

# JUVENILE DELINQUENCY AND ITS MANAGEMENT IN VIEW OF THE CHILD PROTECTION ACT

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## ABSTRAK

Tujuan penelitian ini adalah untuk menggambarkan permasalahan terkait kenakalan remaja dan pencegahannya ditinjau dari Undang-Undang perlindungan anak. Berkaitan dengan itu, kenakalan anak sebagai bagian dari perbuatan hukum dan wajib berantas melalui penegakan hukum diberikan oleh hakim sebagaimana yang ditentukan dalam Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak serta upaya-upaya yang dilakukan untuk mencegah terjadinya kenakalan anak. Penelitian ini adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan konseptual. Sementara data yang digunakan adalah data sekunder dan didukung dengan data primer, sedangkan analisis data yang digunakan adalah deskriptif normatif yang dilakukan secara logis, sistematis, koheren serta dapat diuji kebenarannya secara ilmiah. Hasil penelitian memperoleh jawaban atas permasalahan yang ada, bahwa keadaan tindak pidana yang dilakukan oleh para remaja sekarang ini sering terjadi perkelahian antara grup remaja baik dalam lingkup sekolah maupun lingkungan masyarakat umum. Faktor yang menjadi penyebab timbulnya tindak pidana di kalangan anak atau remaja, adalah sebagai berikut: Faktor Lingkungan, Faktor Ekonomi, Faktor Keluarga. Tinjauan yuridis dan kriminologis dari tindak pidana yang dilakukan para remaja yaitu menurut KUHP, UU tentang peradilan anak, UU tentang perlindungan anak. Upaya-upaya yang dilakukan polisi dalam mengatasi masalah tersebut adalah: [1] Penanggulangan Preventif: upaya pencegahan untuk terjadinya suatu tindak pidana; [2] Penanggulangan Represif: penanggulangan yang dilakukan setelah terjadinya tindak pidana, yang berupa tindakan-tindakan untuk memberantas tindak pidana dengan menggunakan upaya hukum untuk melakukan penangkapan, menyita barang bukti, melakukan penyidikan sampai ke pengadilan.

**Kata Kunci:** tindak pidana; remaja; analisis yuridis; kriminologis.

## ABSTRACT

The purpose of this research is to describe the problems related to juvenile delinquency and their handling in terms of the Child Protection Act. In this regard, juvenile delinquency as part of a legal effort and must be eradicated through law enforcement is given by the judge as a guarantee specified in Law Number 35 of 2014 concerning Child Protection and efforts made to prevent juvenile delinquency. This research is normative legal research with statutory and conceptual approaches. While the data used is secondary data and is supported by primary data, while the data analysis used is normative descriptive which is carried out logically, systematically, coherently and can be tested scientifically. The results of the study obtained answers to existing problems, that the current state of criminal acts committed by adolescents often occurs in brawls between groups of adolescents both within the scope of schools and the general public. Factors that cause criminal acts among children or adolescents are as follows: Environmental Factors, Economic Factors, Family Factors. Juridical and criminological reviews of crimes committed by teenagers, namely according to the Criminal Code, the Juvenile Justice Law, and the Child Protection Law. Efforts made by the police to overcome this problem are: [1] Preventive Countermeasures: efforts to prevent criminal acts from occurring; [2] Repressive Countermeasures: countermeasures carried out after the occurrence of a crime, in the form of actions to eradicate criminal acts by using legal means to make arrests, confiscate evidence, conduct investigations into court.

