

## Child Neglect Crime Based on Law Number 35 of 2014

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### Abstract

Every child has dignity that should be upheld, and every child born must receive their rights without the child asking. The act of neglecting a child is a criminal act, because this act does not reflect the humanistic side of humans themselves and violates the law. For children, legal protection is a priority because children tend not to be able to become complete individuals. Child protection is carried out to create conditions so that every child can fulfill their rights and obligations for the child's natural, physical, mental and social growth and development. Child protection is also an embodiment of justice in a society, so child protection is sought in various areas of state and social life.

**Keywords:** Crime, Child Neglect, Child Protection

### INTRODUCTION

Children have the right to obtain legal protection from all forms of neglect. The right of children to be raised by their own parents is an absolute right that children must obtain as long as their parents are still alive. Parents have a legal obligation to care for their children so that they can grow and develop well. But in reality, not all parents are responsible for their children. There are even parents who ignore their children's rights.

Children who are abandoned by their parents are caused by various things, especially the lack of parental responsibility for parenting patterns and economic burdens which tend to be weak, making children victims. Poverty is one of the reasons for responding to cases of child neglect, there is also the fear of being caught giving birth because the child is the result of adultery. Legal protection for children is really needed along with arbitrary neglect of children, so that no one, including parents, harms their child's rights. Parents who should be responsible for providing love, attention and care actually have the heart to abandon their children.<sup>1</sup>

For children, legal protection is a priority because children tend not to be able to become complete individuals. Therefore, protection for children even begins when the child is in the womb. This is based on Article 2 Burgerlijk Wetboek (BW) which states that a child who is still in the mother's womb is considered a legal subject as long as the child's interests require it. This became known as legal fiction. The 1945 Constitution of the Republic of Indonesia (UUD 1945) Article 28B paragraph (2) states that every child has the right to survival and development and the right to protection from violence and discrimination, in this case including babies.

Some cases of child neglect are carried out by their own parents and are usually carried out after the birth process, because most do this because they feel afraid and worried that other people will find out that they are pregnant and giving birth to a child.

<sup>1</sup>Nashriana, Criminal Law Protection for Children in Indonesia, Rajawali Pers, Jakarta, 2014, page 29.

Neglect committed by parents towards their own children is stated as something that could not have happened if there was no special cause.<sup>2</sup>

Cases of neglect of newborn children are more likely to be psychological problems, pressure or psychological burden that parents have on the children they give birth to and also problems in the social environment. Efforts to prevent and even provide a deterrent effect on perpetrators of criminal acts of child neglect are to enforce strict criminal law rules, so that legal certainty can be achieved which leads to justice.

Cases of neglect of biological children by their parents are increasingly occurring. This caught the writer's attention so that the writer in conducting this research discussed it further in a study with the title juridical analysis of criminal acts of child neglect based on Law Number 35 of 2014 concerning Child Protection and the Criminal Code which discusses the concept of child protection in Indonesia and the legal regulations for the crime of child neglect.

## METHOD

This research is descriptive, namely research conducted to describe the research object.<sup>3</sup> As further descriptive research is research that aims to accurately describe the characteristics of an individual, circumstances, symptoms or to determine whether there is a relationship between a symptom and other symptoms in society.<sup>4</sup> This research uses a type of normative legal research, with a research approach to legal principles. Forms of normative legal research include positive legal inventory, research on legal principles, legal research in concreto, legal synchronization research, legal system research and legal comparison.<sup>5</sup>

Normative legal research is also called doctrinal legal research. In doctrinal research, law is conceptualized as what is written in statutory regulations (law in books).<sup>6</sup> Normative juridical research is research carried out or aimed only at written regulations or other legal materials because the research studied is based on statutory regulations, namely the relationship of one regulation to another and its relationship to its application in practice.<sup>7</sup>

This writing uses library research data obtained through library research sourced from statutory regulations, books, literature, notes and reports that are related to the problems to be resolved in this writing.<sup>8</sup>

## RESULTS AND WETTING

<sup>2</sup>Airlangga Justitia, Abandonment of Babies in the Perspective of Child Neglect, UBELAJ Journal, Vol. 3, No.1, April 2018, page 27.

