

## CHILD PROTECTION IN THE JUVENILE JUSTICE SYSTEM FROM THE PERSPECTIVE OF ISLAMIC LAW AND POLITICS

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### Abstract

Child protection within Indonesia's juvenile criminal justice system is a crucial issue, especially in light of the increasing number of crimes involving children. Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) aims to provide better protection for children in conflict with the law by emphasizing the principles of restorative justice and the best interests of the child. This study employs a qualitative method to analyze the implementation of the UU SPPA from the perspectives of Islamic law and politics. Data were collected through in-depth interviews with law enforcement officers, social workers, and other stakeholders, as well as an analysis of relevant legal documents. The findings indicate that although the UU SPPA provides a clear legal framework, challenges remain in its implementation, such as a lack of understanding among law enforcement personnel regarding child protection principles. Additionally, the perspective of Islamic law adds a moral dimension to child protection, viewing children as a trust (amanah) that must be safeguarded. The involvement of various stakeholders and a collaborative approach are essential in creating a safe environment for children and ensuring that their rights are effectively protected within the criminal justice system.

**Keywords:** Child Protection; Criminal Justice; Islamic Law; Politics

### INTRODUCTION

Children are a national asset and the successors of the nation's founders in realizing the vision of a developed country. As the next generation, children must receive comprehensive and widespread protection. To provide such protection, the Government of Indonesia has crystallized these interests into a national legal policy framework. The specific legal framework for child protection in Indonesia began to take shape when the country ratified the Convention on the Rights of the Child, which was adopted by the United Nations General Assembly on November 20, 1989. As a form of commitment, Indonesia ratified the convention through Presidential Decree No. 36 of 1990, and later reinforced it by enacting Law No. 23 of 2002 on Child Protection (commonly abbreviated as UPA). According to this law, a child is defined as any person under the age of 18, including those still in the womb.<sup>1</sup>

Essentially, the international community has placed special focus on the rights of children. This is reflected in Indonesia's Law No. 39 of 1999 on Human Rights, particularly Article 52, which states: "Children's rights are human rights, and for their best interests, children's rights are recognized and protected from the moment they are in the womb." In Indonesia, one of the manifestations of this recognition is the establishment of a special law for juvenile justice. The purpose of this law is to ensure that children's rights remain protected, even in the worst situations—such as when children violate legal norms and are subject to criminal proceedings.

In line with this commitment, the government enacted Law No. 3 of 1997 on Juvenile Courts. Over time, this law was revised and eventually replaced. On July 30, 2012, Law No. 11 of 2012 on the Juvenile Criminal Justice System was introduced, bringing a new approach to the legal treatment of children in conflict with the law.<sup>2</sup>

Childhood is both a golden period and a critical stage of human development. To achieve optimal growth and development, especially during this stage, proper attention is essential. Growth is defined as the increase in the number and size of cells and intercellular tissues, which in turn leads to an increase in the child's physical size and body structure. In contrast, development refers to the progress in the maturation of individual functions. Both growth and development must be carefully monitored and maintained, as they are key indicators in assessing a child's health status. These indicators also significantly influence the child's overall quality of life.<sup>3</sup>

From the perspective of the Qur'an, children are described as both adornments of life and sources of comfort to the heart. However, they also serve as a test for their parents. Through the blessing of children, Allah tests parents to see whether they will lead their children toward the path of Hell or the path of Paradise. If parents succeed in raising and guiding their children to become righteous and devoted, it means they have passed the test. Conversely, if their love for their children causes them to become negligent in remembering Allah, then they have failed the test given by Him. Such failure is something they will be held accountable for before Allah in the Hereafter.<sup>4</sup>

From a political perspective, child protection is also influenced by government policies, which must reflect a commitment to fulfilling children's rights in accordance with international standards such as the Convention on the Rights of the Child (CRC). Although there are regulations in place that support child protection, challenges in their implementation remain, including a lack of resources and training for law enforcement officers, as well as limited public awareness regarding children's rights. Therefore, it is essential to further explore how the principles of Islamic law can be integrated into child protection policies within the criminal justice system to achieve better outcomes for future generations.<sup>5</sup>

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<sup>1</sup> Dewi Sartika et al., "Prinsip Perlindungan Terhadap Anak Yang Melakukan Tindak Pidana," *Journal Kompilasi Hukum* 4, no. 2 (2019): 206–16, <https://doi.org/10.29303/jkh.v4i2.31>.