**Keywords:** *criminal act; teenager; juridical analysis; criminologist.*

## **1. Introduction**

### **1.1. Background of the problem**

Law is a system that is closely related to people's lives.<sup>1</sup> In fact, with the development of increasingly complex societal dynamics, law must also develop needs that must be part of every era. The development of human civilization has not only had a positive impact on human life, but inevitably it has also given birth to new seeds of evil that require prompt and effective handling from all parties and all parties.<sup>2</sup> Therefore, in law enforcement, public awareness and the development of legal ideals in society is very important. In making laws, public opinion plays an important role.<sup>3</sup> Law enforcement is becoming stale due to a lack of innovation.<sup>4</sup>

Crimes committed by teenagers have become a problem in all countries. Every year the level of juvenile delinquency shows an increase, causing social problems. The environment is very influential in the formation of the soul of adolescents. For teenagers who turned out to be in the wrong place or friends to hang out with. Then what will happen next is the negative impact on personal development. However, if he enters a healthy social environment, such as joining a youth organization that is officially recognized by the government, it will certainly have a positive impact on his personality development.

Children and youth are the nation's most important assets, and they must be protected from the harmful influences that can lead to juvenile delinquency, leading to criminal activity, and criminal acts. In Indonesia, crimes are punished according to court decisions. If it is carried out against children or adolescents it can lead to negative stigma and discrimination which can have an impact on their future development. For this reason, other approaches to child-related case law, such as restorative justice, should be considered.<sup>5</sup>

Children are the most valuable asset to any family, society or nation, and they are also the most vulnerable. They are gatherings where families, communities and nations rely on hope, especially youth, that will determine whether a nation is headed for prosperity or disaster.<sup>6</sup> According to the Indonesian constitution, children play an important role, and the state is specifically committed to ensuring that every child's

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<sup>1</sup> Salam, S. "Hukum Dan Perubahan Sosial (Kajian Sosiologi Hukum)." *Tahkim*, XI (1) 11 (2015): 173-182.

<sup>2</sup> Nawawi Barda, A. *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*. Bandung: Citra Aditya Bakti, (1998): 142.

<sup>3</sup> Kusumaatmadja, M. *Hukum, Masyarakat dan Pembinaan Hukum Nasional, Edisi Revisi*. Bandung: LPHK, FH Unpad, Bina Cipta, (2009): 119.

<sup>4</sup> Fadri, I. "Kebijakan Kriminal Penanggulangan Tindak Pidana Ekonomi di Indonesia." *Jurnal Hukum* 3 (2010): 430-455.

<sup>5</sup> Subroto, W. "Perlunya Keadilan Restoratif Dalam Sistem Peradilan Anak Terhadap Kenakalan Remaja." *Jurnal Kelola: Jurnal Ilmu Sosial* 5.1 (2022): 23-30.

<sup>6</sup> Hasibuan, S. A. "Kebijakan Kriminal (Criminal Policy) Terhadap Anak yang Melakukan Kekerasan dalam Rumah Tangga." *Jurnal Hukum Responsif* 7.2 (2019): 17-29.

right to survival, development, and protection from violence and discrimination, is protected. As a result, the best interests for children must be internalized as the best interests for the survival of mankind must be lived.<sup>7</sup> In accordance with Law Number 17 of 2016 concerning Child Protection, all of which provide general principles of child protection, including non-discrimination, the best interests of the child, survival and development, and respect for children's participation, this provision is enacted.

The most concerning thing about juvenile crime today is the result of the influence of the social environment. The symptoms of crime that appear are the result of the process of personal development of adolescents who are trying to find identity. Adolescence is a time filled with turmoil. Adolescence is also vulnerable to various problems that are quite complex and complicated because it is during this period that a person grows and goes through a period of searching for identity to form personality traits. This type of juvenile delinquency is increasing in number along with the rapid development of industrialization and urbanization. Juvenile delinquency has developed into a social disease that causes unrest in society, because juvenile delinquency has led to criminal acts.<sup>8</sup>

Guarantee that if a child commits a crime of delinquency, then the handling and resolution is carried out wisely and carefully, by avoiding interference from the justice system by not ignoring law enforcement and justice, in order to ensure the implementation of a good education. settlements carried out against children, the following principles must be adhered to: for the welfare of the child concerned and the public interest for the child who commits a naughty act.<sup>9</sup>

The efforts and actions of people at all levels of society, in all positions and responsibilities, who are fully aware of the importance of children for the state and nation in the future are known as child protection efforts and activities. If they have reached a certain level of maturity in their physical, mental and social development, then it is time to replace the previous generation.<sup>10</sup>