<sup>3</sup>Bambang Waluyo, Legal Research in Practice, Sinar Graphics. Jakarta, 2012, page 8.

<sup>4</sup>I Made Pasek Diantha, Normative Legal Research Methodology, Prenada Media Group, Jakarta, 2016, page 191.

<sup>5</sup>Ronny Hanitijo Soemitro, Legal Research Methods and Jurimetry, Ghalia Indonesia, Jakarta, 2011, page 4.

<sup>6</sup>Amiruddin and Zainal Asikin, Introduction to Legal Research Methods, Rajawali Pers, Jakarta, 2014, page 118.

<sup>7</sup>Ediwarman, Legal Research Methodology Monograph (Guide to Writing Theses and Dissertations), Sofmedia, Medan, 2014, page 96.

<sup>8</sup>M. Nazir, Qualitative Research Methods, Alfabeta, Bandung, 2012, page 87.

## The Concept of Child Protection in Indonesia

Child protection is all efforts made to create conditions so that every child can fulfill their rights and obligations for the child's natural, physical, mental and social growth and development. Child protection is an embodiment of justice in a society, so child protection is sought in various areas of state and social life. Child protection activities have legal consequences, both related to written and unwritten law.<sup>9</sup>

Child protection has at least 2 (two) aspects related to it. The first aspect relates to legal and regulatory policies that regulate child protection. The second aspect relates to the implementation of statutory policies. Regarding the first aspect, to date there is sufficient legislation to regulate matters relating to child protection. The second aspect is that with the availability of various legislative instruments regarding children's rights, efforts to realize children's rights and ignoring children's rights as desired can end.<sup>10</sup>

The basis for implementing child protection can be described as follows:<sup>11</sup>

- 1) Philosophical basis, Pancasila, the basis for activities in various areas of family, community, state and national life as well as the philosophical basis for implementing child protection;
- 2) Ethical basis, the implementation of child protection must be in accordance with related professional ethics, to prevent deviant behavior in the exercise of authority, power and strength in the implementation of child protection;
- 3) Juridical basis, the implementation of child protection must be based on the 1945 Constitution and various other applicable laws and regulations. The application of this juridical basis must be integrative, namely the integrated application of laws and regulations from various related legal fields.

The implementation of good child protection includes meeting several requirements, namely as follows:<sup>12</sup>

1. Participants in the occurrence and implementation of child protection must have adequate knowledge related to child protection issues, so that they can behave and act appropriately when experiencing and overcoming problems related to the implementation of child protection. Therefore, it needs to be socialized, matching the understanding of child protection and other understandings that can support the implementation of child protection. For example, understanding of humans, human rights and obligations, citizenship, social justice, crime prevention, victimization prevention, responsible and beneficial implementation of interests;
2. Child protection must be implemented jointly by all citizens, both individuals and community groups and the government for the common interest, national interest and the achievement of the ideals of the Indonesian nation. Thus, education about child

<sup>9</sup>Ibid., page 40.

<sup>10</sup>Wahyudi, Several Problems in the Implementation of Child Protection and the Role of the Nation's Child Protection Forum, Paper in the Commemoration of Children's Day 2002, Women's Research Center (Puslitwan) Unsoed, 2002, page 1.

<sup>11</sup>Arif Gosita, Legal Aspects of Child Protection and the Convention on Children's Rights, Journal: Legal Era, Vol. 5 No. 4, 1999, page 266.

