, Article 1 Paragraph (1).

According to Local Regulation of Bone Regency No. 1 of 2014 concerning Child Protection System Article 1 paragraph (13) states that "The child protection system is a unit of planning, implementation, evaluation and accountability carried out by the Local Government, related agencies and institutions, the community, the family, and parents, in the administration of child and family welfare, juvenile justice, behavior change, which is supported by data and information as well as laws and policies, to create protection so that children are protected from all forms of violence, mistreatment, exploitation and neglect, for the realization of quality Indonesian children, have a noble character, and be prosperous.

The Law No. 11 of 2012 concerning the Criminal Justice System for Children in Article 1 Paragraph (2) states that "Children in conflict with the law (ABH) are children who are faced with the law, children who are victims of criminal acts, and children who are witnesses of acts. criminal". Meanwhile, children in conflict with the law are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old, who are suspected of having committed a criminal act.<sup>5</sup> Children who are faced with the law, of course, have inherent rights, including human rights as human beings, therefore the state is obliged to provide legal protection.

Juvenile justice emphasizes diversion and restorative justice by strengthening the role of the community in advocating for law enforcement officials and facilitating the settlement of cases of children dealing with the law by deliberation and consensus. Meanwhile data and information are focused on structured data collection and the use of data and information for policy making, planning, budgeting, and monitoring and evaluation of child protection. Implementing child protection with an effective child protection system approach is the duty and responsibility of local governments, which includes strengthening parents, families and communities to take responsibility and play a role in child protection.

Based on preliminary data obtained through interviews with the Bone Regency Social Service, throughout 2017 there were 43 cases of children dealing with the law, and in 2018 there were 59 cases of children dealing with the law. As a child protection social worker Work Unit, it is responsible for carrying out primary interventions, secondary interventions, and tertiary interventions in the implementation of a child protection system as regulated in Bone Regency Regulation No.1 of 2014 concerning Child Protection Systems. In addition, social workers play a role in assisting children in dealing with the law, starting from the

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<sup>5</sup>Republic of Indonesia, *Law No. 35 of 2014 concerning Child Protection*, Article 1 Paragraph (2).

investigation process to the termination (court) stage and creating welfare, empowerment, assistance and social rehabilitation.<sup>6</sup>

The high number of children dealing with the law is a challenge for local governments in carrying out protection as mandated by the 1945 Constitution. This is specifically described in regional regulations in the child protection system. Concrete efforts must be made to protect the rights of children, who are considered legally incompetent and entitled to legal protection from the relevant institution. This needs to be criticized structurally and as an institutional role of the government in providing protection for children in conflict with the law.

The various assistance and rehabilitation that children get in their legal protection is expected to reduce the number of children dealing with the law. However, looking at the data found, the percentage of children dealing with the law has increased. With the hope that the formulation of Local Regulation No.1 of 2014 can provide guidance to children who are in conflict with the law, so that the same thing does not happen again. This raises a big question, regarding the re-application of Local Regulation in the protection of children's rights. Local Regulation is a regulation made by the local government to implement higher regulations. This requires a local government regulation in the form of local autonomy to reflect religious values and local wisdom.<sup>7</sup>

In addition, the substance that deserves an answer is what the government fulfills the rights of children in relation to the law. Conformity between Law No. 11 of 2012 concerning the child protection system with Local Regulation of Bone Regency No. 1 of 2014 concerning child protection is interesting to prove. The presence of Local Regulations is considered unmanned, considering the high number of cases of children continues to increase every year. It is illustrated that, what is the matter with Local Regulations, whether children are not given guidance, rehabilitation, and forms of socialization from government agencies in reducing cases of children in conflict with the law that continue to increase.

## **METHODOLOGY**

This research is a normative empirical research or joint research. The use of primary legal materials and field research data is the main data obtained by yourself. Researchers directly collected information obtained from informants related to the role of the Bone Regency Social Service in protecting children's rights against the law based on Local Regulation No.1 of 2014 concerning Child Protection Systems.