Juvenile delinquency, crimes committed by children, is a clear indication of the lack of attention from parents and society to children's behavior. Adolescents between the ages of 12 and 18 are still in a period of development that is more vulnerable to influences from the outside world, such as role models and school. This makes it easy for them to form false associations. Therefore, society and parents should pay special attention to children at this time when they are most vulnerable to negative influences. In the era of globalization, the younger generation is capable of committing various

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<sup>7</sup> Ariani, N. V. "Implementasi Undang-Undang Nomor 11 Tahun 2012 tentang sistem peradilan pidana anak dalam upaya melindungi kepentingan anak." *Jurnal Media Hukum* 21.1 (2014): 16.

<sup>8</sup> Gumarsa, S. D. *Psikologi Anak Bermasalah*. Jakarta: Penerbit Gunung Mulia, (2015): 84.

<sup>9</sup> Waqiah, S. Q. "Perlindungan Perempuan dan Anak Menurut Perspektif Hukum Kontemporer." *An-Nawazil: Jurnal Hukum dan Syariah Kontemporer* 2.02 (2020): 55-70.

<sup>10</sup> Fadilla, Nelsa. "Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang." *Jurnal Hukum dan Peradilan* 5.2 (2016): 181-194.

heinous crimes, including murder, theft, vandalism, obscenity, sexual violence, and a number of other violations.<sup>11</sup>

Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection in article 26 paragraph (1) namely parents are obliged and responsible for caring for, nurturing, educating and protecting children. Juvenile delinquency is the result of wrong parenting, so what happens is bad behavior, on the contrary it will increase bad behavior in children so that the child's attitude is greatly influenced by the way children imitate what they see. Parents are expected to be able to choose the right and ideal parenting style for children that aims to optimize the child's growth and development and most importantly the parenting style that is applied aims to instill religious values in children, so as to prevent and avoid all forms and deviant behavior in children.<sup>12</sup>

Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with human dignity and values, and receive protection from violence and discrimination. (UU. Number 23 of 2002: Article I number I). Philosophically, children as part of the younger generation, as one of the potential human resources and successors to the ideals of the nation's struggle in the future, who have a strategic role and have special traits and characteristics, require special guidance and protection as well.<sup>13</sup> In this regard, to realize a safe, orderly and controlled society, it is necessary to apply good and effective laws and regulations.

Studies from previous research on juvenile delinquency and its handling,<sup>14</sup> show that juvenile delinquency includes all behaviors that deviate from criminal law norms committed by adolescents. Lots of internal and external factors that cause juvenile delinquency that need attention. To overcome this, guidance from parents and also a good environment can determine the development of these adolescents. One way that families can do to prevent juvenile delinquency is to use proper parenting. The parenting style used by parents has an influence on children's behavior.<sup>15</sup> The difference between the researcher's research and previous research lies in the research focus which is more directed at the proper regulatory format in bridging problems related to juvenile delinquency and handling it in terms of the Child Protection Act.

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<sup>11</sup> Hambali, A. R. "Penerapan Diversi Terhadap Anak Yang Berhadapan dengan Hukum Dalam Sistem Peradilan Pidana (Diversion for Children in Conflict with The Laws in The Criminal Justice System)." *Jurnal Ilmu Hukum* 13.1 (2019): 15-30.

<sup>12</sup> Indrakusuma, A. D. *Membina Rumah Tangga Bahagia*. Bandung: Al-Maarif, (2002): 23.

<sup>13</sup> Nasriana. *Perlindungan Hukum Pidana Bagi Anak di Indonesia*. Jakarta: PT. Raja Grafindo Persada, (2011): 76.

<sup>14</sup> Sumara, Dadan Sumara, Sahadi Humaedi, and Meilanny Budiarti Santoso. "Kenakalan remaja dan penanganannya." *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat* 4.2 (2017).

