Optimizing Legal Assistance to Ensure Children's Rights During the Investigation Stage in Indonesia

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Abstract

Legal assistance for Children in Conflict with the Law (CCL) at the investigation stage is a fundamental element in safeguarding children's rights within the criminal justice system. Children's psychological and social conditions differ from those of adults; therefore, examinations must prioritize the best interests of the child, effective legal assistance, privacy protection, and humane treatment. This study analyzes the obstacles to providing legal assistance to CCL during the investigation stage in Indonesia and identifies measures to optimize such assistance to ensure children's rights. It employs normative juridical research using statutory and conceptual approaches by examining relevant laws and literature. The findings indicate that Indonesian law recognizes children's right to legal assistance and requires law enforcement officials to prioritize their best interests. Nevertheless, existing regulations do not automatically ensure effective implementation. Obstacles include children's limited understanding of their rights, inadequate quality of assistance, weak inter-institutional coordination, and the absence of measurable evaluation mechanisms for legal assistants. Accordingly, improvement strategies should focus on strengthening assistants' capacity, ensuring their involvement from the beginning of the investigation, concretely fulfilling children's rights, consolidating institutional cooperation, and conducting periodic evaluations. Legal assistance should not be treated merely as an administrative procedure, but as an instrument for fulfilling children's rights and ensuring access to justice.

Keywords: Legal Assistance; Children's Rights; Investigation Stage.

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Introduction

1.1. Background

Children, as legal subjects, are entitled to special treatment that is consistent with their psychological maturity. Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia expressly guarantees every child's right to grow and develop and to receive protection from violence and discriminatory treatment [1]. This protection becomes even more fundamental when a child is in conflict with the law (CCL), in which case all actions taken by law enforcement officials must prioritize the principle of the best interests of the child [2].

The primary principle in handling cases involving CCL is to prioritize restoration through diversion and restorative justice, rather than merely imposing criminal punishment [3]. This shift in perspective encourages humane handling so that legal proceedings do not sacrifice a child's future, whether the child is positioned as an offender, witness, or victim of a violent crime [4].

Within Indonesia's juvenile criminal justice system, the police investigation stage is the earliest stage and serves as the principal gateway for gathering information that determines the subsequent course of a case [5]. Through Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System (Juvenile Justice Law), the State requires the effective fulfillment of the right to legal assistance and assistance by Community Counselors at every level of examination [6]. However, law enforcement in practice often faces a substantial gap between legal regulation and its implementation [7].

Legal assistance repeatedly loses its substance and ends up being limited to listing the name of legal counsel in the Investigation Report (Berita Acara Pemeriksaan/BAP), without providing child-friendly education about the child's rights [8]. The quality of protection is strongly influenced by the readiness of the legal structure, the competence of officials, supporting facilities, and coordination among institutions [9]. Unclear divisions of responsibilities among institutions often hinder the timely provision of legal assistance [10].

Various practical obstacles also impede the bureaucratic process of providing assistance to children during investigations [11]. These obstacles include limited access to legal aid due to economic and geographical factors, uneven investigator expertise in applying child-friendly communication methods, and the limited understanding of CCL and their families regarding their procedural rights [12]. In addition, supervision of the substantive quality of assistance remains inadequate because existing evaluations tend to focus only on the completeness of case files [13]. Unless the competence of legal assistants, inter-institutional coordination, and evaluation mechanisms are optimized from the beginning of the investigation, the concrete realization of children's constitutional rights will remain difficult.

Based on this urgency, this study focuses on analyzing the obstacles and efforts to optimize legal assistance in ensuring children's rights during the investigation stage in Indonesia.

1.2. Research Questions

Based on the foregoing explanation, the issues examined in this study are as follows:

1. What are the obstacles to providing legal assistance to Children in Conflict with the Law during the investigation stage in Indonesia?
2. What measures can be taken to optimize legal assistance in ensuring children's rights during the investigation stage in Indonesia?

1.3. Research Objectives

Based on the research questions, this study aims to:

1. Identify and explain the obstacles encountered in providing legal assistance to Children in Conflict with the Law during the investigation stage in Indonesia.
2. Formulate effective measures to optimize legal assistance in order to ensure the fulfillment of the rights of Children in Conflict with the Law during the investigation stage in Indonesia.