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<sup>6</sup>Afrianti Muis, S.ST, Child Protection Social Worker Social Service of Bone Regency, interview by prospective researcher on Jl. Andalas, 27 December 2018.

<sup>7</sup>Andi Nuzul, "*Hukum Islam Mandiri dan Terintegrasi (Berkontribusi Memperkuat Sistem Hukum Nasional berwawasan ke Indonesiaan)*." *Al-Bayyinah* 2.1 (2018), p. 3.

The research approach was a process of investigation, collection, management, analysis and presentation of data carried out systematically and objects to solve a problem according to the object under study. The research approach used is normative juridical legal research. The normative juridical approach is an approach through library research by reading, quoting, and analyzing legal theories and statutory regulations, comparison of laws (comparison approach), which relates to research problems.<sup>8</sup>

The research analysis was conducted using qualitative descriptive techniques using a model of an assessment of the role of the Social Service of Bone Regency in protecting children's rights in conflict with the law. This technique is based on the consideration that the data obtained cannot be quantified because it is related to the problem of cultural values. Qualitative research explored and deepened social phenomena consisting of actors, events, place and time.<sup>9</sup>

## **DISCUSSION**

### **A. Legal Protection for Children in Conflict with the Law**

A state of law (*rechtsstaat*) contains elements of legal protection for human rights, one of which is legal protection for children. In its development, it was established as a national priority program through Presidential Instruction Number 3 of 2010 concerning the Equitable Development Program, the Child Social Welfare Program (PKSA), which is a systemic and sustainable effort developed by the Ministry of Social Affairs of the Republic of Indonesia in responding to developments in child social welfare problems throughout Indonesia. This program is designed to produce directed, integrated and sustainable efforts by the central government, local governments, and the society in the form of social services and social welfare assistance for children, which reach all children with social problems so that they can enjoy life and be in a nurturing environment which allows it to grow and develop optimally according to its potential.

As a follow-up to the Presidential Instruction, the Minister of Social Affairs Decree Number 15A/HUK/2010 concerning General Guidelines of *Program Kesejahteraan Sosial Anak (PKSA)/ Child Social Welfare Program*, which contains the direction of program implementation which includes *Program Kesejahteraan Sosial Anak berhadapan dengan hukum dan Remaja Rentan (PKS- ABH dan Remaja)/ Social Welfare Program for Children Dealing with the law and Vulnerable Youth*,

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<sup>8</sup>Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (17<sup>th</sup> Print; Jakarta: Rajawali Press, 2006), p. 15.

<sup>9</sup>Muhammad, *Metode Penelitian Bahasa* (1<sup>st</sup> Print, Jogjakarta: Ar-Ruzz Media, 2011), p. 221.

*Program Kesejahteraan Sosial Anak yang Membutuhkan Perlindungan Khusus (PKS-AMPK)/ Social Welfare Programs for Children that Require Special Protection, Program Kesejahteraan Sosial Anak Balita (PKS-AB)/ Social Welfare Program for Toddler, Program Kesejahteraan Sosial Anak Terlantar (PKS-AT)/ Social Welfare Program for Abandoned Children, Program Kesejahteraan Sosial Anak Jalanan (PKS-AJ)/ Social Welfare Program for Street Children, and Program Kesejahteraan Sosial Anak Dengan Kecacatan (PKS-ADK)/Social Welfare Program for Children with Disabilities.*

Regarding the issue of protection of children's rights in conflict with the law, Article 40 of the Convention on the Rights of the Child states that "States which are included in the participants recognize the right of every child who is suspected, accused or found to have violated criminal law, to be treated in accordance with the enhancement of the child's sense of dignity and self-worth, by strengthening the child's respect for human rights and the basic freedoms of others. and taking into account age and the desire to increase children's re-integrity and create children who play a constructive role in society ".<sup>10</sup> Child crime is a social symptom, it is termed by Kartini Kartono as juvenile delinquency, namely evil behavior, or crime/delinquency of young people which is a symptom of social illness (pathology) in adolescent children caused by a form of social neglect, so they develop a form of neglect of deviant behavior.<sup>11</sup>