<sup>15</sup> Utami, Adristinindya Citra Nur, and Santoso Tri Raharjo. "Pola asuh orang tua dan kenakalan remaja." *Focus: Jurnal Pekerjaan Sosial* 4.1 (2021): 1-15.

## **1.2. Formulation of the problem**

Based on this background, the problems in this study are:

1. What is the nature of child protection against juvenile delinquency in Indonesia in the view of national law?
2. What are the alternative steps for tackling juvenile delinquency in the perspective of the Child Protection Act?

## **1.3. Writing purpose**

This study aims to examine the importance of juvenile delinquency. Juvenile delinquency is also categorized as deviant behavior. This deviant behavior can be considered as a source of problems because it can endanger the upholding of the social system. The definition of juvenile delinquency in a broad sense includes juvenile acts that are contrary to the principles of written law, both contained in the Criminal Code and in laws and regulations outside the Criminal Code (special crimes). It could also happen that the actions of these teenagers are anti-social which causes unrest in society in general.

## **2. Writing method**

The legal research used is the normative legal research method. The normative legal research method is legal research from an internal point of view with the research object being legal norms. Legal research that examines the applicable legal provisions.<sup>16</sup> The research approach used is a statutory approach and a conceptual approach. The sources of legal materials used in this article are primary, secondary and tertiary legal materials. After the legal materials have been collected, an analysis is carried out to obtain the final argument in the form of answers to the problems studied in this article.<sup>17</sup>

## **3. Results and Discussion**

### **3.1. The Nature of Child Protection Against Juvenile Delinquency in Indonesia in terms of National Law**

From a formal juridical perspective, the issue of accountability regarding child or juvenile delinquency that can lead to this crime has obtained standard guidelines in law. First of all is the criminal law whose arrangements are spread over several articles, and several articles that are embryonic in nature are Articles 45, 46 and 47 of the Criminal Code. In addition, the Criminal Code also regulates juvenile delinquency, especially in Article 320 and all the articles designated and related to this problem of juvenile delinquency.

There are 2 (two) categories of children's behavior that make them have to face the law, namely: 1) Status Offence is the behavior of a naughty child which if done by an adult is not considered a crime, such as disobedience, skipping school or running

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<sup>16</sup> Adnyani, N. K. S. "Perlindungan Hukum Kesatuan Masyarakat Hukum Adat Dalam Pengelolaan Pariwisata Berbasis Kearifan Lokal". *Media Komunikasi FPIPS*, 20(2), (2021), h.70-80.

<sup>17</sup> Pitriyantini, P. E., & Adnyani, N.K.S. "Urgensi Pengaturan Psikologi Forensik dalam Sistem Peradilan di Indonesia". *Jurnal Kertha Semaya*, Vol. 11 No. 5 Tahun 2023, h. 1106-1117.

away from home; 2) Juvenile delinquency is juvenile delinquency which, when committed by an adult, is considered a crime or a violation of the law.<sup>18</sup>

But actually, the crimes committed by children are too extreme to be called crimes, because basically children have an unstable mental condition, the process of psychological stability produces critical, aggressive attitudes and shows behavior that tends to disturb public order. This cannot be said to be a crime, but delinquency caused by an unbalanced psychological condition and the perpetrator does not know and understand the actions committed by the child.

There are several causal factors that most influence the occurrence of juvenile offences, namely:<sup>19</sup> 1) Environmental factors 2) Economic/social factors 3) Psychological factors Meanwhile, in the Criminal Code (KUHP) it is emphasized that a person can be held accountable for his actions because of the person's self-awareness and he also understands that the act is prohibited according to applicable law. This is clearly seen in the Criminal Code (KUHP) in Indonesia, that a criminal act (crime) must contain elements: 1) the existence of a human act 2) the act must be in accordance with legal provisions 3) the existence of a mistake 4) the person who committed it must be held accountable.

Based on RI Law no. 3 of 1997 concerning Juvenile Justice, naughty children who commit criminal acts can also be subject to the following actions: a. Return to parents, guardians, or foster parents; B. Submitting to the state to participate in education, coaching, and job training; or c. Submit to the Ministry of Social Affairs, or Community Social Organizations engaged in education, coaching and job training.