Literature Review

2.1. The Concept of Legal Assistance for Children

Legal assistance is comprehensive support provided to children to help them understand, exercise, and defend their procedural rights throughout judicial proceedings [8]. In cases involving children, legal assistance must not be regarded merely as the physical presence of an advocate or legal aid provider in the examination room for the sole purpose of fulfilling an administrative formality. Legal assistants have a substantive responsibility to convey information in simple language, ensure that children understand the course of the examination, safeguard their procedural rights against violations, and minimize circumstances that may cause stress or fear. Accordingly, the handling of Children in Conflict with the Law must be clearly distinguished from procedures applicable to adults in order to establish humane legal protection oriented toward the best interests of the child [14].

2.2. Children's Rights During the Investigation Process in Indonesia

Children's rights during investigations include the right to humane treatment, protection from violence and pressure, legal aid, assistance, identity protection, and case handling in an atmosphere that prioritizes a family-oriented approach [15]. Such legal protection must be implemented concretely in the examination room. Children are entitled to receive legal explanations adapted to their level of understanding and to give statements freely, without intimidation, so that they understand the implications of each legal stage they undergo. Fulfillment of these procedural rights is not intended to eliminate investigators' authority to uncover a case; rather, it ensures that all powers exercised in juvenile criminal law enforcement remain within legal boundaries and respect children's dignity.

2.3. The Principle of the Best Interests of the Child

The principle of the best interests of the child derives from the United Nations Convention on the Rights of the Child, which has been incorporated into Indonesia's positive law [16]. Under this principle, every action taken by law enforcement officials must place the child's safety, psychological well-being, and future as the highest priority. This provides a normative foundation for viewing legal assistance not as an administrative formality in the case file (BAP), but as an essential instrument for safeguarding children's substantive rights so that their interests are not sacrificed in pursuit of a confession. Applying this principle does not mean disregarding the interests of law enforcement; rather, it requires every legal action to proportionately consider the child's needs, safety, development, and rights [17].

2.4. Theoretical Framework for Child Protection

Legal Protection Theory is used as an analytical instrument to assess the fulfillment of children's rights through preventive protection, namely preventing rights violations during questioning, and repressive protection in addressing violations of procedural law [18]. In the context of juvenile criminal law enforcement, Juvenile Criminal Justice System Theory emphasizes that the juvenile justice model must focus on the rehabilitative model and welfare model, rather than merely on retributive justice [5]. This requires the optimization of legal assistance during

investigations to maintain a child-friendly and family-oriented examination environment. This concept is consistent with Restorative Justice Theory, which shifts the focus of case resolution from imprisonment to restoring the situation to its original condition, as implemented in Indonesia's positive legal system through diversion at the police level [19].

Research Methodology

This study employs normative juridical research, focusing on the analysis of legal norms, principles, and the vertical and horizontal harmonization of written laws and regulations concerning legal assistance for children [20]. The research applies a statutory approach and a conceptual approach [21]. The statutory approach examines the relationship among child protection regulations, namely Article 28B paragraph (2) of the 1945 Constitution, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2014, and Law Number 16 of 2011 [1], [6], [22].

The development of criminal procedural law is also examined contextually through Law of the Republic of Indonesia Number 20 of 2025 concerning the Criminal Procedure Code (the New Criminal Procedure Code), which has been effective since 2 January 2026, particularly in relation to reforms concerning the guarantee of a suspect's right to assistance by an advocate throughout the investigation process [23].

The legal materials used consist of primary legal materials in the form of laws and regulations, and secondary legal materials derived from scholarly literature, textbooks on juvenile justice, and relevant legal journal publications [24]. The review of secondary legal materials specifically incorporates theoretical studies on the juvenile criminal justice system and the effectiveness of restorative justice written by lecturers of the Master of Law Study Program at Universitas Pembangunan Panca Budi [7].

Legal materials were collected through library research by gathering written legal documents [25]. All collected legal materials were analyzed qualitatively using deductive reasoning and an integrated interpretation of legislation oriented toward societal objectives, in order to examine the fulfillment of substantive legal protection for children [18]. Consistent with the nature of normative legal research, this study does not employ field observation, interviews, or direct empirical data collection in the field.

Results and Discussion

4.1. Obstacles to Providing Legal Assistance to Children in Conflict with the Law during the Investigation Stage in Indonesia

The implementation of legal assistance is influenced by the availability of legal aid services, the capacity of officers or law enforcement officials, children's understanding of their rights, inter-institutional coordination, and supervision of examination procedures. The obstacles to providing legal assistance to Children in Conflict with the Law during the investigation stage in Indonesia include the following:

1) Limited Access to Legal Aid. Children and their families may not know where to obtain legal assistance or the procedures for accessing it. This may result from limited information, geographical distance, and economic conditions that make it difficult for families to obtain timely assistance. Such circumstances may reduce a child's opportunity to receive legal explanations and protection from the beginning of the examination [26].