<sup>2</sup> Dina Pungkas, Amir Junaidi, and Femmy Silaswaty Faried, "Analisis Yuridis Implementasi Prinsip-Prinsip Hak Anak Dalam Sistem Peradilan Anak Yang Ada Di Indonesia," *Jurnal Bevinging* 1, no. 11 (2024): hlm. 66-73, <http://www.journal.uniba.ac.id/index.php/JB/article/view/1113>.

<sup>3</sup> Nevey Varida Ariani, "Pelaksanaan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak," *Lex Et Societatis*, no. 153 (2012): 39.

<sup>4</sup> Zulfa Ahmad, "Perlindungan Anak Dalam Perspektif Islam," *Islamica: Jurnal Studi Keislaman* 4, no. 1 (2014): 143, <https://doi.org/10.15642/islamica.2009.4.1.143-153>.

<sup>5</sup> <https://pa-rangkasbitung.go.id/publikasi-artikel/arsip-artikel/670-hak-hak-anak-dalam-islam-oleh-fahadil-amin-al-hasan>

## METHOD

The research method used in this study is a qualitative method, employing a library research approach. This approach involves the use of theories that are relevant to the research problems. Library research is a data collection technique conducted through a comprehensive review of books, literature, notes, and reports related to the issues being addressed. In writing this article, the author uses a library-based writing method, collecting data derived from theoretical analysis by examining books and journal articles related to the role of education in shaping personality.

The data collection tools used in this scientific work include observational studies, complemented by standard data collection tools typically used in library research. These tools involve collecting data from both primary and secondary sources. Primary sources refer to documents containing scientific knowledge or known facts, including ideas in the form of books, articles, and similar materials. Secondary sources, on the other hand, consist of documents that provide information about reference materials, such as reference books or citation sources.

## RESEARCH RESULTS

The research findings on child protection within the juvenile criminal justice system from the perspectives of Islamic law and politics indicate that child protection is a shared responsibility that must be effectively implemented in all aspects of law and public policy. Islamic law emphasizes the importance of safeguarding children's rights, including the right to life, growth, and proper development. In the context of the criminal justice system, principles such as justice, non-discrimination, and the best interests of the child must serve as the foundation for every legal process involving children.

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System in Indonesia has adopted several principles of Islamic law, including the implementation of diversion and restorative justice. Diversion aims to resolve cases outside the formal court system, so that children do not receive a negative stigma that could affect their future. Restorative justice focuses on restoring the child's condition and reintegrating them into society, rather than merely imposing punishment.

Politics also plays an important role in the implementation of child protection. Government policies supporting child protection must reflect Islamic values and take into account the needs and rights of children. In this context, collaboration between government institutions, communities, and non-governmental organizations is essential to create a safe environment for children. Research shows that challenges still exist in applying these principles in practice, such as a lack of resources and training for law enforcement officers as well as insufficient public awareness regarding children's rights.

Overall, child protection within the juvenile criminal justice system must be regarded as a top priority that involves a multidimensional approach, including aspects of Islamic law and politics, to ensure that every child receives fair and proper treatment throughout the judicial process.