The actions taken as stated in the decision above may also be accompanied by a warning and additional conditions set by the judge. Regarding sentencing, Law of the Republic of Indonesia Number 3 of 1997 stipulates that punishment consists of imprisonment, confinement, fines, and conditional sentences.

Regarding child protection, before Law of the Republic of Indonesia Number 23 of 2002 was promulgated, the Indonesian people used Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare. The law explains that efforts to improve children's welfare and fair treatment of children are urgently needed. As explained in Article 1 point b of the Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare, that: "Child welfare efforts are social welfare efforts that aim to ensure the realization of children's welfare, especially the fulfillment of children's basic needs".

The provisions regarding provisions relating to child protection in the Law of the Republic of Indonesia Number 23 of 2002 are: 1. A child is someone who is not yet 18 (eighteen years old), including a child who is still in the womb. 2. Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with human dignity and values, and receive protection from violence and discrimination.

This action is intended to create the best life for teenagers who are expected to become potential successors to the nation, tough, with a spirit of nationalism imbued with noble morals and Pancasila values, and strong will to maintain the unity and integrity of the Indonesian nation and state.

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<sup>18</sup> Fahlevi, R. "Aspek hukum perlindungan anak dalam perspektif hukum nasional." *Lex Jurnalica* 12.3 (2015): 147255.

<sup>19</sup> Meliala, A. S. dan Sumaryono, E. *Kejahatan Anak Suatu Tinjauan dari Psikologis dan Hukum*. Yogyakarta: Liberty, (2015): 31.

In every country, children's rights are regulated in law, and Indonesia is no exception.<sup>20</sup> The state assumes responsibility for guaranteeing the welfare of children constitutionally in the 1945 Constitution of the Republic of Indonesia. Hierarchically, various legal products are issued and ratified which form the basis of policies and guidelines for handling Indonesian children, starting from national legal products and international legal products that have been ratified by Indonesia.<sup>21</sup>

Several provisions include: (1). According to Law no. 23 of 2002 article 1; (2). According to Customary Law; (3). According to the Civil Code; (4) According to the Criminal Code; and (5) According to Law no. 4 of 1979 article 1. Ad.1. According to Law no. 23 of 2002 Child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. advertisement. 2. According to customary law, in customary law children/adolescents are not recognized, but immature children are known, namely those who have not shown real physical signs that they are adults. So, in customary law, it is not age that determines whether a person is mature or not, but rather a person's physique. Advertisement. 3. According to the Civil Code In this law there is no definition of youth but only differentiates between adults and immature children as stated in article 330 paragraph 2 of the Civil Code which reads as follows: "Immature is not yet 21 years of age and has not been married beforehand". ad.4 According to the Criminal Code According to the Criminal Code, based on Article 45 of the Criminal Code it is stated that what is meant by a child is someone who is not yet 16 (sixteen) years old.

During the trial, it can be divided into several indicators, such as: a. As actors: (1) The right to obtain an explanation regarding the proceedings and the case; (2) The right to get a companion, adviser during the trial; (3) The right to obtain facilities to participate in facilitating trials involving himself (transportation, health care); (4) The right to obtain protection from harmful acts that cause mental, physical and social suffering; (5) The right to express opinions; and (6) The right to ask for compensation for treatment that causes suffering due to being arrested, detained, prosecuted or tried without reason based on the law or because of a mistake regarding a person or law according to the method regulated in the Criminal Procedure Code (article 1 point 22); (7) the right to receive positive treatment/guidance that develops him as a whole human being; and (8) The right to a closed hearing for his benefit.

b. As a victim, including: (1) the right to have the convenience of attending trials as a witness/victim; (2) The right to obtain explanations regarding procedures for trials and cases thereof; (3) The right to obtain protection against acts that cause mental, physical, social suffering from anyone; (4) The right to express opinions; (5) The right to obtain compensation for losses, suffering; and (6) The right to request a closed hearing.

c. As a witness, you have the following rights: (1) The right to receive facilities to attend trials as a witness; (2) The right to obtain an explanation regarding the procedures for trial; (3) The right to obtain protection against actions that cause mental, physical, social suffering from anyone; and (4) The right to obtain permission from the school to become a witness.

