



Article History	Received: 22-07-2024	Reviewed:02-10-2024	Accepted: 29-11-2024	Published: 01-12-2024
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FULFILLMENT OF THE RIGHTS OF CHILDREN IN CONFLICT WITH THE LAW IN THE WOMEN AND CHILDREN SERVICE UNIT OF THE ROKAN HULU RESORT POLICE BASED ON LAW NUMBER 11 OF 2012 CONCERNING THE JUVENILE CRIMINAL JUSTICE SYSTEM

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ABSTRACT

Article 33 paragraph (5) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, states that: "In the event that there is no Temporary Child Placement Institution, detention can be carried out at the local Social Welfare Organizing Institution." The aim of the research is to analyze the arrangements for fulfilling children's rights at the Rokan Hulu Resort Police based on these regulations; To analyze the fulfillment of children's rights at the Rokan Hulu Resort Police based on these regulations. The research method is sociological legal research, statutory and case approaches; the research location is the Rokan Hulu Resort Police; population and samples of relevant sources; data sources are primary, secondary and tertiary; Data collection techniques are observation, structured interviews and document/library study; Data analysis is qualitative with inductive conclusion drawing. The results of the research are that these regulations have not been implemented in the Women and Children Protection Unit of the Rokan Hulu Resort Police for children in conflict with the law. The results of the research are, First, the arrangements for fulfilling children's rights in the Women's and Children's Services Unit of the Rokan Hulu Resort Police are based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, with jurisdiction the provisions in Article 33 paragraph (5) of the regulation apply. Second, the fulfillment of the children's rights in the Unit based on these regulations was not implemented, they were instead left in the detention cells of the Rambah Sector Police and mixed in one cell with adult prisoners. This is due to several factors, namely legal/legislative factors, non-regulation of sanctions, namely inadequate legal products to overcome the problem of the absence of LPSK buildings; There are no regional regulations that further regulate the obligations for the development/provision of LPSK. The law enforcement/government apparatus factor, namely the local regional government, in the APBD it prepares, never budgets for the establishment and implementation of LPSK in Rokan Hulu Regency. Facilities/facilities factor, namely people who do not understand the law and therefore do not know that children detained in the investigation process at the police level have the right to be detained at the LPSK. Community factors; namely LPSK does not exist in Rokan Hulu Regency; For the purposes of investigations at the police level it can only be carried out within a maximum of 7 (seven) days so that it is not time and cost efficient if carried out.

Keywords: LPSK, Children, Rokan Hulu

ABSTRAK

Pasal 33 ayat (5) Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, bahwa: Dalam hal tidak terdapat Lembaga Penempatan Anak Sementara, penahanan dapat dilakukan di Lembaga Penyelenggaraan Kesejahteraan Sosial setempat." Tujuan penelitian ialah Untuk menganalisis pengaturan pemenuhan hak Anak tersebut di Kepolisian Resor Rokan Hulu berdasarkan regulasi tersebut; Untuk menganalisis pemenuhan hak Anak tersebut di Kepolisian Resor Rokan Hulu

berdasarkan regulasi tersebut. Metode penelitian ialah penelitian hukum sosiologis, pendekatan perundang-undangan dan kasus; lokasi penelitian yaitu Kepolisian Resor Rokan Hulu; populasi dan sampel dari narasumber-narasumber yang relevan; sumber data ialah primer, sekunder dan tersier; teknik pengumpulan data ialah observasi, wawancara terstruktur dan studi dokumen/kepustakaan; analisis data ialah kualitatif dengan penarikan kesimpulan induktif. Hasil penelitian yaitu regulasi tersebut belum terlaksana di Unit Perlindungan Perempuan dan Anak Kepolisian Resor Rokan Hulu terhadap anak yang berkonflik dengan hukum. Hasil penelitian ialah, *Pertama*, Pengaturan pemenuhan hak Anak tersebut di Unit Pelayanan Perempuan dan Anak Kepolisian Resor Rokan Hulu berdasarkan Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak secara yurisdiksi berlaku ketentuan dalam Pasal 33 ayat (5) regulasi tersebut. *Kedua*, Pemenuhan hak Anak tersebut di Unit itu berdasarkan regulasi tersebut tidak terlaksana, mereka justru di titipkan di sel tahanan Kepolisian Sektor Rambah dan berbaur satu sel dengan tahanan dewasa. Hal tersebut disebabkan beberapa faktor, yaitu Faktor hukum/peraturan perundang-undangan, tidak diaturnya sanksi yaitu Produk hukum yang tidak memadai untuk mengatasi permasalahan tidak adanya bangunan LPSK; Tidak adanya peraturan daerah k yang mengatur lebih lanjut mengenai kewajiban pembangunan/ penyediaan LPSK. Faktor aparat penegak hukum/pemerintah yaitu Pemerintah daerah setempat dalam APBD yang disusunnya tidak pernah menganggarkan pendirian dan penyelenggaraan LPSK di Kabupaten Rokan Hulu. Faktor sarana/fasilitas, yaitu masyarakat yang tidak paham hukum sehingga tidak mengetahui bahwa anak yang ditahan dalam proses penyidikan di tingkat kepolisian mendapatkan hak penahanan di LPSK. Faktor masyarakat; yaitu LPSK tidak ada di Kabupaten Rokan Hulu; untuk kepentingan penyidikan di tingkat kepolisian hanya boleh dilakukan paling lama 7 (tujuh) hari sehingga tidak efisiensi waktu dan biaya jika dilakukan.