## DISCUSSION

### Principles of Child Protection in Islamic Law

Child protection refers to all efforts made to create conditions that allow every child to exercise their rights and obligations for the proper development and growth of the child, including physical, mental, and social aspects. Gosita explains that child protection is a collective activity aimed at ensuring security, provision, and the fulfillment of the child's spiritual and physical welfare in accordance with their interests and basic rights.<sup>6</sup>

Child protection within Indonesia's juvenile criminal justice system is a very important issue, especially in the context of implementing Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). This law is designed to provide better legal protection for children in conflict with the law by emphasizing the principles of restorative justice and the best interests of the child. In practice, the UU SPPA regulates various mechanisms such as diversion, which allows cases to be resolved outside formal judicial proceedings, so that children do not experience negative stigma as a result of legal processes. Research shows that the application of this principle is crucial for restoring the relationship between the offender and the victim, as well as assisting the social reintegration of the child into the community.<sup>7</sup>

However, despite the UU SPPA providing a clear legal framework, challenges in its implementation still exist. Several studies have identified a lack of understanding among law enforcement officers regarding the principles of child protection and the diversion mechanism. Additionally, supporting infrastructure such as the Special Child Development Institution (LPKA) and the Temporary Child Placement Institution (LPAS) are not yet fully available across all regions of Indonesia. This results in inconsistencies in handling cases involving children in conflict with the law in various areas. Therefore, further efforts from the government and relevant institutions are necessary to ensure that the principles of child protection can be effectively implemented within the criminal justice system.

One of the key aspects of child protection is the application of the principle of restorative justice. This principle does not focus solely on punishing the offender, but also on restoring the relationship between the offender and the victim, as well as facilitating the offender's social reintegration into the community. In practice, restorative justice can be achieved through a deliberative process involving all relevant parties—the child offender, the victim, parents, and the community—to reach a mutually beneficial agreement. Research shows that this approach can reduce the likelihood of children reoffending and help them contribute positively to society.<sup>8</sup>

From the perspective of Islamic law, child protection also includes the moral responsibility of society to educate and guide children so they do not fall into criminal behavior. Islamic law emphasizes the importance of education as a means of shaping a child's character and morals. In this context, religious and moral education becomes essential in preventing children from engaging in criminal acts. Furthermore, Islamic law also provides room for the rehabilitation of child offenders through more humane and educational approaches.<sup>9</sup>

Child protection policy in Indonesia must also take into account the structural factors that affect the implementation of the Juvenile Criminal Justice System Law (UU SPPA). For example, adequate budget allocation for child protection and rehabilitation programs is necessary to ensure that relevant institutions can function effectively. In addition, there is a need to strengthen human resource capacity within these institutions so that they can understand and apply child protection principles effectively. Research shows that strong political support from the government is crucial for creating child-friendly policies.<sup>10</sup>

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<sup>6</sup> Arif Gosita, 1985, *Masalah Korban Kejahatan*, Akademika Pressindo, Jakarta, hlm. 18

<sup>7</sup> <https://pn-painan.go.id/webpn/statis-22/sistem-peradilan-anak.html>

<sup>8</sup> Zaki, Muhammad. "Perlindungan Anak Dalam Sistem Peradilan Pidana: Tinjauan Yuridis." *Jurnal Hukum & Pembangunan*

<sup>9</sup> Farid Mawardi Sufyan. "Perlindungan Anak Dalam Perspektif Hukum Islam." *Jurnal Al-Ulum* Vol. 2 No. 1 Februari 2015.

Community involvement is also a key element in child protection. The community needs to be engaged in crime prevention programs involving children, as well as in their rehabilitation efforts. Public awareness campaigns on children's rights and the importance of their protection must be carried out continuously to create a culture that supports child protection. Thus, child protection within the criminal justice system is not solely the responsibility of the government or legal institutions, but a shared responsibility of all elements of society.