<sup>12</sup>Arif Gosita, Child Protection Issues, Pressindo Academy, Jakarta, 2004, pages 18-19.

protection is absolutely necessary so that every citizen and community are aware of the importance of child protection and are willing to participate actively according to their respective capacities;

3. Cooperation and coordination are needed to carry out rational, responsible and beneficial child protection activities among stakeholders. It is necessary to distance, avoid various types of unnecessary confrontation and develop positive, educative and constructive communication (between participants) in the implementation of child protection;
4. To develop policies and work plans that can be implemented, it is necessary to carry out an inventory of factors that hinder and support child protection activities. It is necessary to study which problems may be criminogenic or victimogenic factors in the implementation of child protection;
5. In developing and regulating child protection in various laws and regulations, it is necessary to prioritize regulated and non-regulated perspectives, prioritize protected perspectives and open up protected perspectives. It is necessary to seek legal certainty for the continuity of child protection activities and to prevent undesirable negative consequences. Don't protect the child, the child is not protected. Abuse of power must be prevented in seeking opportunities to benefit oneself in situations and conditions that are difficult for others;
6. Protection of children must be reflected and implemented or expressed in various areas of state and social life. To implement child protection, every member of society with the cooperation of the government must participate in creating situations and conditions that enable the development of child protection directly and indirectly in various areas of life;
7. In carrying out child protection activities, children must have the ability and opportunity to participate in protecting themselves and in the future can become parents who are positively and actively involved in child protection activities which are the rights and obligations of all members of society. In relation to efforts to provide children with the ability to participate in child protection activities, it is best to think about ways to develop the children concerned;
8. Good child protection must have a philosophical, ethical and legal basis. The basis is a guideline for reviewing, assessing whether the provisions taken and the planned implementation are truly rational, positive, responsible and beneficial for those concerned. These basic concepts can be taken and developed for Pancasila and the 1945 Constitution, positive teachings and views of religion or traditional or modern social values;
9. Implementation of child protection activities should not make interested parties feel unprotected, because of suffering or loss on the part of certain participants. Child protection, which among other things is an activity to prevent victims or crimes, must not be the only cause of victims. Child protection must be preventive; And
10. Protection of children must be based on the development of their rights and obligations as human beings. Protection of children in the fields of health, education and

personality development or formation is based on children's human rights in general. The human rights of adults in positive law also apply to children (adults and children are both human beings and citizens).

Basically, child protection can be carried out directly or indirectly, what is meant by direct is that activities are directly aimed at children who are the target of direct treatment. Activities like this can include, among other things, protecting children from various threats from outside and within themselves, educating, developing, assisting children in various ways to prevent children from going hungry and working on their health in various ways, providing means for self-development and so on.

Indirect child protection, namely activities not directly aimed at children, but other people who carry out or are involved in child protection efforts. Such protection efforts are, for example, carried out by parents or those involved in efforts to protect children against various threats from outside or within the child, those who are tasked with caring for, developing, accompanying children in various ways, those involved in preventing children from starving, ensuring health. etc.

Protection of children must not be carried out excessively and pay attention to the impact on the environment and on the children themselves, so that the protection efforts carried out do not have a negative impact. Child protection is carried out rationally, responsibly and beneficially. This reflects an effective and efficient business. Efforts to protect children must not result in the death of initiative, creativity, skills and other things that give rise to dependence on other people and uncontrolled behavior, so that children do not have the ability and willingness to exercise their rights and carry out their obligations as children.

The scope of studies regarding child protection can be broadly divided into two main meanings, namely juridical (both within the scope of public law and civil law) and non-juridical (social, health and education).<sup>13</sup> Child protection can be defined as all efforts aimed at minimizing, preventing, rehabilitating and empowering children who experience acts of abuse, exploitation and neglect, in order to ensure the child's survival and normal growth and development, both physically, mentally and socially.

The United Nations Convention on the Rights of the Child describes principles that must be given special consideration in all matters relating to children. The principles contained in the Convention on the Rights of the Child are as follows:<sup>14</sup>

#### 1. Principle of non-discrimination

The rights contained in the Convention on the Rights of the Child must be applied to every child without any distinction. This principle is stated in Article 2 paragraph (1) of the Convention on the Rights of the Child, namely that participating countries will respect and guarantee the rights implemented in this convention for every child within their jurisdiction without discrimination in any form, regardless of race, skin color,

<sup>13</sup>Irma Setyowati Soemitro, *Legal Aspects of Child Protection*, Bumi Aksara, Bandung, 2009, page 10.