Kata Kunci: LPSK, Anak, Rokan Hulu

INTRODUCTION

The state upholds human rights, including children's human rights, which are marked by the guarantee of protection of children's rights. Organizing child protection will create better and stronger national shoots if it has been given from childhood. However, this will be the opposite if child protection is ignored.¹

In this regard, the state provides protection to the people, especially children, in accordance with the mandate of Article 28I paragraph (5) of the 1945 Republic of Indonesia Law: Protection, advancement, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. This guarantee is strengthened through the ratification of the international convention on the Rights of the Child, namely the ratification of the Convention on the Rights of the Child through Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child 1989. The substance of protection for children is regulated in Article 3 paragraph (2) of the Convention on the Rights of the Child 1989, that: countries participating in the convention are obliged to strive to ensure that children receive the protection and care needed for their welfare by paying attention to the rights and responsibilities for children and for this purpose, will take all steps so that every child

¹ Laurensius Arliman S, "Perlindungan Hukum Bagi Anak Dalam Perspektif Pancasila dan Bela Negara," *Jurnal Ilmu Hukum Unifikasi*, Vol. 05 No. 01 Januari 2018, hlm. 61.

has the inherent right to life and the state will guarantee this to the maximum extent of the child's survival and development.²

Referring to the convention, a child means every human being under the age of 18 years, unless according to the law on children, adulthood is achieved earlier. Therefore, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection defines a child as someone who is not yet eighteen years old, including a child who is still in the womb.³

Providing protection for children is an obligation and responsibility of parents, families, communities, government and the state. As stated in Law Number 23 of 2002 concerning Child Protection, Article 20 which reads.⁴In order to emphasize special protection for children, in the criminal field, protection for children is also provided for children involved in a crime by implementing the Juvenile Criminal Justice System regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. According to Article 1 number 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, that: 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.

In the scope of the characteristics and traits that are typical of children and the specificity of protection for children as stated in the General Explanation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, children need to receive protection from the negative impacts of rapid development, the flow of globalization in the field of communication and information, advances in science and technology, and changes in the style and lifestyle of some parents who have brought about fundamental social changes in the lives of society that greatly influence the values and behavior of children.

The impact has brought about changes in children's behavior, where the children are then involved in a crime and criminal acts so that they then have the status of Children in Conflict with the Law (ABH) (victims/witnesses) or Children in Conflict with the Law (perpetrators). Crimes committed by children cannot be separated from various life pressures, both economic and social. Children who lack or do not receive

² Hero Nehemia Lasapu, Deicy N. Karamoy dan Lusy K.F.R. Gerungan, "Perlindungan Anak Atas Eksploitasi Seksual menurut *Convention On The Rights Of The Child 1989*", *Jurnal Lex Crimen*, Vol. 11 No. 5 Tahun 2022, hlm. 3.

³ M. Nasir Djamil, *Anak Bukan untuk Dihukum*, (Jakarta: Sinar Grafika, 2013), hlm. 10.

⁴ Syahrin, M. A. (2023). Critical Study Of Criminal Sanctions For Child Neglect By Parents In Indonesia. *Jurisprudentie:Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum*, 10(2), 95-105. <https://doi.org/10.24252/jurisprudentie.v10i2.42289>. P. 99

physical, mental or social attention often behave and act antisocially which is detrimental to themselves, their families and society.⁵

Such a situation is very much in contrast to the pressing economic needs of society, thus driving high crime rates and criminal acts. This is in line with the opinion of Abdul Syani, who stated that the factors causing a crime, which consist of: ⁶

1. Internal factors, consisting of: mental illness, emotional power, anatomy, age, gender, individual position in society, education and entertainment in society.
2. External factors, consisting of: economy, religion, reading and film factors

Meanwhile, according to Sudarto, a criminal act is a legal concept, different from the term crime (crime or Verbrechen or misdAAD) which can be interpreted legally (legally) or criminologically.⁷

Criminalization is the same as punishment. Punishment comes from the word law, so it can be given the meaning of providing a legal determination or deciding on punishment (*berechten*).⁸ Criminalization of Children in Conflict with the Law implemented in the Juvenile Criminal Justice System is part of law enforcement with a series of special processes/stages. Where in essence law enforcement is an effort to enforce legal norms, both those that function as orders (*gebot*, command) or have other functions such as giving power (*ermachtigen*, to empower), a permission (*erlauben*, to permit), and prohibitions (*derogieren*, to derogate).⁹

In relation to the law enforcement process, the general explanation section of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System also explains that: cases of children in conflict with the law must be tried in a juvenile criminal court within the general judicial system. The judicial process for juvenile cases from the time they are arrested, detained, and tried must be carried out by special officials who understand children's problems, especially at the detention stage. At the detention stage for Children in Conflict with the Law, the provisions as stipulated in Article 33 paragraph (5) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System apply, namely: In the event that there is no Temporary Child Placement Institution, detention can be carried out at the local Social Welfare Institution.

⁵ Nashrina, *Perlindungan Hukum Pidana Bagi Anak di Indonesia*, (Jakarta: Rajawali Press, 2011), hlm. 76.

⁶ Abdul Syani, *Sosiologi Kriminalitas*, (Bandung: Remaja Rosda Karya, 1987), hlm. 44-51.

⁷ Sudarto, *Kapita Selekta Hukum Pidana*, (Bandung: Alumni, 1986), hlm. 14.

