



## The fulfillment of juveniles' companionship right

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### Abstract

Children as perpetrators of criminal crimes who are fundamentally victims require appropriate legal protection, including both material and formal criminal law safeguards. In the provisions of Law No. 11 of 2012 pertaining to the Juvenile Criminal Justice System, regulations for criminal sanctions and actions against children who commit criminal crimes have been governed independently from the rules of the Criminal Code as a form that is particular to children. Provide counseling and protection for children, and give the required support, in terms of more stable and adequate institutions and legal tools. Thus, the provisions surrounding the execution of child litigation must be carried out with precision. This research was conducted using the normative legal research technique. This study's objective is to explain the fulfillment of the entitlement to aid children involved in criminal behavior. The Community Advisor is responsible for fulfilling the right to support minors involved in criminal activities, based on the study's findings, by performing the tasks and functions of Community Research (LITMAS), guidance, supervision, and aid. This is the basis for legislating major improvements in the implementation of correctional functions, such as Service, Guidance, Guidance, Community, Treatment, Security, and Observation while upholding a high level of human rights respect, protection, and fulfillment.

**Keywords:** companionship right's fulfillment, probational officer, juvenile justice

### Introduction

The government has attempted to ensure the protection of children. Article 2 paragraph (4) of the Child Protection Act stipulates, "Children have the right to be protected from environments that can hurt and impede their appropriate growth and development." A youngster suspected of committing a crime is one of the environmental elements that might affect the growth and development of children.<sup>[1]</sup>

Children represent the next generation that will affect progress. Since the child remains in the womb until the age of 18, it is vital to secure the child's inherent rights. This complies with the terms of the Convention on the Rights of the Child (CRC), which provides protection for children, upholds their rights around the world, and has coercive force. The only countries that have not ratified this convention are Somalia and the United States.<sup>[2]</sup>

The Government of Indonesia ratified the Convention on the Rights of the Child (CRC) via Presidential Decree Number 36 of 1990, which outlines the general principles of child protection, namely non-discrimination, the best interests of the child, survival and development, and respect for children's opinions. This principle is utilized to ensure the survival and legal protection of the state in the context of life.

Children are buds, potentials, and the younger generation to continue the principles of the nation's struggle; they play a strategic role and possess unique qualities and traits that ensure the nation's and state's continuous existence in the future. Children are young in spirit and life path, according to R.A. Kosnan, since they are easily influenced by their environment.<sup>[3]</sup>

Children who conduct illegal crimes may be influenced by a number of reasons, including the detrimental impact of rapid development and globalization in the sphere of

communication and information, developments in knowledge and technology, and alterations in parenting style and lifestyle.

Legal protection encompasses the protection and fulfillment of children's rights, the provision of protection for human rights that have been violated by others, and the granting of this protection to the community in order for them to enjoy all the rights granted by law; in other words, legal protection is comprised of various legal remedies. that must be provided by law enforcement personnel to create a mental and physical sense of security against disturbances and varied threats from any party.<sup>[4]</sup>

Children as perpetrators of criminal crimes who are fundamentally victims require appropriate legal protection, including both material and formal criminal law safeguards. In the provisions of Law No. 11 of 2012 pertaining to the Juvenile Criminal Justice System, regulations for criminal sanctions and actions against children who commit criminal crimes have been governed independently from the rules of the Criminal Code as a form that is particular to children. Implementing coaching and providing protection for children requires support in the form of more stable institutions and suitable legal tools. Hence, provisions pertaining to the administration of justice for minors must be carried out in a particular manner.<sup>[5]</sup> The importance of doing research with the title "Fulfillment of the Right to Help for Children Engaged in Criminal Actions" is determined by the preceding description.

### Research method

This research was prepared using the Normative Juridical technique, which is a legal method involving the examination of secondary data or secondary literature<sup>[6]</sup> and research on legal principles, legal systematics, legal

synchronization, legal history, and legal comparisons.<sup>[7]</sup> The form and content of library items have been compiled by earlier researchers and can be accessed regardless of time constraints.<sup>[8]</sup>

### Results and discussions

Children are the nation's next generation and will be accountable for their continued existence in the future. The existence of a kid is governed by positive law restrictions in Indonesia. Article 1 paragraph 1 of Law Number 23 of 2002 on Child Protection defines a kid as a person who has not yet reached the age of 18 (eighteen), including unborn children. Moreover, the definition of a child is also governed by the 1989 Convention on the Rights of the Child, which was ratified by Presidential Decree Number 36 of 1990 Article 1 concerning Ratification of the Convention on the Rights of the Child (Convention on the Rights of the Child) containing the provision that a child is every human under the age of 18 years unless based on the Law applicable to children it is determined that the age of majority is reached earlier.

Article 1 paragraph 3 of the provisions of Law Number 11 of 2012 regarding the Juvenile Criminal Justice System defines a Child in Conflict with the Law (ABH) as a kid between the ages of 12 and 18 who is suspected of committing a criminal offense. In other words, children are held accountable for their conduct beginning at age of 12, although not to the same extent as adults.