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<sup>20</sup> Roza, D. dan Laurensius A. "Peran Pemerintah Daerah Di Dalam Melindungi Hak Anak di Indonesia." *Masalah-Masalah Hukum* 47.1 (2018): 10-21.

<sup>21</sup> Ismawati, S. "Mekanisme Penyelesaian Perkara Anak Yang Berhadapan Dengan Hukum Pada Masyarakat Dayak Kanayatn (Kajian Perbandingan Terhadap Sistem Peradilan Pidana Anak)." *Jurnal Dinamika Hukum* 13.2 (2013): 197-209.

After testing, it can be divided into several indicators, such as: a. As actors consist of: (1) The right to receive humane guidance and punishment in accordance with Pancasila, the 1945 Constitution of the Republic of Indonesia and the notion of correctional institutions; (2) The right to get protection against acts that harm mental, physical, social from anyone; (3) The right to keep in touch with his parents, his family. B. As a victim, among other things: (1) The right to get protection against harmful acts that cause mental, physical, social suffering from anyone; and (2) The right to services in the mental, physical and social fields. C. As a witness, including: (1) The right to get protection against actions that harm the soul, body, social life of anyone.

All of these rights are children's rights that can be owned and owned if the child is brought before the court, both as perpetrators, victims and witnesses. So, children have rights that are protected and guaranteed by Indonesian positive law. Children have a certain status and are protected by our national laws. Children cannot be treated arbitrarily either by parents or by other parties.

As already mentioned, efforts to protect children's rights in Indonesia have been accommodated in the 1945 Constitution Article 28B Paragraph (2), as well as in Law no. 39 of 1999 concerning Human Rights, and Law no. 23 of 2002 concerning Child Protection. From this explanation it can be seen that legislators (DPR and Government) have legal politics that are responsive to child protection. Children are placed in a noble position as a mandate from God Almighty who has a strategic role in ensuring the preservation of the existence of this country. Through Law no. 23 of 2002, guarantees that children's rights are protected, and the Indonesian Child Protection Commission (KPAI) was even formed which is responsible for increasing the effectiveness of child protection. The Constitution of the Republic of Indonesia, UUD 1945 as the highest legal norm has outlined that "every child has the right to freedom of life, growth and development and is entitled to protection from violence and violence". (Article 28B Paragraph (2) of the 1945 Constitution) By incorporating children's rights into the body of the constitution, it can be interpreted that the position and protection of children's rights is an important matter that must have more impact and be implemented in everyday reality. In Law no. 39 of 1999 concerning Human Rights, 15 articles 52-56 were formulated specifically to formulate children's rights, because legislators realize that children are a group that is vulnerable to human rights violations. The importance of the position of children for this nation requires us to be responsive and progressive in regulating the applicable laws and regulations.

### **3.2. Alternative Steps to Overcome Juvenile Delinquency Perspective of the Child Protection Law**

Efforts that can be made to overcome child/adolescent delinquency through several approaches or alternatives are: 1. Moralistic Approach, 2. Humane Approach, 3. Implementation of the Criminal Justice System.

#### **1. Moralistic Approach**

Handling juvenile delinquency through a moralistic approach is an emphasis on moral development and development of adolescent mental strength. With good coaching, teenagers will not easily fall into naughty acts, because these moral values will keep them away from naughty acts. This moralistic approach is carried out by spreading religious and moral teachings, which can suppress the desire to commit crimes.