⁸ Tina Asmarawati, *Pidana Dan Pemidanaan Dalam Sistem Hukum di Indonesia* (Yogyakarta: Deepublish, 2015), hlm. 108

⁹ Siswanto Sunarno, *Hukum Pemerintahan Daerah di Indonesia*, (Jakarta: Sinar Grafika, 2009), hlm. 42.

According to Article 1 number 21 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the Temporary Child Placement Institution, hereinafter abbreviated as LPAS, is a temporary place for children during the trial process. Meanwhile, Article 1 number 22 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System provides a legal definition of the Social Welfare Institution, that: The Social Welfare Institution, hereinafter abbreviated as LPKS, is an institution or place of social service that implements the provision of social welfare for children. However, based on initial research conducted by the author through observation, it is known that in the investigation process at the police level, namely the Rokan Hulu Police Resort against Children in Conflict with the Law, their detention was not carried out at the Social Welfare Institution, but was only placed in a detention cell belonging to the Rambah Police Sector. Especially in 2022 to 2023, there were 22 (twenty-two) cases in the form of criminal cases of abuse, theft, sexual intercourse and molestation.

Tabel I. 1

Number of Criminal Cases Committed by Children in Conflict with the Law in the Jurisdiction of the Rokan Hulu Police Department in 2022 and 2023

Types of Criminal Acts	Total (Cases)	
	2022	2023
Abuse	1	1
Theft	2	2
Intercourse	4	5
Indecency	3	4
Total	10	12

Sumber data: *Rokan Hulu Police Resort, processed in 2024*

Based on the author's observations in the initial research, it was also discovered that the policy was taken by the Rokan Hulu Police with the consideration that:

1. In the jurisdiction of Rokan Hulu there is no Temporary Child Placement Institution or Social Welfare Institution. Meanwhile, there is only 1 special institution for child detention called the Correctional Center in the Riau region which is located in Pekanbaru City, namely the Pekanbaru Correctional Center.
2. Based on the Provisions of Article 33 paragraph (1) of Law Number 11 of 2012 concerning the Child Criminal Justice System, detention for the purposes of investigation at the police level may only be carried out for a

maximum of 7 (seven) days so that it is not efficient in terms of time and costs if detention is carried out at the Pekanbaru Correctional Center

Based on the background above, it is known that there has been a gap between the laws and regulations (Das Sollen), namely Article 33 paragraph (5) of Law Number 11 of 2012 concerning the Child Criminal Justice System and the implementation of the law (Das Seins), namely that children in conflict with the law in Rokan Hulu Regency are actually detained in the Rambah Police Sector detention cells. Therefore, legal research needs to be carried out. Legal research according to is a scientific activity based on certain methods, systematics, and thoughts that aim to study something or several certain legal phenomena by analyzing them.¹⁰

RESEARCH METHODOLOGY

This study uses sociological legal research on the effectiveness of law. Sociological legal research is also often referred to as empirical research, namely: A legal research method that functions to be able to see the law in a real sense and examine how the law works in a community environment. Because this study is studying people in living relationships in society, the empirical legal research method can also be said to be sociological legal research.¹¹ Therefore, as a requirement, researchers must know legal science and social sciences and have knowledge in social science research.

Sociological/empirical legal research prioritizes field research, as stated by Hadari Nawawi, that: The field research referred to is essentially a method for specifically finding out the reality of what is happening in society, so conducting research on several current problems/hottest issues that are currently raging and expressed in the form of symptoms or social processes.¹²

In this study, the research approach used to answer the research problem is:

- a. Statutory approach, statutory approach is: "The approach used to examine all laws and regulations related to the legal problems or issues faced. This statutory approach is carried out by studying the consistency/conformity between applicable laws. This approach is used to examine various legal regulations that are the focus of a study.¹³ In the statute approach method, researchers need to understand the hierarchy of legislation and the principles of statutory regulations.¹⁴

¹⁰ Zainuddin Ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, 2014), hlm. 18.

¹¹ Soerjono Soekanto, *Sosiologi Suatu Pengantar*, (Jakarta: Rajawali Pers, 2012), hlm. 12.

¹² Hadari Nawawi, *Metode Penelitian Bidang Sosial*, (Yogyakarta: Gadjah Mada University Press, 1998), hlm. 63.

¹³ Peter Mahmud Marzuki, *Penelitian Hukum*, Cetakan -11, (Jakarta : Kencana, 2011), hlm. 133.

¹⁴ *Ibid.*

- b. Case approach, Case approach is: an approach carried out by examining cases related to the legal issues being faced.¹⁵

RESULTS AND DISCUSSION

Regulations on Fulfillment of the Rights of Children in Conflict with the Law in the Women and Children's Service Unit of the Rokan Hulu Police Resort based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

In Indonesia, the criminal justice system is implemented in an integrated criminal justice system. The criminal justice system comes from the words "system" and "criminal justice". The system can be interpreted as a series of interrelated elements to achieve certain goals.¹⁶ The integrated criminal justice system is an institution or agency that works in law enforcement such as the Police, the Prosecutor's Office and the judiciary, although their duties are different and internally have their own goals, but in essence each subsystem in the criminal justice system cooperates with each other and is bound by the same goal. The substance of the Criminal Procedure Code is a form of an integrated criminal justice system.¹⁷

The study of criminal justice requires us to examine every legal problem with a systems approach. The law enforcement system in criminal justice is realized by the implementation of criminal justice, which is the work of criminal law enforcement officers starting from the process of investigation, investigation, arrest, detention, prosecution to examination in court or in other words the work of the police, prosecutors, judges, correctional officers which also means the process of criminal procedural law.¹⁸

Law enforcement in the context of criminal law is part of criminalization. Criminalization is also known as punishment. In relation to this, according to Andi Hamzah, Criminalization or punishment is a general definition, which refers to a sanction that causes suffering or misery that is deliberately imposed on someone.¹⁹

The implementation of criminal punishment must pay attention to the provisions of legal protection from the state if specifically regulated regarding the existence of legal protection in the implementation of criminal punishment. Satjipto Raharjo provides an understanding of the concept of legal protection, that: legal protection is an action to

¹⁵ *Ibid*, hlm. 134.