<sup>14</sup>Muhammad Joni and Zulchaina Z Tanamas, *Legal Aspects of Child Protection in the Perspective of the Convention on the Rights of the Child*, Citra Aditya Bakti, Bandung, 1999, page 42

gender, language, religion, political or other views, national, ethnic or social origin, ownership status, disability or not, birth or other status either of the child himself or of his parents or guardians. legitimate.

Contracting States will take all necessary steps to ensure that children are protected from all forms of discrimination or punishment based on the status, activities, expressed opinions or beliefs of the child's parents, legal guardians or family members.

2. Principles that are best for children

The principle that is in the best interests of the child is a principle that emphasizes that in all treatment related to children carried out by society, organizations and the government the main consideration is for the best interests of the child alone.

3. Principles of the right to life, continuity and development

Principles based on the right to life, survival and growth and development are principles that emphasize that children have the right to live in peace, security, happiness, peace, physical and psychological prosperity, the right to proper growth and development, the right to realize standardization of life. adequate requirements for the psychological, physical, moral, social and spiritual development of children must be provided by the competent authorities.

4. The principle of respect for children's opinions

Children's opinions, especially when it concerns matters that affect their lives, need to be taken into account in every decision made. Contracting States will ensure that children who have their own views will have the right to express their views freely in all matters affecting children and that these views will be respected in accordance with the child's age and maturity level.

The obligation of participating countries to implement the Convention on the Rights of the Child is intended as an attachment of the ratifying countries to the international agreement. The Convention on the Rights of the Child binds participating countries to guarantee the implementation of children's rights and the birth or formation of children's rights as part of national legal norms that bind the territory and people of Indonesia. The Law on Child Protection contains provisions that children's rights are part of human rights which must be guaranteed, protected and fulfilled by parents, families, society, government and the state.

In Article 59 paragraph (2) of the Law on Child Protection, it is stated that special protection for children is given to:

1. Children in emergency situations;
2. Children in conflict with the law;
3. Children from minority and isolated groups;
4. Children who are economically and/or sexually exploited;
5. Children who are victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances;
6. Children who are victims of pornography;
7. Children with HIV/AIDS;
8. Children who are victims of kidnapping, sales and/or trafficking;

9. Child victims of physical and/or psychological violence;
10. Child victims of sexual crimes;
11. Children who are victims of terrorism networks;
12. Children with Disabilities;
13. Children who are victims of abuse and neglect;
14. Children with deviant social behavior; And
15. Children who are victims of stigmatization from labels related to the condition of their parents.

The Law on Child Protection regulates children's rights. Children's rights stated in the Law on Child Protection are as follows:

1. To be able to live, grow, develop and participate appropriately in accordance with human dignity and receive protection from violence and discrimination;
2. On a name as identity and citizenship status;
3. To worship according to their religion, think and be creative according to their level of intelligence and age under the guidance of their parents;
4. To know his parents, to be raised and cared for by his own parents;
5. Obtain health services and social security in accordance with physical, mental, spiritual and social needs;
6. Obtain education and teaching in the context of personal development and level of intelligence in accordance with their interests and talents;
7. Obtain special education, rehabilitation, social assistance and maintenance of social welfare levels for children with disabilities;
8. Obtain special education for children who have advantages;
9. Express and have their opinions heard, receive, seek and provide information according to their level of intelligence and age for the sake of self-development in accordance with the values of decency and propriety;
10. To rest and utilize free time, socialize with children of the same age, play, have recreation and be creative according to their interests, talents and level of intelligence for the sake of self-development;
11. Receive protection from discrimination, exploitation (both economic and sexual), neglect, cruelty, violence, abuse, injustice and other wrongful treatment;
12. To be raised by one's own parents unless there are valid reasons and/or legal regulations indicating that separation is in the best interests of the child and is a final consideration;
13. Obtain protection from being subjected to persecution, torture or inhumane punishment;
14. Obtaining freedom in accordance with the law;
15. Obtaining humane treatment and placement separated from adults, obtaining legal aid or other assistance effectively at every stage of applicable legal action, as well as defending oneself and obtaining justice before an objective and impartial Children's Court in a hearing closed to the public, for every child deprived of their liberty;

16. To be kept confidential, for every child who is a victim or perpetrator of sexual violence or who is in conflict with the law; And
17. Obtain legal aid and other assistance for every child who is a victim or perpetrator of a crime.
18. The articles containing provisions regarding children's rights in the Law on Child Protection have many similarities with the provisions on children's rights in the Law on Human Rights.
19. The Law on Child Protection also regulates the obligations that every child must carry out.