In the Big Indonesian Dictionary, behavior that breaches societal norms and rules is referred to as delinquency.<sup>[9]</sup> In the United States, "juvenile delinquency" according to the United States Code is a comparable term. (U.S. Code): "juvenile delinquency violation of the law committed by a person under the age of that would be considered a crime if it was committed by a person 18 or older".

Obviously, the treatment of situations involving legal problems involving minors differs from the treatment of cases involving adults. This necessitates the engagement of law enforcement officers, the community, and institutions like Advocates, Correctional Centers (BAPAS), Professional Social Workers (Peksos), Social Workers (TKS), and Non-Governmental Organizations (NGOs). There are three levels of law enforcement officers: police, prosecutors, and courts. Organizations working in the field of children, such as the National Commission for Child Protection (Komnas PA), the Indonesian Child Protection Commission (KPAI), and the Integrated Service Center for Empowerment of Women and Children, are also involved (P2TP2A).<sup>[10]</sup>

Cases involving juvenile offenders are distinct from those involving adult offenders. Children convicted of committing crimes and sentenced to Juvenile Correctional Facilities must get particular treatment while serving their sentences.

According to Article 3 of Law Number 35 of 2014 on Child Protection, the purpose of child protection is to ensure the fulfillment of children's rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and dignity, and receive protection from violence. And discrimination to realize the ideal of quality, noble, and prosperous Indonesian children.<sup>[11]</sup>

The law provides a guarantee for child protection activities; therefore, legal clarity must be pursued to ensure the continuity of child protection activities and to prevent abuse

that has unintended negative effects on the implementation of child protection.<sup>[12]</sup>

Provision of legal protection for the child's general growth and development, as mandated by various laws and regulations:

1. Article 28B, paragraph 2, of the 1945 Constitution of the Republic of Indonesia provides that every child has the right to survival, growth, and development and protection from violence and discrimination.
2. Article 2 paragraphs 3 and 4 of Law Number 4 of 1979 on Child Welfare say that children have the right to care and protection both in utero and after birth and that they have the right to be protected from an environment that can hurt or impede their growth.

Article 1 point 20 of Law 22 of 2022 regarding Prisons defines Correctional Centers as facilities or locations that provide Community Guidance for Clients. In addition, according to Article 56, paragraph 1, of Law Number 22 of 2022 Concerning Prisons, the execution of social guidance may involve support, direction, and supervision.

Judges as a function of the court's role cannot arbitrarily impose criminal sanctions based on the applicable material law laws, but correctional institutions must be involved, namely the Correctional Institutions this is a social counsellors with the implementation of societal Research, which is a confidential document compiled by a sociologist (WBP).

Article 65 point d of Law Number 11 of 2012 has been governing the Youth Criminal Justice System states, "Social Counselors are responsible for providing support, advice, and supervision to minors who have been convicted of a crime or are subject to action based on a court order." The Community Advisor is therefore on duty:

1. providing support, advice, and supervision of minors during the diversion process and implementation of the agreement, as well as reporting to the court if the diversion is not carried out;
2. make a report on the results of community research for the purposes of investigation, prosecution, and trial in child cases, both inside and outside the courtroom, including in the LPAS and LPKA;
3. determine the child care program at the Penitentiary and child development at the LPKA together with other correctional officers;
4. provide assistance, guidance, and supervision to children who get assimilation, parole, pre-release, and conditional leave.

In contrast, Malaysia developed orphanages and jails for children in dispute with the law in the nineteenth century. This institution aspires to transform the lives of Malaysian children and their families into a model institution of child formation. Institutions or prisons are utilized as homes for children, children in institutions or prisons are used as families, and workers of institutions are used as parents for children in institutions or prisons.<sup>[13]</sup>

Malaysia provides rehabilitation or coaching institutions for children in dispute with the law by integrating three types of coaching programs: counseling and guidance approach programs, education and skills programs, and recreation programs.<sup>[14]</sup> Treatment of children in the criminal justice system must adhere to the principles of child protection and continue to respect the dignity of the child, without

compromising the administration of justice or diminishing the kid's human values.

If a child commits a crime due to emotional inadequacies, he will be treated the same when he sees the crime he has committed. But, if forgiveness is a factor, the model or form of the child's responsibility for the crime he has committed must be taken into account. Cases involving juvenile offenders are distinct from those involving adult offenders. The Law Number 22 of 2022 on Correction was enacted to mandate fundamental reforms in the implementation of Corrective functions, such as Service, Development, Guidance, Community, Treatment, Security, and Observation, by supporting the respect, protection, and fulfillment of human rights.<sup>[15]</sup> As mandated by Law Number 11 of 2012 pertaining to the Juvenile Criminal Justice System, Community Advisors are required to play a larger role in the management of Children in Conflict with the Law. Community Advisors are responsible for Community Research, mentoring, supervision, and mentoring.

### Conclusion

The Community Adviser is responsible for the fulfillment of the right to aid minors involved in criminal activities. The Community Advisor is responsible for Community Research (LITMAS), guidance, supervision, and assistance. This is the basis for legislating major reforms in the implementation of Corrective functions, such as Service, Guidance, Community, Treatment, Security, and Observation while supporting the respect, protection, and fulfillment of human rights.

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