¹⁶ Anssorie Sabuan, *Hukum Acara Pidana*, (Bandung: Angkasa, 1990), hlm. 32.

¹⁷ Supriyanta, KUHAP dan Sistem Peradilan Pidana terpadu, "*Jurnal Wacana Hukum*", Vol. IIV No. 1, Tahun 2019, hlm. 12.

¹⁸ C. djisman Samosir, *Hukum Acara Pidana*, (Bandung: Penerbit Nuansa Aulia, 2018), hlm. 4.

¹⁹ Andi Hamzah, *Sistem Pidana dan Pemidanaan Indonesia*, (Jakarta: PT Pradnya Paramita: 1993), hlm. 1.

provide protection to parties who are harmed and whose basic rights are violated and this protection is given to the community so that the community can enjoy their rights which have been legally granted by law. Legal protection in Satjipto Raharjo's concept has been adopted in cases of children, where today the criminal justice system is implemented by considering the condition of children regarding the existence of protection for children from a legal aspect. This is given considering the position of children in a nation, as stated that: Children are national assets, as part of the young generation, children play a very strategic role as successors to a nation. In the context of Indonesia, children are the successors to the ideals of the nation's struggle. This strategic role has been recognized by the international community to give birth to a convention which in essence emphasizes the position of children as human beings who must receive protection for the rights they have.²⁰

The convention in question is the Convention on the Rights of the Child 1989. The substance of child protection is regulated in Article 3 paragraph (2) of the Convention on the Rights of the Child 1989, that: countries participating in the convention are obliged to strive to ensure that children receive the protection and care necessary for their welfare by taking into account the rights and responsibilities for children and for this purpose, will take all steps that every child has the inherent right to life and the state will guarantee this to the maximum extent for the survival and development of children. "The convention has been ratified by the Indonesian government through Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child 1989. The Indonesian Constitution regulates and recognizes the guarantee of legal protection for children specifically in Article 28B paragraph (2), which states that: "Every child has the right to survival, growth and development and has the right to protection from violence and discrimination." Legal protection for children is generally contained in Article 28G paragraph (1) which states that: "Everyone has the right to protection of themselves, their families, their honor, their dignity, and their property under their control, and has the right to a sense of security and protection from the threat of fear to do or not do something that is a basic human right.

Legal protection for children's rights is further stated in the considerations of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, that: Children need to be protected from the negative impacts of rapid development, the flow of globalization in the field of communication

²⁰ Mohd. Yusuf D.M, Raja Ferza Fakhlevi, Tengku Apriyanita, Vriandri Bachtiar, dan Syafruddin, "Kejahatan Anak Dibawah Umur Dari Aspek Sosiologi Hukum", *Jurnal Ilmu Hukum The Juris*, Vol. VI, No. 1 Juni 2022, hlm. 263.

and information, advances in science and technology, and changes in the lifestyle and way of life of some parents who have brought about fundamental social changes in the lives of society that greatly influence the values and behavior of children.

The provision of legal protection is carried out in the juvenile criminal justice system, where one of the obligations for legal protection lies with the state. Theoretically, the juvenile criminal justice system is a term used to mean that several law enforcement institutions within the scope of the courts, including the police, public prosecutors and legal counsel, supervisory institutions, juvenile detention centers, and juvenile development facilities.

All forms of unlawful acts are part of criminalistics. Criminalistics is a discussion of crimes that emphasizes more on the problems that occur along with their technical aspects".²¹ Crime tends to increase every year, crimes are committed by people with certain characteristics. Based on observations made by the author in this thesis research, crimes also occur to children, both children as perpetrators and victims of a crime/crime occurring in the jurisdiction of the Rokan Hulu Police Resort.

The results of these observations are reinforced by the results of the author's interview with the Head of the Women and Children Protection Unit of the Rokan Hulu Police Criminal Investigation Unit, who stated that: criminal acts involving children, both children who play the role of perpetrators and victims in the crime, still occur in the jurisdiction of the Rokan Hulu Police in 2022 and 2023. Considering that the perpetrators are children and in some cases the victims are also children, special law enforcement procedures are needed with special laws as well.²²

The position of children in the criminal justice system based on the results of the author's interview with the Head of the Pekanbaru City Social Service, in this case represented by the Child Social Worker of the Riau Province Social Service, is known to be divided into two, namely; "Children who commit crimes are referred to as children in conflict with the law, while children who are victims of crimes are referred to as children in conflict with the law."²³ "Every child who is in conflict with the law or in conflict with the law requires guidance and protection in order to guarantee physical, mental and social growth and development in a complete, harmonious, consistent and

²¹ Nandang Sambas dan Dian Andriasari, *Kriminologi Perspektif...*, *Op. Cit*, hlm.28.