In every country, children's rights have been regulated in law, in this case Indonesia is no exception.<sup>15</sup>The state bears the responsibility to provide guarantees for the welfare of children constitutionally in the 1945 Constitution. Hierarchically, various legal products are issued and ratified which become the basis for policies and guidelines in treating Indonesian children, starting from national legal products and international legal products which are has been ratified by Indonesia.<sup>16</sup>

Indonesia has ratified the Convention on the Rights of the Child and its protocols, through Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child and Law Number 5 of 1998 concerning the Convention against Torture and Other Cruel, Inhumane Treatment or Punishment. Degrading Human Dignity. Therefore, it is legally bound to implement the convention and make it part of the applicable laws and regulations.<sup>17</sup>

Various regulations in law, religious teachings and culture have discussed a lot about child protection, however, from year to year violations of child protection continue to increase along with the times, as a result of forms of regulation that are less visionary and therefore tend to be seen as a new problem.<sup>18</sup>Legal protection for children is one way to protect the nation's growth in the future. Legal protection for children concerns all applicable legal regulations. This legal protection is considered necessary because children are part of society who have physical and mental limitations.<sup>19</sup>

Legal protection of children is protection for all children without exception. As for the purpose of protection, according to Article 3 of the Law on Child Protection, it is to ensure that children's rights are fulfilled so that they can live, grow, develop and participate optimally in accordance with human dignity, as well as receive protection from violence and discrimination, for the sake of realizing children A cheerful, healthy and prosperous Indonesia.

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<sup>15</sup>Darmini Roza and Laurensius Arliman S, The Role of Regional Government in Protecting Children's Rights in Indonesia, Journal: Legal Issues, Vol. 47, no. 1, 2018, page 10.

<sup>16</sup>Sri Ismawati, Mechanism for Settlement of Children's Cases in Conflict with the Law in the Dayak Kanayatn Community (Comparative Study of the Juvenile Criminal Justice System), Journal: Legal Dynamics, Vol. 13, no. 2, 2013, page 197.

<sup>17</sup>Yul Ernis, Diversion and Restorative Justice in Resolving Child Crime Cases in Indonesia, Journal: Legal Policy, Vol. 10, no. 2, 2016, page 164.

<sup>18</sup>Aan Aswari, (et al), Harmonization of the Right to be Forgotten Law for Digital Newspapers for Prospective Students in Makassar, Journal: Kanun Legal Sciences, Vol. 20, no. 1, 2018, page 39.

<sup>19</sup>Marlina, Juvenile Justice in Indonesia, Refika Aditama, Bandung, 2009, page 42.



Parents do have a greater role in protecting children, because parents are part of the nuclear family so they must fulfill every child's needs, whether physical or spiritual, but society also plays a role in protecting children's rights. Community participation can be realized by maintaining children's rights when they are outside the home environment so that they will still feel comfortable outside the home. Elements of society involved in child protection are not only individuals but also involve community organizations, non-governmental organizations, child protection commissions, other organizations that are concerned with child protection.

### **Legal Rules for the Crime of Child Neglect**

Child neglect is an act that violates applicable legal norms and this act is carried out by the child's parents, possibly because the parents cannot meet the child's needs appropriately. The interests of the child must be used as the basis for guidance by those responsible for the education and guidance of the child concerned. First of all, the responsibility lies with the parents. Children must have free opportunities for play and recreation which must be directed towards educational purposes and society and the competent authorities must strive to improve the implementation of these rights.<sup>20</sup>

Fulfillment of children's rights as internalized in the Law on Child Protection very clearly outlines the responsibilities of parents in the development of children from the time the child is in the womb until the age of eighteen. Apart from that, the family as the smallest unit consisting of parents is the first place where children learn about the world so that parents have an obligation to be responsible for their children's future.