Furthermore, Article 37 of the Convention on the Rights of Children also emphasizes that participating countries must guarantee the protection of children and the essence of Article 37 is the prohibition of torture, cruel treatment or punishment, death penalty, life imprisonment and arbitrary detention. or deprivation of liberty against children.<sup>12</sup> An action is said to be delinquent when the action is contrary to the existing norms in the society in which they live or an anti-social act which contains anti-normative elements.<sup>13</sup>

In an effort to provide protection for the interests and rights of children in conflict with the law. The Indonesian government has issued related laws and regulations, among others Law No. 4 of 1979 concerning Child Welfare, Law No. 39 of 1999 concerning Human Rights, Law of the Republic of Indonesia No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System.

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<sup>10</sup>Convention on the Rights of the Child, Article 40.

<sup>11</sup>Kartini Kartono, *Patologi Sosial II: Kenakalan Remaja* (18<sup>th</sup> Print; Jakarta: Rajawali Pers, 2014), p. 6.

<sup>12</sup>Convention on the Rights of the Child, Article 37.

<sup>13</sup>Sudarsono, *Kenakalan Remaja* (5<sup>th</sup> Print; Jakarta: Rineka Cipta, 2008), p. 10.

The issue of protecting children's rights in conflict with the law contained in Article 66 of Law No. 39 of 1999 concerning Human Rights explains that; (1) Every child has the right not to be subjected to mistreatment, torture or inhuman punishment; (2) The death penalty or life sentence cannot be imposed for the offender who is still a child; (3) Every child has the right not to be deprived of his or her freedom against the law; (4) The arrest, detention or imprisonment of children may only be carried out in accordance with the applicable law and can only be carried out as a last alternative; (5) Every child who is deprived of his/her freedom has the right to receive humane treatment and with due observance of personal development needs according to his age and must be separated from adults, except for his interest; (6) Every child who is deprived of his/her freedom has the right to obtain legal aid or other assistance effectively at every stage of the legal remedy in effect; (7) Every child who is deprived of his/her freedom has the right to defend himself/herself and to receive justice before an objective and impartial Juvenile Court in a session closed to the public.<sup>14</sup>

With regard to the protection of children, according to Law No. 11 of 2012 concerning the Criminal Justice System for Children, it is not always the case that the child who is a criminal offender must receive a prison sentence. As affirmed in Article 71 of Law No. 11 of 2012 concerning the Criminal Justice System for Children, actions that can be imposed on children in conflict with the law, in the form of returning to their parents, guardians/foster parents or surrendering to the state to participate in education, guidance and work training or hand over to the department of social affairs or social organizations engaged in education, development and work training.<sup>15</sup>

The substances stipulated in this law include, among others, the placement of children undergoing judicial processes that can be placed in the Special Development Institution for Children (*Lembaga Pembinaan Khusus Anak/LPKA*). The most basic substance in this law is strict regulation regarding Restorative Justice and Diversion which is intended to avoid and keep children away from the judicial process so as to avoid stigmatizing children in conflict with the law and it is hoped that children can return to the social environment naturally.

In the legal protection of children dealing with the laws of the Regional Government, in this case the Social Service is obliged and responsible as regulated in the Bone Regency Local Regulation No.1 of 2014 concerning Child Protection Systems, such as: (1) To respect, to protect, to fulfill and to promote civil rights and

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<sup>14</sup>Republic of Indonesia, *Law No. 39 of 1999 concerning Human Rights*, Article 66.

<sup>15</sup>Republic of Indonesia, *Law No. 11 of 2012 concerning the Juvenile Criminal Justice System*, Article 71.

freedoms, family environment and alternative care, basic health and welfare, education and special protection in the framework of implementing a child protection system; (2) Developing data and information in the implementation of a child protection system which includes the collection, analysis and utilization of data and information; (3) Coordinating and facilitating the implementation of a child protection system among Work Units (SKPD) within the scope of Regional Government, agencies, other institutions, community organizations, and other working groups related to child protection; (4) Implementing primary interventions, secondary interventions, and tertiary interventions in implementing child protection systems; (5) Developing family and community-based child protection by providing and making effective social welfare workers; (6) Increase the capacity of implementing child protection systems in local governments; (7) To provide guidance and supervision in the implementation of a child protection system implemented by the Local Government; (8) Providing facilities and infrastructure in implementing the child protection system; and (9) Developing children's participation according to their age and maturity.