²² Author's Interview with Mr. Aipda Sahran Hasibuan, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.30 WIB, at the Rokan Hulu Police Resort Headquarters.

²³ Interview of the Author with the Head of the Social Service, Riau Province, in this case represented by Mrs. Sri Wahyuni S.S.T., M.Si as a Child Social Worker of the Riau Province Social Service, on Monday, July 1, 2024, at 09.30 WIB, at the Riau Province Social Service Office.

balanced manner."²⁴ Therefore, in the child criminal justice system, both perpetrators and victims have the right to legal protection.

Specifically regarding children in conflict with the law, as the focus of this thesis research, the definition is as stated in Article 1 number 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, "is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a crime. In this case there must be a distinction between legal responsibility by adults and children. Legally according to Article 1 number 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. This is confirmed by the results of the author's interview with the Head of the Pekanbaru Correctional Center, in this case represented by the Head of the Child Client Guidance Sub-Section of the Pekanbaru Correctional Center, who stated that: Minors or those often referred to as children are those who are under 18 years old."²⁵

A definition that narrates about children is important, especially in relation to the existence of an age limit for committing criminal acts, so that if a child is already nineteen years old then he can be held criminally responsible.²⁶ Talking about the juvenile criminal justice system, it is known that the juvenile criminal justice system is a beginner for a child to commit a violation of the law. So this is specifically intended to describe a legal process against children who violate criminal law.²⁷

One of the specialties is regarding the place of detention for children who commit crimes or are known as children in conflict with the law. The specialties referred to are as stated in Article 33 paragraph (5) of Law Number 11 of 2012 concerning the Child Criminal Justice System, that: In the event that there is no Temporary Child Placement Institution, detention can be carried out at the local Social Welfare Institution.

The special place of detention for children is a form of children's rights in Article 3 letter b of Law Number 11 of 2012 concerning the Child Criminal Justice System, which states that: Every child in the criminal justice process has the right to be separated from the criminal. The special form of the Social Welfare Implementation Institution is as we can understand from its legal definition in Article 1 number 22 of Law Number 11 of 2012 concerning the Child Criminal Justice System, which states that: Social Welfare Implementation Institution, that: Social Welfare Implementation Institution, hereinafter

²⁴ Bunayi Hidayat, *Pemidanaan Anak Di Bawah Umur*, (Bandung: PT. Alumni, 2010), hlm. 4

²⁵ Author's Interview with the Head of the Pekanbaru Correctional Center, in this case represented by Mrs. Marlina, S.Sos, as the Head of the Child Client Guidance Sub-Section of the Pekanbaru Correctional Center, on Monday, July 1, 2024, at 13.30 WIB, at the Pekanbaru Correctional Center Office.

²⁶R. Wiyono, *Sistem Peradilan Pidana Anak di Indonesia*, Cetakan.1, (Jakarta: Sinar Grafika, 2016), hlm. 16.

²⁷ *Ibid.*

abbreviated as LPKS, is an institution or place of social service that implements the provision of social welfare for children.

All legal products made by the central government, especially laws in the context of jurisdiction, have regulatory authority for all regions in the Unitary State of the Republic of Indonesia, unless specifically regulated in the law. According to Wallace, jurisdiction is an attribute of a country's sovereignty. The jurisdiction of a country indicates the competence of a country to regulate people and wealth with its national law (criminal and civil).²⁸

Article 33 paragraph (5) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which orders the detention of children to be placed in a local Social Welfare Institution in the concept of jurisdiction is binding throughout Indonesia, so the regulation on the fulfillment of the rights of Children in Conflict with the Law related to detention also applies in the jurisdiction of the Rokan Hulu Police.

So it can be said that the regulation on the fulfillment of the rights of Children in Conflict with the Law in the Women and Children's Service Unit of the Rokan Hulu Police based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the provisions in Article 33 paragraph (5) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System apply in terms of jurisdiction, namely: In the event that there is no Temporary Child Placement Institution, detention can be carried out at a local Social Welfare Institution.

Fulfillment of the Rights of Children in Conflict with the Law in the Women and Children's Service Unit of the Rokan Hulu Police Resort based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

Crime tends to increase every year, crimes are committed by people with certain characteristics, even in certain conditions the perpetrators are minors. One of the structural problems that need to be considered in the analysis of Indonesian criminology is the problem of poverty. In criminology theory, this condition is actually considered very important because poverty is a form of structural violence with very many victims. Crime in Indonesia is also driven by the economic crisis, including income inequality and economic injustice. Based on observations made by the author, such conditions are very contrasting with the conditions of crime in the jurisdiction of the Rokan Hulu Police which is dominated by poverty, although there are other factors, where crime in the sense of criminal acts is also not committed by minors according to the focus of this thesis research.

²⁸ Halimatul Maryani, "Yurisdiksi Negara dalam Pencegahan dan Pemberantasan Illegal Fishing di Indonesia" *Jurnal Ilmiah Penegakan Hukum*, Vol.. 6 No. 1 Juni 2019, hlm. 52.