It is realized that the problem of abandoned children is a dilemma, meaning that on the one hand parents have neglected to fulfill the child's basic needs physically, psychologically, economically and socially so that the child does not get the rights as mandated by law. However, on the other hand, it cannot be denied that the condition of parents is worrying because they do not have a job or a steady income to meet their children's needs. Apart from that, the problem of abandoned children is not only the responsibility of parents, but also the responsibility of the government and society as mandated in the 1945 Constitution.

Even though there is a set of laws and regulations that protect children's rights, the quality of the problems and over the years the complexity of the dangers to the physical, mental, moral, social and intellectual growth and development of children has increased. Types of neglect that are increasingly common include parents not providing enough food, clothing, shelter or love for a child, as well as children being abandoned by their parents.<sup>21</sup> Acts of neglect of children are increasing and this condition is often reported in media reports. This condition illustrates that the issue of protecting children's rights to obtain protection and all forms of neglect that threaten their future are still not being implemented properly.<sup>22</sup>

<sup>20</sup>Abdul Hakim Garuda Nusantara, *Prospects for Child Protection*, Rajawali, Jakarta, 2006, page 19.

<sup>21</sup>Emeliana Krisnawati, *Legal Aspects of Child Protection*, Utama, Bandung, 2005, page 2.

<sup>22</sup>*Ibid.*, page 4.

Child neglect generally means responsible parents fail to provide adequate needs for the child's various needs. The forms of child neglect are as follows:<sup>23</sup>

1. Physical neglect, physical neglect is the most frequent case of neglect, for example delays in seeking medical help, inadequate supervision and lack of the need for a sense of security in the family.
2. Educational neglect, neglect occurs when a child seems to be receiving appropriate education even though the child is not able to achieve optimally. Over time, this can result in declining school performance. There are even parents who allow their children not to go to school.
3. Emotional neglect, emotional neglect occurs when parents are not aware of their children's presence when they are noisy with their partner or parents give different treatment and affection to their children.
4. Medical neglect, medical neglect occurs when parents fail to provide medical services for children even though they are financially adequate. In some cases, parents provide traditional treatment first, if it is not cured then return to the doctor's services.

Impact is something that is objective, while the impact caused by child neglect is as follows:<sup>24</sup>

1. The impact of child neglect on children
  - Neglect for a child will have the following impacts or consequences:
  - a. The child will become low in self-esteem or, conversely, will behave aggressively (naughty), the cause is that the child does not receive adequate love;
  - b. Children are threatened with becoming a generation that is not qualified intellectually and personally, the reason is that children do not receive adequate formal education; And
  - c. Physically, children tend to be weak and susceptible to disease attacks which result in children's physical growth being below average, the cause is that children do not receive sufficient food intake, both in quantity and quality (less nutritious food).
2. The impact of child neglect on society
  - a. Neglect of children can give rise to deviant behavior such as various forms of delinquency that disturb the peace of the environment;
  - b. Neglect of children can encourage children to become street children who disturb the comfort of road users. Even in some cases the behavior of street children leads to criminal acts;
  - c. Child neglect can be an indicator of cases of disharmony in many families in society; And
  - d. Abandoned children can become a source of behavior that tends to disturb the peace of society.
3. The impact of child neglect on government and development
  - a. Child neglect can be an indicator of lack of success in development in an area;

<sup>23</sup>Abu Huraerah, Violence Against Children, Nuansa, Bandung, 2012, page 12.

<sup>24</sup>Maulana Hasan Wadong, Introduction to Child Protection Advocacy and Law, Grassindo, Jakarta, 2000, page 41.

- b. Child neglect causes the government's burden to become heavier;
- c. Long-term neglected children can become a burden on development;
- d. Neglected children are synonymous with the need for development subsidies in many aspects;
- e. Long-term neglected children can trigger stability vulnerabilities;
- f. Long-term neglected children can become a source of obstacles to the pace of development; And
- g. Child neglect can be a benchmark for the failure to implement political policies.