The child protection system is a unitary planning, implementation, evaluation and accountability carried out by the Local Government, related agencies and institutions, the community, families and parents, in carrying out children and family welfare, child justice, behavior change, which is supported by data and information as well as laws and policies, to create a protective environment so that children are protected from all forms of violence, mistreatment, exploitation and neglect, for the sake of the creation of Indonesian children with quality, noble character and prosperity.

Furthermore, it is explained in Article 27 paragraph (1) that: "The child protection system consists of; (1) Child and family welfare; (2) Support for intervention and facilitation of juvenile justice; and (3) Changes in behavior".<sup>16</sup> The implementation of the child protection system as referred to above is supported by data and information in order to determine the form of intervention and/or policy. The data referred to are the prevalence of risk factors, prevalence of cases, coverage of cases, and evaluation of programs and services for data purposes, namely; (1) Determining the form of primary, secondary and tertiary interventions to be carried out; (2) Providing clarity about the causes, characteristics and trends; (3) child protection issues; (4) Planning for child protection policies and programs; (5) Allocation of budget for child protection programs; and (6) Monitoring and evaluation of the implementation of child protection programs.

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<sup>16</sup>Local Regulation of Bone Regency No. 1 of 2014 concerning Child Protection System, Article 27 Paragraph (1).



Article 28 paragraph (1) states that: "The implementation of a child protection system can be done through; (1) Primary intervention, namely all steps taken by the government to prevent all forms of violence, exploitation, mistreatment and neglect in all situations in the child's life, including children dealing with the law and children in emergency situations; (2) Secondary intervention, namely all steps taken by the government to take precautions or early intervention and early detection of symptoms of problems faced by children and families in conditions that are vulnerable to all forms of violence, exploitation, mistreatment and neglect in all situations in the child's life including children dealing with the law and children in emergency situations; (3) Tertiary intervention is all steps taken by the government and society in dealing with children who have experienced violence, exploitation, mistreatment and neglect in all situations in the child's life, including children dealing with the law and children in emergency situations.<sup>17</sup>

In addition, parents do have a bigger share in protecting children because they are part of the nuclear family so that they have to fulfill every child's needs, whether physical or spiritual, but society also plays a role in protecting children's rights. Community participation can be realized by maintaining children's rights when they are outside the home environment so that they will still feel comfortable being outside the home. Children's rights are everything, whether in the form of concrete or abstract things, which should be obtained by children from their parents or guardians. The things that are the rights of the child, are the obligations of the parent or guardian.<sup>18</sup>

Parents also have responsibility for legal protection of their children, including; (1) Sending children to school until completing basic education; (2) Caring for, maintaining and protecting children; (3) Developing children according to their abilities, talents and interests; (4) Respecting for the dignity of children; (5) Protecting, preventing, and not allowing mistreatment, neglect, exploitation and violence, especially to children who need special protection; (6) Protecting and preventing children in conflict with the law; (7) Protecting, preventing, and not allowing early-age marriage; (8) Respecting the views of children in family life, society and the environment; (9) Providing economic, social, educational and

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<sup>17</sup>Local Regulation of Bone Regency No. 1 of 2014 concerning Child Protection System, Article 28 Paragraph (1).