This is reinforced by the results of an interview with the Head of the Women and Children Protection Unit of the Rokan Hulu Police Criminal Investigation Unit, who stated that: The number of crimes committed by minors is quite high in the jurisdiction of the Rokan Hulu Police, especially in 2022 to 2023 with a total of 22 cases, with the following details:²⁹

1. In 2023, there were a total of 10 criminal cases committed by minors, namely:
 - a. Criminal assault 1 case
 - b. Criminal theft 2 cases
 - c. Criminal intercourse 4 cases
 - d. Criminal molestation 3 cases
2. In 2023, there were a total of 12 criminal cases committed by minors, namely Pada tahun 2023 totalnya 12 kasus tindak pidana yang dilakukan oleh anak di bawah umur, yaitu:
 - a. Criminal acts of assault as many as 1 case
 - b. Criminal acts of theft as many as 2 cases
 - c. Criminal acts of sexual intercourse as many as 5 cases
 - d. Criminal acts of indecency as many as 4 cases

Some of them are related to the chronology of law enforcement, especially the detention, as the author describes below:

1. Children in Conflict with the Law Perpetrators of Abuse in Police Report Number: LP/B/174/V/2022/SPKT/ROKAN HULU POLICE/RIAU REGIONAL POLICE Detained in Rambah Police Sector Detention Cells

Based on observations made by the author in this study, it is known that in May 2022, a minor abuse crime occurred which was reported by the victim to the Rokan Hulu Police in Number: LP/B/174/V/2022/SPKT/POLRES ROKAN HULU/POLDA RIAU where the child in conflict with the law was detained in the Rambah Police Sector detention cell. This is reinforced by the results of the author's interview with the Head of the Criminal Investigation Unit of the Rokan Hulu Police, who stated that: The minor abuse crime that occurred in May 2022 was committed by a minor with the victim being an adult. The child was placed in the

²⁹Author's Interview with Mr. Aipda Sahran Hasibuan, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.30 WIB, at the Rokan Hulu Police Resort Headquarters.

Rambah Police detention cell while the investigation was carried out by the Women and Children Protection Unit of the Rokan Hulu Police.³⁰

Regarding the detention in question, the author also conducted an interview with the Head of the Rambah Police Sector. In his interview with the author, he stated that: It is true that in 2022, his party was deceived by a detainee who was still a minor by the Women and Children Protection Unit of the Rokan Hulu Police Resort from the start of the investigation until the detainee was transferred to the Rokan Hulu District Attorney's Office by the Rokan Hulu Police Resort.³¹

The chronology and law enforcement are known to the author from the results of an interview conducted by the author with the Head of the Women and Children Protection Unit of the Rokan Hulu Police Criminal Investigation Unit. In the interview, he said that: The case that occurred in May 2022 in the form of a minor assault crime reported by the victim to the Rokan Hulu Police in Number: LP/B/174/V/2022/SPKT/POLRES ROKAN HULU/POLDA RIAU which was carried out by a minor with the initials IK against an adult was basically handled well by his party. In this case, the child concerned was charged with the threat of criminal sanctions in Article 352 of the Criminal Code in conjunction with Article 81 paragraph (2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. However, unfortunately, during the investigation process, the child was placed in a detention cell at the Rambah Police Sector, mixed with adult prisoners, considering that in Rokan Hulu Regency there is no Social Welfare Institution which legally functions as a place to detain children who are in conflict with the law during the investigation stage at the police level.³²

Regarding the non-fulfillment of detention rights at the Social Welfare Institution for children in conflict with the law, the author also conducted an interview with the child. In his interview with the author, the person concerned stated that: It is true that when he was questioned at the Rokan Hulu Police Resort, he was placed in the Rambah Police Sector detention cell mixed with adult prisoners.

³⁰Author's Interview with Mr. AKP. Dr. Raja Kosmos Parmulais, S.H., MH as Head of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.00 WIB, at the Rokan Hulu Police Resort Headquarters.

³¹ Author's Interview with Mr. Iptu Hendra Sitorus, SH., MH as the Head of the Rambah Police Sector, on Wednesday, July 4, 2024, at 11.05 WIB, at the Rambah Police Sector Headquarters.

³²Author's Interview with Mr. Aipda Sahran Hasibuan, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.30 WIB, at the Rokan Hulu Police Resort Headquarters.

Where in 2022 he was questioned and named a suspect in the criminal act of abuse that he committed.³³

The author also conducted an interview with the Head of the Pekanbaru Correctional Center, in this case represented by the Head of the Child Client Guidance Sub-Section of the Pekanbaru Correctional Center, who stated that: "Actually, children in conflict with the law in Rokan Hulu Regency can be placed in the Pekanbaru Correctional Center during the police investigation stage. However, so far this has never been done by the Rokan Hulu Police because as far as he knows, the long distance is quite time-consuming and expensive, especially if during the detention period an examination is carried out during the police investigation stage."³⁴

In his interview with the Head of the Pekanbaru Social Service in this case represented by the Child Social Worker of the Riau Provincial Social Service regarding this problem, he stated that the failure to fulfill the rights of children in conflict with the law in the jurisdiction of the Rokan Hulu Police Resort will certainly have a negative impact on the child concerned. Then the welfare of the child will also not be obtained by the child concerned properly.³⁵

2. Children in Conflict with the Law Perpetrators of Ordinary Theft in Police Report Number: LP/B/251/XII/2023/SPKT/POLRES ROKAN HULU/POLDA RIAU who are being held in the Rambah Police Sector Detention Cell

Based on observations made by the author in this study, it is known that in December 2023, a criminal act of ordinary theft occurred which was reported by the victim to the Rokan Hulu Police Resort LP/B/251/XII/2023/SPKT/POLRES ROKAN HULU/POLDA RIAU. where the child in conflict with the law was detained in the Rambah Police Sector detention cell. This is reinforced by the results of the author's interview with the Head of the Criminal Investigation Unit of the Rokan Hulu Police Resort, who stated that: The criminal act of ordinary theft that occurred in December 2023 was committed by a minor where the child was placed in

³³Wawancara Penulis dengan IK Selaku Anak Yang Berkonflik dengan Hukum di Kabupaten Rokan Hulu yang Dilakukan Penahanan di Tahanan Kepolisian Sektor Rambah, Pada Hari Jum'at, Tanggal 12 Juli 2024, Pukul 08.30 WIB di Markas Kepolisian Sektor Rambah.