2) Investigators' Expertise in Addressing Children's Needs. The examination of children requires communication suited to their age and level of understanding. If an examination is conducted in a manner that causes fear or pressure, children may find it difficult to provide information freely. Therefore, specific requirements for child investigators must be accompanied by adequate training and the implementation of examination procedures focused on child protection [14]. Law enforcement efforts involving children during investigations highlight the importance of specialized handling models, supporting facilities, and consistent implementation of diversion. The relevant study also indicates that the implementation of diversion may face a lack of uniformity in practice [7]. This demonstrates the need for clear procedures that can be consistently applied by those handling juvenile cases.

3) Limited Awareness among Children and Families of Their Procedural Rights. Children may not understand the meaning of legal assistance, the purpose of an examination, or the consequences of the statements they provide. Families do not always have sufficient knowledge of juvenile criminal justice procedures either. If information is delivered in overly complicated language and technical terms, children may know that they have rights but fail to understand how to exercise those rights in practice.

4) Suboptimal Integrated Cooperation among Institutions. The handling of cases involving children requires the involvement of various parties, including investigators, advocates or legal aid providers, Community Counselors, parents or guardians, and other professionals as needed. Unclear divisions of responsibility or delayed communication may obstruct the provision of assistance. Accordingly, coordination mechanisms must be clearly established from the beginning of the examination.

5) Inadequate Supervision of the Quality of Legal Assistance. Administrative checks that merely confirm the presence of a legal assistant are insufficient to assess whether a child's rights are genuinely protected. Supervision must examine whether the child receives understandable explanations, has an opportunity to communicate with the legal aid provider, and is examined in accordance with child-protection procedures.

6) The Risk of Assistance Becoming a Mere Formality. The presence of an assistant does not automatically guarantee effective protection. Assistance may become meaningless if the child receives no explanation, has no opportunity to communicate, or does not obtain support appropriate to the legal issue concerned.

Legal protection for children within the juvenile criminal justice system emphasizes the need for special treatment that takes account of differences in physical, mental, and social conditions compared with adults. From this perspective, the most important aspect of assistance is what the child actually needs, not merely the completion of administrative case files.

These obstacles underscore the importance of aligning legal regulations with institutional capacity, service availability, and strict supervision. Therefore, improving the quality of legal assistance must focus on systemic reform to ensure genuine protection for children throughout the investigation process.

4.2. Measures to Optimize Legal Assistance in Ensuring Children's Rights during the Investigation Stage in Indonesia

The optimization of legal assistance must be directed toward strengthening a system that connects regulations, law enforcement officials, legal assistants, families, and relevant institutions. Such efforts may be undertaken through the following measures:

1) Establishing Standard Procedures for Assistance from the Beginning of the Investigation. These procedures should include steps to identify the child's status, explain the child's rights in easily understandable language, ensure the availability of legal aid and assistance,

and retain evidence that such rights have been fulfilled. The standards must not create new obligations that conflict with the law. Their implementation must therefore comply with Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System and other applicable regulations.

2) Strengthening the Competence of Investigators and Legal Aid Providers. Child investigators require an understanding of child psychological development, age-appropriate communication techniques, protection from pressure, and restorative justice approaches. Legal assistants must master the characteristics of juvenile criminal justice in order to provide appropriate explanations, legal assistance, and defense. Training programs must be conducted periodically and accompanied by an assessment of their effectiveness.

3) Improving Cooperation among Investigators, Legal Aid Providers, Community Counselors, Social Workers, and Families. Cooperation is necessary to ensure that legal proceedings are not separated from children's social and psychological needs. In exchanging information, the protection of children's identities and the principle of the best interests of the child must remain priorities. Each institution must also explain its respective roles and functions so that coordination does not overlap with the responsibilities of other institutions.

4) Expanding Easy and Timely Access to Legal Aid. The public, particularly children and their families, must know how to reach official legal aid organizations. To prevent delays in handling cases, law enforcement officials and legal aid organizations must coordinate with one another. It is important to remember that the provision of legal assistance is the fulfillment of citizens' constitutional rights, not merely a formality for completing case files.