## 2. Humanitarian Approach

The humanitarian approach is a humanitarian approach taken in an effort to overcome juvenile delinquency and its form is like a mass brawl. A humanitarian understanding and approach to juvenile delinquency is carried out on the basis of the following considerations: 1. Based on a humanitarian/housing view of life and a personal philosophy of life for children and adolescents, 2. The need for care and protection for children and adolescents who are naughty, evil, socially problematic caused by their immaturity 3. Classifying delinquent children and adolescents into a different category from the criminal category of adults, 4. To apply judicial, criminal, special healing and rehabilitation procedures, especially to prevent children from traumatic experiences that are not necessary, and protect them from the manipulative actions of adults.

3. Implementation of the Criminal Justice System Meanwhile, for regions that follow the instructions or guidelines of SEMA No. 3 of 1959 are as follows: 1. Supreme Court Circular No. 3 of 1959 recommends treating juvenile offenders as follows: a. child cases are tried, - Separately from adults, - Only on certain days, - By certain judges appointed by the respective district courts. B. The judges, police and prosecutors in this trial did not wear uniforms. C. Trials are always closed, journalists are not allowed to present their decisions in closed sessions, publication is also prohibited. D. The parents/guardians/responsible for the child must be present so that the judge can also find out about the child's surroundings, for example the condition of the house which is the judge's consideration in deciding the placement of the child. e. Since the investigation by the police, special steps have been taken, for example: - the examination is carried out by means of a separate self-examination from the adult section, - the place of detention is separate from the place of detention of adults. F. The Attorney General's Office appoints a special prosecutor as a prosecutor in child cases. G. A social worker (social worker) who was previously handled by the Ministry of Social Affairs, has now been handed over to Community Guidance and Child Alleviation by the Ministry of Justice.

The Role of Social Guidance and Child Alleviation To find out what is behind a child's actions in committing an unlawful act, in this case the BISPA Center plays a very important role, because before a judge examines a child, it is best if the history of the child is already in the hands of the judge who will examine him. The role of parents in juvenile trials - The role of parents in juvenile justice is needed in every trial, so BISPA or the prosecutor's office will contact the child's parents, to request data from the parents on the trial that has been determined. - In court, judges often ask the child's parents why there was a violation of the law, and what the attitude of the parents will be towards the child in the future, are they still capable of educating them. - If the judge sees that the parents are serious about educating their child in the future and besides that BISPA also recommends that the child be returned to his parents, then the judge will return the child to his parents by giving advice. - However, sometimes parents can no longer afford to send their children to school so the children are made state children through BISPA assistance to send their children to school if they are under 18 years old.

The probationary act referred to as suspension is as follows: that during demobilization the child may not commit any violations or crimes. If he continues to commit an offense or crime, then the prescribed sentence must be served. Children who are given a probationary period, apart from being returned to their parents, are also placed in an orphanage where they are educated by their foster parents. Foster parents are parents (foster families) who want to do social deeds. This foster family registered with the Ministry of Social Affairs, Directorate of Family and Child Welfare, stating that they wanted to become a foster family.

Furthermore, after the trial process, in the end the judge will make his decision. The judge's actions were based on the articles of the Criminal Code, namely articles 45, 46 and 47 of the Criminal Code. As stated in Article 45, there are 3 (three) possibilities for the judge in passing his decision, namely: 1. Ordering the (child) who is guilty to be handed over to his parents or caregivers, without punishment. 2. An order that the guilty party (in this case the child) be handed over to the government without any punishment. 3. Or punish the child by imposing a criminal. In the case of a judge imposing a sentence, the judge is guided by Article 47 of the Criminal Code, namely if: a. The judge imposes a sentence, then the principal sentence for that crime is reduced by one third. B. The act committed constitutes a criminal offense punishable by death or life imprisonment, so that a sentence of 15 (fifteen) years is imposed. C. Additional sanctions will also be imposed, so that additional sanctions in Article 10 sub b points 1 and 3 cannot be imposed.

In addition, based on the United Nations Guidelines on the Prevention of Juvenile Delinquency or The Riyadh Guidelines which have been ratified and set forth in UN General Assembly Resolution No. 45/112 dated 14 December 1990, the socialization process for prevention of juvenile delinquency was carried out through the following institutions: Family, Education, Community, Mass Media, and other social policies. (Regulation of the Supreme Court of the Republic of Indonesia Number 01 of 2008).