³⁴Wawancara Penulis dengan Kepala Balai Pemasarakatan Pekanbaru, Dalam Hal Ini Diwakili Oleh Ibu Marlina,S.Sos, Selaku Kepala Sub Seksi Bimbingan Klien Anak Balai Pemasarakatan Pekanbaru, Pada Hari Senin, Tanggal 1 Juli 2024, Pukul 13.30. WIB, di Kantor Balai Pemasarakatan Pekanbaru.

³⁵Wawancara Penulis dengan Kepala Dinas Sosial, Provinsi Riau, Dalam Hal Ini Diwakili oleh Ibu Sri Wahyuni S.S.T., M. Si Selaku Pekerja Sosial Anak Dinas Sosial Provinsi Riau, Pada Hari Senin, Tanggal 1 Juli 2024, Pukul 09.30. WIB, di Kantor Dinas Sosial Provinsi Riau.

the Police Sector detention cell during an investigation by the Women and Children Protection Unit of the Rokan Hulu Police Resort.³⁶

Regarding the detention referred to, the author also conducted an interview with the Head of the Rambah Police Sector. In his interview with the author, he stated that: It is true that in 2023, his party was tricked into detaining by the Women and Children Protection Unit of the Rokan Hulu Police Resort from the start of the investigation until the detainee was transferred to the Rokan Hulu District Attorney's Office by the Rokan Hulu Police Resort. The detainee was a child in conflict with the law, a perpetrator of ordinary theft who committed theft in the Rokan Hulu Regency area.³⁷

The chronology and law enforcement are known to the author from the results of an interview conducted by the author with the Head of the Women and Children Protection Unit of the Rokan Hulu Police Criminal Investigation Unit. In the interview, he said that: The case that occurred in December 2023 was a criminal act of ordinary theft reported by the victim to the Rokan Hulu Police in December 2023 in LP/B/251/XII/2023/SPKT/ROKAN HULU POLICE/RIAU REGIONAL POLDA committed by a minor with the initials PL was basically handled well by his party. However, unfortunately, during the investigation process, the child was placed in the Rambah Police Sector detention cell mixed with adult prisoners considering that in Rokan Hulu Regency there is no Social Welfare Institution which legally functions as a place to detain children who are in conflict with the law during the investigation stage at the police level.³⁸

Regarding the non-fulfillment of detention rights in the Social Welfare Institution for children in conflict with the law, the author also conducted an interview with the child. In his interview with the author, the person concerned stated that: It is true that at that time he was placed in the Rambah Police Sector detention cell mixed with adult prisoners. Where in 2023 he was questioned and named a suspect in the crime of ordinary theft that he committed.³⁹

³⁶Author's Interview with Mr. AKP. Dr. Raja Kosmos Parmulais, S.H., MH as Head of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.00 WIB, at the Rokan Hulu Police Resort Headquarters.

³⁷ Author's Interview with Mr. Iptu Hendra Sitorus, SH., MH as the Head of the Rambah Police Sector, on Wednesday, July 4, 2024, at 11.05 WIB, at the Rambah Police Sector Headquarters.

³⁸Author's Interview with Mr. Aipda Sahran Hasibuan, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.30 WIB, at the Rokan Hulu Police Resort Headquarter..

³⁹Author's Interview with PL as a Child in Conflict with the Law in Rokan Hulu Regency Who Was Detained in the Rambah Police Sector Detention Center, on Friday, July 12, 2024, at 09.30 WIB at the Rambah Police Sector Headquarters

The author also conducted an interview with the Head of the Pekanbaru Correctional Center, in this case represented by the Head of the Child Client Guidance Sub-Section of the Pekanbaru Correctional Center, who stated that: Actually, children in conflict with the law in Rokan Hulu Regency can be entrusted to the Pekanbaru Correctional Center during the police investigation stage. However, so far this has never been done by the Rokan Hulu Police because as far as he knows, the long distance is quite time-consuming and expensive, especially if during the custody period an examination is carried out during the police investigation stage.⁴⁰

In his interview with the Head of the Pekanbaru Social Service in this case represented by the Child Social Worker of the Riau Provincial Social Service regarding this problem, he stated that the failure to fulfill the rights of children in conflict with the law in the jurisdiction of the Rokan Hulu Police Resort will certainly have a negative impact on the child concerned. Then the welfare of the child will also not be obtained properly by the child concerned.⁴¹

3. Children in Conflict with the Law for Aggravated Theft in Police Report Number: LP/B/811/II/2022/SPKT/ROKAN HULU POLICE/RIAU REGIONAL POLICE who are being held in the Rambah Police Sector Detention Cell

Based on observations made by the author in this study, it is known that in February 2022, a crime of aggravated theft occurred which was reported by the victim to the Rokan Hulu Police in Number: LP/B/811/II/2022/SPKT/POLRES ROKAN HULU/POLDA RIAU, where the child in conflict with the law was detained in the Rambah Police Sector detention cell. This is reinforced by the results of the author's interview with the Head of the Criminal Investigation Unit of the Rokan Hulu Police, who stated that: The crime of aggravated theft that occurred in February 2022 was committed by a minor. The child was placed in the Rambah Police detention cell during an investigation by the Women and Children Protection Unit of the Rokan Hulu Police.⁴²

⁴⁰ Author's Interview with with the Head of the Pekanbaru Correctional Center, in this case represented by Mrs. Marlina, S.Sos, as the Head of the Child Client Guidance Sub-Section of the Pekanbaru Correctional Center, on Monday, July 1, 2024, at 13.30 WIB, at the Pekanbaru Correctional Center Office.