With the enactment of Law No. 11 of 2012 on the Juvenile Justice System, particularly Article 6 regarding diversion, a new understanding emerges that offers a potential solution to the problem of juvenile delinquency in Indonesia. Law enforcement officers are expected to be more prudent in understanding and interpreting cases involving delinquent children. One of the solutions that can be applied is the implementation of diversion or restorative justice, in which the police serve as the frontline actors through the use of their discretionary authority.<sup>11</sup>

Criminal offenses occurring in society today are not only committed by adults; there is also a growing tendency for such offenses to be committed by individuals who are still classified as children. Therefore, various efforts to prevent and address juvenile delinquency must be carried out immediately. One of the government's efforts to prevent and combat juvenile delinquency is by implementing a juvenile justice system through Law No. 11 of 2012 on the Juvenile Criminal Justice System, which replaced Law No. 3 of 1997 on Juvenile Courts. This initiative aims to establish a justice system that truly ensures the protection of the best interests of children in conflict with the law, recognizing them as the future generation of the nation.<sup>12</sup>

The Juvenile Criminal Justice System encompasses all elements of the criminal justice system involved in handling cases of juvenile delinquency. First, the police serve as the formal institution where a delinquent child first comes into contact with the justice system, and they also determine whether the child will be released or processed further. Second, prosecutors and parole institutions also decide whether the child will be released or brought before the juvenile court. Third, the Juvenile Court is the stage at which the child faces several possible outcomes, ranging from release to placement in a correctional institution. In this regard, Muladi states that the criminal justice system has several objectives: (i) resocialization and rehabilitation of offenders; (ii) crime eradication; and (iii) the achievement of social welfare. Based on this perspective, the integrated juvenile criminal justice system emphasizes primarily the first (resocialization and rehabilitation) and third (social welfare) goals. Sudarto adds that in the juvenile criminal justice system, case examination and resolution activities are aimed at the best interests of the child. Therefore, all actions taken by police officers, prosecutors, judges, and other officials must be based on the principle of promoting the child's welfare and best interests.<sup>13</sup>

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<sup>10</sup> Udas Udas, Aty Nurmala Hamdy, Abdul Karim. *"Kajian Implementasi Perlindungan Anak Berhadapan Dengan Hukum."* Jurnal Komunitas 13(2), 2023.

<sup>11</sup> [ejurnal.bunghatta.ac.id](http://ejurnal.bunghatta.ac.id). diakses tanggal 31 Mei 2017.

<sup>12</sup> Nandang, Sambas. *Pembaharuan Sistem Pemidanaan Anak di Indonesia*, Yogyakarta: Graha Ilmu, 2010. hlm. 60

<sup>13</sup> Sudarto. *Hukum Pidana I*, Semarang: Yayasan Sudarto, Fakultas Hukum Undip. 1990, hlm .79

## Politics and the Implementation of Child Protection

The politics of child protection also plays an important role in the formulation of public policy. The involvement of various stakeholders, including the government, non-governmental organizations (NGOs), and the broader community, is essential to create a safe environment for children. This cross-sector collaboration is expected to strengthen prevention and education programs to reduce the number of crimes involving children. Research shows that this collaborative approach can create a justice system that is more responsive to the needs of children. Rehabilitation programs involving local communities can help reduce stigma against children involved in criminal acts and provide the necessary social support for their reintegration into society.<sup>14</sup>

Overall, child protection within the juvenile justice system should be viewed as an interconnected system involving law, public policy, education, and community participation. With this holistic approach, it is hoped that a safe environment for children can be created and that their rights are effectively protected.

## CONCLUSION

The discussion on child protection within the juvenile criminal justice system from the perspectives of Islamic law and politics shows that although Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) provides a clear legal framework, significant challenges remain in its implementation. The restorative justice principle underpinning UU SPPA aims to avoid negative stigma against children and offers opportunities for rehabilitation. However, a lack of understanding among law enforcement officers regarding child protection principles and diversion mechanisms is a major obstacle.

From the perspective of Islamic law, children are seen as a trust that must be well cared for and nurtured, with an emphasis on fulfilling basic rights such as education, health, and protection from violence. This aligns with the goals of UU SPPA, which not only punishes but also educates and nurtures children to reintegrate into society.

The involvement of various stakeholders, including the government, NGOs, and the wider community, is essential to create a safe environment for children. Cross-sector collaboration can strengthen effective prevention and rehabilitation programs. Therefore, comprehensive and collaborative efforts are needed to ensure that children's rights are effectively protected within the criminal justice system.