5) Strengthening Supervision of the Quality of Assistance beyond Administrative Formalities. Field evaluations must ensure that children understand their rights, that examinations are free from intimidation and pressure, and that identity confidentiality is guaranteed in accordance with Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System. Complaint mechanisms must also be accessible to children and families in a safe and easily understandable manner.

6) Ensuring that Diversion Is Considered in Accordance with Legal Requirements. In cases that meet the statutory requirements, diversion must be pursued in accordance with the Juvenile Justice Law. Legal assistance plays a role in helping children and their families understand the procedures and legal consequences and in ensuring that the process is not conducted under coercion. Diversion is not merely a means of accelerating case resolution; it is part of a restorative justice approach aimed at achieving a fair resolution and avoiding the negative consequences of judicial proceedings for children.

7) Developing Institutional Evaluation Oriented toward the Fulfillment of Children's Rights through Measurable Indicators. Such indicators may include the provision of legal aid, assistance in accordance with regulations, communication of children's rights, identity protection, documentation of the examination process, and responses to complaints. This system enables institutions to detect procedural deficiencies and design more targeted improvements.

The authorized institutions are responsible for regulations, procedures, and work programs. The success and actual impact of implementing these measures on children's rights must be assessed through separate empirical studies. Factors affecting law enforcement include legal substance, law enforcement personnel, facilities, society, and legal culture [27]. In the context of assistance for children, these five factors must be considered in an integrated manner because the existence of regulations alone is insufficient without competent officials, available services, and public understanding.

Accordingly, the optimization of legal assistance must position children as rights-bearing subjects rather than mere objects of examination. The success of assistance depends on consistent

implementation of regulations, institutional support, the quality of legal aid, and supervision oriented toward the fulfillment of children's rights.

Conclusion and Recommendations

5.1. Conclusion

Based on the research questions and the discussion, the following conclusions can be drawn:

1) Obstacles to providing legal assistance to children during the investigation stage in Indonesia arise from structural and substantive constraints in practice. The main obstacles include limited access to information and legal aid for CCL families due to economic or geographical factors; uneven investigator competence in child-friendly communication methods; limited procedural legal understanding among children and their families; and weak synergy and coordination among juvenile criminal justice institutions. In addition, existing supervision remains administrative and formalistic (limited to ensuring the completeness of case files) and has not substantively evaluated the quality of legal assistance.

2) Efforts to optimize legal assistance in ensuring children's rights during the investigation stage in Indonesia must be undertaken through integrated systemic improvements. Strategic measures include establishing standard operating procedures (SOPs) for assistance from the beginning of the examination; improving the child-friendly competence of investigators and advocates through periodic training; expanding timely access to legal aid; strengthening cross-sectoral coordination; consistently implementing diversion; and developing indicators for periodic institutional evaluation of assistance quality, accompanied by safe complaint channels.

5.2. Recommendations

Based on the conclusions concerning the obstacles and optimization of legal assistance for children during the investigation stage in Indonesia, the following recommendations are proposed:

1) For Law Enforcement Officials (Police Investigators)

a. Minimize competency-related and file-formality obstacles by incorporating child psychology approaches and child-friendly communication methods into examination procedures for handling Children in Conflict with the Law.

b. Ensure that the right to legal assistance is actively provided from the very first moment of the investigation in order to eliminate passive assistance practices intended solely to fulfill the administrative formality of the Investigation Report (BAP).

2) For Legal Aid Providers (Advocates, Paralegals, and Legal Aid Organizations)

a. Improve the substantive capacity of legal assistants through periodic internal training programs focusing on Juvenile Criminal Procedure Law, mastery of technical regulations, and implementation of Law Number 20 of 2025 concerning the Criminal Procedure Code (in relation to the latest developments in procedural rights).

b. Expand educational outreach and accelerate responses to the handling of children's cases without bureaucratic barriers in order to overcome geographical obstacles and the economic limitations faced by CCL families.

3) For Relevant Institutions and Policymakers (National Police, Correctional Centers/Bapas, Legal Aid Organizations, and Relevant Ministries)

a. Establish memoranda of understanding (MoUs) and an integrated data-interconnection system among juvenile justice institutions to optimize the consistent implementation of diversion at the police level.

b. Formulate technical regulations concerning indicators for evaluating the quality of legal assistance and provide safe, easily accessible complaint channels for violations of children's rights while absolutely safeguarding children's identity confidentiality.

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