⁴¹ Author's Interview with the Head of the Social Service, Riau Province, in this case represented by Mrs. Sri Wahyuni S.S.T., M.Si as a Child Social Worker of the Riau Province Social Service, on Monday, July 1, 2024, at 09.30 WIB, at the Riau Province Social Service Office.

⁴² Author's Interview with Mr. AKP. Dr. Raja Kosmos Parmulais, S.H., MH as Head of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.00 WIB, at the Rokan Hulu Police Resort Headquarters.

The chronology of the case and the process of examining the child perpetrator of the crime of aggravated theft, the author learned from the results of an interview the author conducted with the Head of the Women and Children Protection Unit of the Rokan Hulu Police Criminal Investigation Unit. In the interview, he said that: The case that occurred in February 2022 in the form of a crime of aggravated theft reported by the victim to the Rokan Hulu Police in February 2022 occurred to the Rokan Hulu Police in Police Report Number: LP/B/811/II/2022/SPKT/POLRES ROKAN HULU/POLDA RIAU which was carried out by a minor with the initials AS was basically handled well by his party. However, unfortunately, during the investigation process, the child was placed in the Rambah Police Sector detention cell mixed with adult prisoners considering that in Rokan Hulu Regency there is no Social Welfare Institution which legally functions as a place to detain children who are in conflict with the law during the investigation stage at the police level.⁴³

Regarding the failure to fulfill the right to detention at the Social Welfare Institution for children in conflict with the law, the author also conducted an interview with the child. In his interview with the author, the person concerned stated that: It is true that when he was questioned at the Rokan Hulu Police Resort at that time he was placed in the Rambah Police Sector detention cell mixed with adult prisoners. Where in 2022 he was questioned and named a suspect in the crime of aggravated theft that he committed.⁴⁴

The author also conducted an interview with the Head of the Pekanbaru Correctional Center, in this case represented by the Head of the Child Client Guidance Sub-Section of the Pekanbaru Correctional Center, who stated that: Actually, children in conflict with the law in Rokan Hulu Regency can be entrusted to the Pekanbaru Correctional Center during the police investigation stage. However, so far this has never been done by the Rokan Hulu Police because as far as he knows, the long distance is quite time-consuming and costly, especially if an examination is carried out during the investigation stage during the custody period.

⁴³Author's Interview with Mr. Aipda Sahran Hasibuan, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Rokan Hulu Police Resort, on Wednesday, July 3, 2024, at 11.30 WIB, at the Rokan Hulu Police Resort Headquarters.

⁴⁴Author's Interview with AS as a Child in Conflict with the Law in Rokan Hulu Regency Who Was Detained in the Rambah Police Sector Detention Center, on Friday, July 12, 2024, at 08.00 WIB at the Rambah Police Sector Headquarters.

In his interview with the Head of the Pekanbaru Social Service, represented by the Social Worker for Children of the Riau Province Social Service regarding this problem, he stated that the failure to fulfill the rights of children in conflict with the law in the jurisdiction of the Rokan Hulu Police Resort would certainly have a negative impact on the children concerned, and the welfare of the children concerned would also not be obtained properly by the children concerned.⁴⁵

CONCLUSION

1. Regulations for the fulfillment of the rights of Children in Conflict with the Law in the Women and Children's Service Unit of the Rokan Hulu Police Resort based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the provisions in Article 33 paragraph (5) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System apply, namely: In the event that there is no Temporary Child Placement Institution, detention can be carried out at the local Social Welfare Institution..
2. Fulfillment of the rights of Children in Conflict with the Law in the Women and Children's Service Unit of the Rokan Hulu Police Resort based on the regulation has not been implemented properly, they are actually placed in the Rambah Police Sector detention cells and mixed in one cell with adult prisoners. This is due to several factors, namely Legal factors/statutory regulations, no sanctions are regulated, namely Inadequate legal products to overcome the problem of the absence of LPSK buildings; There are no regional regulations that further regulate the obligation to build/provide LPSK. Law enforcement/government factors, namely the local government in the APBD that it has prepared has never budgeted for the establishment and implementation of LPSK in Rokan Hulu Regency. Facilities/facilities factors, namely the community who do not understand the law so they do not know that children who are detained in the investigation process at the police level have the right to detention at LPSK. Community factors; namely LPSK does not exist in Rokan Hulu Regency; for the purposes of investigation at the police level, it can only be done for a maximum of 7 (seven) days so that it is not efficient in terms of time and costs if detention is carried out at the Pekanbaru Correctional Center.

⁴⁵Author's Interview with the Head of the Social Service, Riau Province, in this case represented by Mrs. Sri Wahyuni S.S.T., M.Si as a Child Social Worker of the Riau Province Social Service, on Monday, July 1, 2024, at 09.30 WIB, at the Riau Province Social Service Office.

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