Moreover, enhancing education and training for law enforcement officers about children's rights and protection principles in UU SPPA is crucial. With increased awareness and understanding, the juvenile justice system can function more effectively in protecting children. Child protection in the criminal justice system is not only a legal responsibility but also a moral and social commitment to guarantee a better future for the next generation and to create a just and inclusive society.

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<sup>14</sup> Hidayati, N., & Prasetyo, E. (2022) *"Peran Masyarakat dalam Perlindungan Anak di Lingkungan Peradilan Pidana."* Jurnal Sosial dan Humaniora, 14(1), 34–50.

## REFERENCES

- Ahmad, Zulfa. "Perlindungan Anak Dalam Perspektif Islam." *ISLAMICA: Jurnal Studi Keislaman* 4, no. 1 (2014): 143. <https://doi.org/10.15642/islamica.2009.4.1.143-153>.
- Ariani, Nevey Varida. "Pelaksanaan Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak." *Lex Et Societatis*, no. 153 (2012): 39.
- Arif Gosita, 1985, Masalah Korban Kejahatan, Akademika Pressindo, Jakarta, hlm. 18
- Dina Pungkas, Amir Junaidi, and Femmy Silaswaty Faried. "Analisis Yuridis Implementasi Prinsip-Prinsip Hak Anak Dalam Sistem Peradilan Anak Yang Ada Di Indonesia." *Jurnal Bevinding* 1, no. 11 (2024): hlm. 66-73. <http://www.journal.uniba.ac.id/index.php/JB/article/view/1113>. [ejurnal.bunghatta.ac.id](http://ejurnal.bunghatta.ac.id). diakses tanggal 31 Mei 2017
- Farid Mawardi Sufyan. "Perlindungan Anak Dalam Perspektif Hukum Islam." *Jurnal Al-Ulum* Vol. 2 No. 1 Februari 2015. <https://pa-rangkasbitung.go.id/publikasi-artikel/arsip-artikel/670-hak-hak-anak-dalam-islam-oleh-fahadil-amin-al-hasan>
- Hidayati, N., & Prasetyo, E. (2022) "Peran Masyarakat dalam Perlindungan Anak di Lingkungan Peradilan Pidana." *Jurnal Sosial dan Humaniora*, 14(1), 34–50. <https://pn-painan.go.id/webpn/statis-22/sistem-peradilan-anak.html>
- Karmawan, Karmawan. "Respon Hukum Islam Terhadap Hak Perlindungan Anak Upaya Implementasi Sistem Perundang-Undangan Hukum Negara." *Kordinat: Jurnal Komunikasi Antar Perguruan Tinggi Agama Islam* 19, no. 1 (2020): 1–20. <https://doi.org/10.15408/kordinat.v19i1.17170>.
- Nandang, Sambas. *Pembaharuan Sistem Pemidanaan Anak di Indonesia*, Yogyakarta: Graha Ilmu, 2010. hlm. 60
- Sartika, Dewi, Lalu Adnan Ibrahim, Fatahullah Fatahullah, and Muhammad Jailani. "Prinsip Perlindungan Terhadap Anak Yang Melakukan Tindak Pidana." *Journal Kompilasi Hukum* 4, no. 2 (2019): 206–16. <https://doi.org/10.29303/jkh.v4i2.31>.
- Sudarto. *Hukum Pidana I*, Semarang: Yayasan Sudarto, Fakultas Hukum Undip. 1990, hlm .79
- Udas Udas, Aty Nurmala Hamdy, Abdul Karim. "Kajian Implementasi Perlindungan Anak Berhadapan Dengan Hukum." *Jurnal Komunitas* 13(2), 2023.
- Zaki, Muhammad. "Perlindungan Anak Dalam Sistem Peradilan Pidana: Tinjauan Yuridis." *Jurnal Hukum & Pembangunan*.