Efforts to deal with child delinquency must be carried out in an integrated manner, with preventive, punitive and curative measures.<sup>22</sup>

#### A. Preventive Actions

Preventive actions or actions that can prevent child delinquency, in the form of: 1) Improving family welfare; 2) Environmental improvement, namely slum areas, poor villages; 3) Establishing a psychological and educative guidance clinic to improve behavior and help youth from life's difficulties; 4) Providing healthy recreation areas for youth; 5) Shaping children's welfare; 6) Organizing orphanages; 7) Establish a correctional institution to provide guidance, correction and assistance to live independently and morally for children and adolescents in need; 8) Creating a supervisory agency and controlling the activities of naughty children accompanied by a program of improvement; 9) Organizing juvenile courts; 10) Establish a school for poor children; 11) Organizing special detention houses for children and adolescents; 12) Organizing group discussions and group guidance; 13) Establish a training ground to channel the creativity of naughty and non-naughty youth.

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<sup>22</sup> Kartono, K. *Patologi Sosial dan Kenakalan Remaja*. Jakarta: Penerbit Raja wali, (2006): 94-97.

#### B. Punishment Measures

Punishment measures for naughty teenagers include: punishing them according to their actions, so that they are considered fair and can awaken the function of their own conscience to live morally and independently.

#### C. Curative Action

Curative action is an action to cure child delinquency. Forms of curative action include: 1) Eliminating all causes of crime; 2) Changing the environment by finding foster parents and providing the necessary facilities for healthy physical and spiritual development for adolescents; 3) Transferring naughty children to better schools, or to a good social environment; 4) Providing regular, orderly and disciplined coaching for youth; 5) Utilizing free time at training camps, to get used to working, studying and having healthy recreation with high discipline; 6) Activate youth organizations with vocational training programs to prepare naughty youths to enter the job market and live in society; 7) Establishing a psychology clinic to relieve and resolve emotional conflicts and other psychiatric disorders.

Prevention of child delinquency is carried out in an integrated manner which aims to create integration in efforts to resolve cases of handling children in conflict with the law which are carried out in a coordinated manner by law enforcement officials and all related parties. Alternative steps in efforts to overcome juvenile delinquency include various things that must be done by relevant agencies so that cases of children in conflict with the law can be resolved by prioritizing children's rights. All of these stages involve relevant agencies in alternative efforts to deal with juvenile delinquency. Handling of children in conflict with the law is carried out on children who are perpetrators, witnesses, and victims. Each agency has a role in carrying out the specified actions in alternative efforts to tackle juvenile delinquency in accordance with their authority so that the handling of cases of children in conflict with this law can proceed in accordance with the alternative objectives of efforts to tackle juvenile delinquency.

#### 4. Conclusion

Protection of children from acts of violence requires special attention for children who have problems with the law and the need to apply and/or apply the basic concept of protecting children's rights. There are several alternatives to prevent the increase in juvenile delinquency and mass brawls, both preemptive and repressive, through a humanitarian-moralistic approach or if necessary by implementing a criminal justice system in the form of punishment for the perpetrators. Juvenile delinquency that can lead to crime must be addressed and corrected immediately, especially if the delinquency is not a process for them to reach the stage of self-maturity. To overcome the problem of juvenile delinquency which has the potential to cause crime to be more optimal and achieve a level of success, the authors can submit suggestions: 1. Introduction to laws and norms that apply in general in the family environment, so as to educate adolescents to behave well and have discipline, especially for these adolescents. 2. Creating healthy environmental conditions, providing supervision and guidance both in the social and spiritual fields. 3. The government and authorized law

enforcement officials enforce the law in accordance with regulations on child issues as stipulated in the Criminal Code Articles 45, 46 and 47. RI Law Number 3 of 1997 concerning Juvenile Justice and RI Law Number 23 of 2002 concerning Child Protection.

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