<sup>18</sup>Budiyanto, *Hak-Hak Anak dalam Perspektif Islam* (Jurnal Studi Gender dan Anak Vol. 1, No. 1, 2014), p. 3.

health support, as well as mental and spiritual support; and (10) Avoiding the separation of children from families that result in neglected children.<sup>19</sup>

In other words, the family is the core group of society and as a natural environment for the growth and well-being of all its members and especially children. Children should be given protection, care and provision of income including legal protection and necessary assistance so that the family is able to carry out its responsibilities in society. The main principle of implementing the concept of diversion is persuasive action or a non-penal approach and providing opportunities for someone to correct mistakes. Diversion tries to provide justice for cases of children who have already committed criminal acts and are processed by law enforcement officials.<sup>20</sup>

Capacity building for parents and families is an increase in knowledge and skills in caring for, maintaining and protecting children, developing children according to their abilities, talents and interests, respecting the dignity of children, protecting children from mistreatment, neglect, exploitation and violence, especially children who need special protection, prevent children from dealing with the law, prevent early-age marriage, respecting children's views on family life, providing economic, social, educational and health support, as well as mental and spiritual support for children, and avoiding the separation of children from the main family.

In addition, the role of community elements involved in child protection is not only individuals but also involves community organizations, non-governmental organizations, the Child Protection Commission, other organizations that have concerns about child protection. Community has responsibilities and roles as; (1) Supporting nurturing efforts for child development; (2) Respecting for the dignity of children; (3) Protecting, preventing, and not allowing mistreatment, neglect, exploitation and violence, especially to children who need special protection; (4) Protecting and preventing children from dealing with the law; (5) Protecting, preventing, and not allowing early-age marriage.<sup>21</sup>

Capacity building for the community is an increase in knowledge and skills in supporting parenting efforts for child development, respecting for children's dignity, protecting, preventing, and not allowing mistreatment of children, neglect, exploitation and violence, especially to children who need special protection,

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<sup>19</sup>Local Regulation of Bone Regency No. 1 of 2014 concerning Child Protection Systems, Article 26 Paragraph 2.

<sup>20</sup>Wiwik Afifah, *Pertanggungjawaban Pidana Anak Konflik Hukum* (Jurnal Ilmu Hukum: Vol. 10, No. 19, February 2014), p. 59.

<sup>21</sup>Local Regulation of Bone Regency No. 1 of 2014 concerning Child Protection Systems, Article 24 Paragraph 2.

protecting and preventing children from dealing with the law, protecting, preventing, and not allowing early marriage of children, respecting the views of children in community life and their environment, and preventing separation of children from the extended family.

Seeing that there are still many cases that occur in Indonesia, the rights of these children have not been fulfilled in accordance with legislation, children's rights are not fulfilled optimally, especially children from minority groups and are isolated. This means that the existence of a child protection law has not been balanced with the implementation of protection for children. Legal protection which is regulated in the form of regulations and its application which is expected to guarantee the fulfillment of children's rights so that they can live, grow, develop and participate optimally according to human dignity. In addition, to get protection from all kinds of violence, injustice, neglect, discrimination, exploitation, and other negative actions for the sake of realizing a strong nation's children as the next generation in the future.

Therefore, the participation of all parties is very necessary in order to make this happen. Coordination, guidance and supervision of the Regent through all Work Units (SKPD), other agencies and institutions, community organizations and other working groups; Furthermore, supervision with the aim of efficiency and effectiveness of implementing a child protection system is intended to improve the quality of interventions in the welfare of children and families, juvenile justice, and efforts to change behavior. The process should aim at creating Restorative Justice, both for children as perpetrators and children as victims. Restorative Justice is a diversion process, in which all parties involved in a certain criminal act jointly solve problems and create an obligation to make things better by involving victims, children, and the community in finding solutions to improve, reconcile, and reassuring that is not based on vengeance.

The series of activities must be continuous and directed in order to ensure the growth and development of children physically, mentally, spiritually and socially. This action is intended to create the best life for children who are expected to be potential successors of the nation and have a spirit of nationalism based on noble morals.

## **B. The Role of the Government in Protecting the Rights of Children in Conflict with the Law**

Children are the mandate and gifts of God, who are inherent in their dignity as a whole human being, and are not yet physically, mentally, sexually, morally, spiritually and socially immature, so that socio-cultural children do not

only depend on their parents/family is also the system that applies in society. As human beings, children have human rights that must be respected, promoted, fulfilled and protected.