Child neglect in the context of Indonesian law is absolutely unacceptable, because it is contrary to the legal rules contained in the Law on Child Protection. If a person has fulfilled all the elements or forms of child neglect, that person is obliged to take responsibility for his or her mistakes or negligence in the case of child neglect in accordance with the articles regulated in the Law on Child Protection.

Regarding the criminal act of abandoning a child who has just been born, men who actually participate in the fertilization and pregnancy process, always escape the law or at least are never considered to be responsible for the act, so if there is involvement of other parties in cases of neglect. If a new child is born other than the mother, the other party must remain responsible for their actions.<sup>25</sup>

The crime of abandoning a newly born child is an act committed by a person intentionally leaving a newborn child to be found by another person with the intention of releasing the child from his or her responsibilities. Newborn children are babies who are born either at term or almost term. Premature babies are babies born with a gestational age of less than 37 (thirty seven) weeks and a birth weight of less than 2500 (two thousand five hundred) grams.<sup>26</sup>

Article 76B of the Law on Child Protection states that: Everyone is prohibited from placing, allowing, involving, ordering to involve children in situations of abuse and neglect. Article 77B contains criminal penalties or sanctions for criminal acts from Article 76B of the Law on Child Protection, namely in the form of a maximum imprisonment of five years and/or a maximum fine of one hundred million rupiah. The Law on Child Protection adopts an alternative cumulative criminal system with the words and/or in the article formulation and the Law on Child Protection regulates criminal sanctions in the form of imprisonment and fines.

There are 3 (three) fairly long reasons for the continued need for criminal law and crime, the essence of which is as follows;<sup>27</sup>

1. Whether criminal law is necessary or not does not lie in the question of the goals to be achieved. But it lies in the question of how far to achieve that goal it is permissible to use coercion. The problem does not lie in the results to be achieved. But in

<sup>25</sup>Satjipto Rahardjo, Civil Police and Social Change in Indonesia, Kompas, Jakarta, 2002, page 45.

<sup>26</sup>Abdullah Royyan, Nursing Care for Child Clients, Student Library, Yogyakarta, 2012, page 23.

<sup>27</sup>Muladi and Barda Nawawi Arief, Criminal Law Theories and Policies, Alumni, Bandung, 2010, page 153.

consideration between the value of the result and the value of the limits of each individual's personal freedom;

2. There are repair or maintenance efforts that have no meaning at all for the condemned person. Apart from that, there must still be a reaction to the violations of norms that have been committed and cannot be ignored;
3. The influence of criminal law or criminal law is not solely aimed at the criminal. But also to influence people (society) who are not evil to obey societal norms.

The use of criminal law in tackling the crime of child neglect is still very necessary at this time. Bearing in mind that criminal law, apart from having a repressive side, also has a preventive side. Prevent law-abiding people from committing or thinking twice if they want to commit a crime.

## **CLOSING**

Child protection is all efforts made to create conditions so that every child can carry out their rights and obligations for the sake of the child's development and growth naturally, both physically, mentally and socially. Child protection activities have legal consequences, both in relation to written and unwritten laws. Based on Article 76B of the Law on Child Protection, it is stated that: Every person is prohibited from placing, allowing, involving, ordering to involve children in situations of abuse and neglect. Article 77B contains criminal penalties or sanctions for criminal acts from Article 76B of the Law on Child Protection, namely in the form of a maximum imprisonment of five years and/or a maximum fine of one hundred million rupiah. The Law on Child Protection adopts an alternative cumulative criminal system with the words and/or in the formulation of the article and the Law on Child Protection regulating criminal sanctions in the form of imprisonment and fines. There needs to be more effort apart from mitigation policies through penal channels such as compensation, social education in order to develop community social responsibility and so on. Child neglect is something that has been happening in society for a long time and has often been heard about in society or on social media. However, the laws given to perpetrators of criminal acts of child neglect are often not in accordance with the values of justice. There needs to be continuous outreach to the wider community regarding Law Number 23 of 2002 and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection which aims to protect children's rights which can be disseminated through socialization to schools - schools, places of worship and social media.

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