As the younger generation who are the successors of the nation's ideals, children have special characteristics and strategic roles related to the survival and existence of the nation and state in the future. Article 34 of the 1945 Constitution of the Republic of Indonesia mandates the state to care for the poor and neglected children. Therefore, promotion, respect, fulfillment, and protection of children is absolutely necessary for the state to develop and develop children properly, and to receive adequate protection from the state. In principle, in general, child protection should be the basis for every country in implementing child protection.<sup>22</sup>

Child protection is one of the mandatory affairs of local governments related to basic services. Therefore, local governments need to develop an effective child protection system to ensure all children are in an environment conducive to their growth and development. The Social Service of Bone Regency in handling children dealing with the law with cases handled as stated by Haeril Anugrah as Head of the Social Rehabilitation Section for Children and the Elderly of the Bone Regency Social Service stated that: "In the handling of children dealing with the law handled by the social service of Bone Regency, until now there have been several cases. Starting from being the perpetrator, victim or witnessing in different cases such as sexual intercourse, assault, narcotics, neglect, adoption, stealing, and gambling."<sup>23</sup>

The results of observations related to children dealing with the law, from the results obtained from the Social Service of Bone Regency, namely:

Table. 1.1. Data of Child Case in 2018

No	Type of Case	Number of Cases	Information		
			Witness	Victim	Doer
1.	Sexual Intercourse	9	1	8	-
2.	Persecution	14	9	5	-
3.	Narcotics	1	-	-	1
4.	Abandonment	1	-	1	-
5.	Adoption	1	-	1	-
6.	Stealing	2	-	2	-

<sup>22</sup>Hadi Supeno, *Kriminalisasi Anak, Tawaran Radikal Peradilan Anak Tanpa Pidanaan* (1<sup>st</sup> Print; Jakarta: Gramedia Pustaka Utama, 2000), p. 53.

<sup>23</sup>Haeril Anugrah, Head of Section for Social Rehabilitation of Children and the Elderly, Social Service of Bone Regency, South Sulawesi Interview by the author at Watampone 16 July 2019.

7.	Child Abduction	5	-	5	-
8.	Gambling	1	1	-	-

Source: Social Service of Bone Regency in 2018

The data shows that the Social Service of Bone Regency handles many cases of children dealing with the law starting from the age of 4 years to the age of 18 years, as said by Haeril Anugrah emphasizing that "cases of children dealing with the law are handled by the Social Services of Bone Regency starting from the age of 4 until the age of 18 years who are categorized as children."<sup>24</sup>

In providing protection to children who are in conflict with the law, the Social Service of Bone Regency with the fulfillment of basic rights including basic rights of children, where effective child protection must use a systematic approach to create a protective environment to protect children from all forms of violence, exploitation, mistreatment, and neglect, including children in conflict with the law and children in emergency situations. The issue of legal protection for children is not only a human rights issue, but it is more broadly a matter of law enforcement, particularly law enforcement against children as victims of violence.<sup>25</sup>

As said by Ramlah Akib, as a Social Worker at the Social Service of Bone Regency, "Protection of children in conflict with the law is carried out by providing psychosocial assistance to child victims and child witnesses starting from the receipt of a request letter from the police to the court as outlined in the social report as material consideration by the public prosecutor and the judge to the child."<sup>26</sup>

Then emphasized by Haeril Anugrah that "Protection given to children, namely by providing Diversion protection, which is diversion protection is enforced at every level of the juvenile justice process, starting from the level of investigation, prosecution to court proceedings. Diversion does not only apply to children as criminals or children who are in conflict with the law. But it also involves children as victims of crime and children as witnesses of crime."<sup>27</sup> Development programs for children in conflict with the law by conducting conciliation. Child assistance in the form of conciliation is the process of resolving cases outside the court by involving a

<sup>24</sup>Haeril Anugrah, Head of Section for Social Rehabilitation of Children and the Elderly, Social Service of Bone Regency, South Sulawesi Interview by the author at Watampone 16 July 2019.

<sup>25</sup>Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak* (Revised Ed.; Bandung: Refika Aditama, 2014), p. 13.

<sup>26</sup>Ramlah Akib, Child Protection Social Worker, Social Service of Bone Regency, South Sulawesi. Interview by the author at Watampone 22 July 2019.

<sup>27</sup>Haeril Anugrah, Head of Section for Social Rehabilitation of Children and the Elderly, Social Service of Bone Regency, South Sulawesi Interview by the author at Watampone 16 July 2019.

third party,<sup>28</sup> so that the social service can act neutral and impartially for the sake of resolving the case faced by the child involved in a crime.

The child protection system requires coordination in its implementation in order to provide efficiency and effectiveness in its implementation. The coordination in question is the Regent through all Work Units (SKPD), other agencies and institutions, community organizations, and other working groups. In carrying out this coordination, the Social Service of Bone Regency coordinates with the Education Authorities if a child has a case against the law and the child does not have education. As stated by Haeril Anugrah revealed that "When a child is faced with the law it is found in the Social Report (LAPSOS) then if the child's educational background drops out of school, the child is registered to take the package A, B, and C exams organized by the Education Authorities. .<sup>29</sup>

Provincial and regency governments ensure the implementation of compulsory education at least at the basic education level free of charge. In addition, the Provincial and Regency Governments promote general and vocational secondary education and facilitate access for every child, facilitate access to higher education by providing adequate facilities, provide information and guidance on education, and take steps to encourage attendance in education, school, as well as a decrease in dropout rates.

If the child is in a good educational background, then the child dealing with the law will be returned to his parents with the monitoring of the Social Worker of the Social Service of Bone Regency. As said by Ramlah Akib that "If a child who is against the law has an educational background and does not drop out of school, the child will be returned to his/her parents with the monitoring of the social worker.<sup>30</sup>

Apart from the right to fulfill the child's education in conflict with the law, protection is provided by looking at the economic background of the child against the law as stated by Haeril Anugrah that "If the economic condition of the child's family is below average, it is proposed to get the Social Child Savings. (TASA) at LPKS Seroja through the Ministry of Social Affairs. In addition, involving local governments to guarantee the rights of its citizens.<sup>31</sup> Providing this protection is

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<sup>28</sup>Rosita, "Alternatif dalam Penyelesaian Sengketa (Litigasi Dan Non Litigasi)." *Al-Bayyinah* 1.2 (2017), p. 109.

<sup>29</sup>Haeril Anugrah, Head of Section for Social Rehabilitation of Children and the Elderly, Social Service of Bone Regency, South Sulawesi Interview by the author at Watampone 16 July 2019.

<sup>30</sup>Ramlah Akib, Child Protection Social Worker, Social Service of Bone Regency, South Sulawesi. Interview by the author at Watampone 22 July 2019.

<sup>31</sup>Haeril Anugrah, Head of Section for Social Rehabilitation of Children and the Elderly, Social Service of Bone Regency, South Sulawesi Interview by the author at Watampone 16 July 2019.

proof of the fulfillment of children's rights, so it adheres to the principle of "the best interests of the child", meaning that the "welfare" approach can be used as a philosophical basis for handling children in conflict with the law.<sup>32</sup>

Apart from the coordination of the child protection system, it can also be done with guidance to improve the quality of interventions in the welfare of children and families, child justice, and efforts to change behavior. Coaching is carried out by the Regent through all Work Units (SKPD). Apart from the Work Unit (SKPD), coaching can also be carried out by other agencies and institutions, by involving the community, family, parents, and children.

Coaching carried out by the Social Service of Bone Regency is in the form of providing job training to children dealing with the law. As stated by Haeril Anugrah that "If a child in conflict with the law is of working age and has finished school, the child will be registered to take part in work training at the Ministry of Social Affairs Technical Implementation Unit (UPT) at BSRAMPK free of charge."<sup>33</sup>

In order to improve the quality of legal protection services for children, the Social Service of Bone Regency has obstacles in the process of carrying out its duties and functions, namely the lack of service support facilities. Therefore, it is necessary to complete facilities and carry out activities that support the process of protecting the law for children. As stated by Haeril Anugrah that "In providing services to children in conflict with the law with the aim of first providing a sense of security to children and their families, in addition to conducting counseling by providing reinforcement to children and their families. It is necessary to provide a special Child Social Phone (Tepsa) contact person centered at the Ministry of Social Affairs for reporting if anyone has a case with a child. And the important thing is to provide assistance to children from the level of investigation to completion."<sup>34</sup>

The facilities that can be prepared by the local government include; (1) Provision of legal aid services; (2) Provision of educational assistance services; (3) Provision of health assistance services; (4) Placement of children who are undergoing judicial processes in LPAS that are available and have been provided by the Government; and (5) Placement of children who are serving a sentence in LPKA that is available and has been provided by the Government.<sup>35</sup>

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<sup>32</sup>Mulyadi Alrianto Tajuddin, "Pembinaan Anak Didik Pemasarakatan Berorientasi Rehabilitasi Sosial di Lembaga Pemasarakatan Kelas II-B Merauke." *Al-Adalah: Jurnal Hukum dan Politik Islam* 4.2 (2019), p. 172.

<sup>33</sup>Haeril Anugrah, Head of Section for Social Rehabilitation of Children and the Elderly, Social Service of Bone Regency, South Sulawesi Interview by the author at Watampone 16 July 2019.

<sup>34</sup>Haeril Anugrah, South Sulawesi Interview by the author at Watampone 16 July 2019

<sup>35</sup>Local Regulation of Bone Regency No. 1 of 2014 concerning Child Protection Systems, Article 35 Paragraph (1).

This shows that the role of the government, in this case the Social Service of Bone Regency in legal protection for children in conflict with the law is quite adequate and in line with Law No. 11 of 2012 concerning child protection systems and Local Regulation No. 1 of 2014. Forms of child protection in fulfilling children's rights such as the right to education, work rights and legal assistance to children have been implemented. Protection of children against the law by providing diversion protection.

The diversion protection is applied at every level of the juvenile justice process, from the level of investigation, prosecution to court proceedings. Diversion does not only apply to children in conflict with the law, but also to the involvement of children as witnesses of criminal acts. This can be seen from the role of the government in providing legal protection to children in conflict with the law. The concept of a government system that is legitimately in line with religious principles (*syar'i*), by eliminating all forms of oppression.<sup>36</sup>

In addition, children who are in conflict with the law and dropping out of school are recommended to take the package exam. If the child in question does not drop out of school, the child will be returned to the parent while being monitored by the social agency. Children who have economic problems below average are suggested to get child savings. While children in conflict with the law are able to work, they will be registered to take part in job training at the UPT of the social ministry in BSRAMPK for free. However, the facilities as a support in these services are still incomplete, considering the limited facilities that are not sufficient. Given that the child protection system provided by the local government adjusts the regional financial capacity in terms of providing facilities.

## CONCLUSION

The role of the local government in the protection system for children's rights in conflict with the law in Bone Regency has been carried out with concrete efforts. The form of protection that is carried out can be categorized as restorative justice as a process of diversion or being involved in a certain criminal act jointly overcoming problems and creating an obligation to make things better by involving victims, children, and the community in finding solutions to improve, reconciliation, and reassurance. Providing gradual child protection, both in the position of children as perpetrators of criminal acts and or as witnesses in criminal acts. This acts as supervision with the aim of efficiency and effectiveness in implementing a child protection system.

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<sup>36</sup>Jamaluddin, "Proyeksi Penerapan Sistem Pemerintahan Islam di Negara Republik Indonesia." *Al-Bayyinah* 1.1 (2017), p. 22.



Substantially, the government grants children's rights in conflict with the law in the fields of education and economics. By taking productive steps in the form of recommendations for educational packages, job training and provision of economic assistance by involving local governments to ensure that citizens who are poor. Limited local government budgets are the cause of the availability of facilities in the protection of children in conflict with the law, so that in the aspect of facilities it is not sufficient (complete) so that in providing legal protection services it is still not optimal.

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