

Implications of the Contradiction in the Definition of Children Between the Child Protection Law and the Human Rights Law in the Juvenile Justice Process

Fenny Haslizarni^{1*}, Fenty U. Puluhalawa², Suwitno Y. Imran³

¹⁻³Universitas Negeri Gorontalo, Kota Gorontalo, Indonesia

Address: Perumahan Griya Tirtonadi, Gorontalo City 96126

Corresponding author: fennyhaslizarni12@gmail.com*

Abstract. *This research aims to analyze the differences in the definition of a child's age in the Child Protection Law and the Human Rights Law and how this affects the handling of juvenile cases, as well as the implications of the contradiction in the definition of a child's age between the Child Protection Law and the Human Rights Law in juvenile justice processes. This type of research is normative research. The research results indicate that (1) The difference in the definition of a child in the Child Protection Law (Law No. 35 of 2014) and the Human Rights Law (Law No. 39 of 1999) creates inconsistency in legal protection for children. A fair legal system should provide more protection to vulnerable groups, such as children, without distinguishing their marital status. The principle of justice as fairness requires that every individual, especially vulnerable groups, should receive equal opportunities and maximum protection under the law. However, the definition in the Human Rights Law, which excludes married children, creates injustice and contradicts the principle of non-discrimination outlined in the Convention on the Rights of the Child (CRC). (2) The implication of the contradiction in the definition of a child's age between the Child Protection Law and the Human Rights Law in juvenile justice processes is the legal impact, leading to inconsistency in law enforcement by law enforcement officials. Legal theory highlights that the success of law enforcement is influenced by the alignment between the law, law enforcement officials, and society. In this case, the misalignment of legal definitions complicates the decision-making process for law enforcers in determining the status of a married child, which impacts the protection of their rights. Additionally, the theory of distributive justice emphasizes that the distribution of legal treatment should be proportional to the individual's needs. A married child still requires legal protection as a vulnerable age group, so the legal treatment should reflect this need.*

Keywords: *Contradiction, Child Protection, Definition of a Child.*

1. BACKROUND

Children, as the next generation of the nation, play a crucial role in national development and are entitled to protection from the state in accordance with the provisions of the 1945 Constitution of the Republic of Indonesia, which states that children have the right to protection from violence. Children's rights are an important aspect of legal protection regulated by various laws in Indonesia. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, along with Law Number 17 of 2016 regarding the Ratification of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection into Law, and Law Number 39 of 1999 on Human Rights, play a significant role in protecting children's rights. However, there is a notable difference in defining the age limit for children between these two laws, which raises questions and challenges in ensuring fair law enforcement for children.

In Indonesia, there are several laws that regulate the rights and protection of children, including Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, along with Law Number 17 of 2016 regarding the Ratification of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection into Law, and Law Number 39 of 1999 on Human Rights. These two laws have their own functions and objectives in ensuring children's rights; however, there is a significant difference in defining the age limit for children. This issue is crucial as it can affect the treatment of children, both in the context of justice and in the broader context of human rights protection.

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, along with Law Number 17 of 2016 regarding the Ratification of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection into Law, defines a child in Article 1, paragraph 1 as someone who is under the age of 18 (eighteen) years, including an unborn child. This definition reflects a commitment to providing special protection for children, who are recognized as individuals still in the process of physical, mental, and social development. From the perspective of the Juvenile Justice System Law, children in conflict with the law must be treated in a manner that considers their best interests. This aims to prevent negative stigma and provide opportunities for rehabilitation and reintegration into society.

Law Number 39 of 1999 on Human Rights defines a child in Article 1, paragraph 5 as any human being under the age of 18 (eighteen) years who is not married, including an unborn child when it is in their best interest. A person who is 18 years old but already married cannot be categorized as a child under this law. In reference to Article 1, paragraph 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, along with Law Number 17 of 2016 regarding the Ratification of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection into Law, a child is defined as someone who is under the age of 18 (eighteen), including an unborn child. According to this definition, a child is considered to be anyone under the age of 18, regardless of their marital status. This highlights a fundamental difference between the definitions of a child in the Child Protection Law and the Human Rights Law.

The difference in the age limit for children as regulated in the Child Protection Law and the Human Rights Law creates a complex source of problems in law enforcement practices, whether by the police, prosecutors, or judges. In cases where individuals aged 17 are involved in a criminal act, there is a possibility that they may be treated either as adults or as children,

depending on which law the authorities refer to. This has the potential to create injustices, where children's rights are not adequately fulfilled, and the child may face severe legal consequences. This discrepancy in age limit discrepancy can impact the application of laws and child protection in practice. Such gaps lead to confusion and even injustice in law enforcement, potentially neglecting children's rights based on the principle of the best interests of the child. (*the best interest of the child*).

Furthermore, the differing treatment between these two laws can lead to violations of broader human rights principles. Child protection is not only a state obligation but also an integral part of respecting and protecting human rights. The ambiguity in this age limit can be observed in court rulings involving children, including the decision of the Sampit District Court Number: 03/Pid.Sus-Anak/2015/PN.Spt and the decision of the Sampang District Court Number 125/Pid.B/2015/PN Spg.¹

The decision of the Sampit District Court Number: 03/Pid.Sus-Anak/2015/PN.Spt involved a female perpetrator aged 15 (fifteen) years named Wati Sarmila Als Jesika Mila Binti Ardaliasnsyah, a minor who is already married and entangled in a legal case concerning narcotics and was sentenced to 1 (one) month and 15 (fifteen) days in prison. Based on the excerpt of Criminal Decision Number 03/Pid.Sus-Anak/2015/PN.Spt, the Sampit District Court issued a ruling in the case of the child at the first instance court with special examination proceedings for Wati Sarmila Als Jesika Mila Binti Ardaliasnsyah.² :

1. The child named Wati Sarmila Als Jesika Mila Binti Ardaliasnsyah has been found guilty of the crime of "attempted abuse of narcotics of category I"; and
2. Consequently, she has been sentenced to imprisonment for 1 (one) year and 15 (fifteen) days.

The considerations of the judge in issuing Criminal Decision Number 03/Pid.Sus-Anak/2015/PN.Spt, on behalf of Wati Sarmila Als Jesika Mila Binti Ardaliasnsyah, are as follows:

1. The perpetrator is still categorized as a child by the judge, despite being married, thus the judge used considerations based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System;

¹ Nanang Ibrahim Soleh et al., "Analisis Hukum Terhadap Anak Yang Sudah Kawin Sebagai Subyek Yang Berhadapan Dengan Hukum (Studi Kasus Putusan Pengadilan Negeri Sampit Nomor: 03/Pid.Sus Anak/2015/PN.Spt)," *Journal of Environment and Management* 1, no. 3 (2020): 232–240.

² Ibid.

2. Based on the examination, the motive for the perpetrator using methamphetamine was initially due to being invited by friends to try it, which led her to use methamphetamine. However, according to the judge, the perpetrator was still proven guilty of attempting a criminal act that violates Article 53 paragraph (1) of the Penal Code;
3. The perpetrator was found guilty of violating Article 127 paragraph (1) letter a of the Narcotics Law, where she was proven to be an abuser of category I narcotics (methamphetamine) for personal use;
4. A criminal sentence was imposed on the perpetrator despite her status as a child, in the form of imprisonment based on Article 71 paragraph (1) letter e of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

The decision of the Sampang District Court Number 125/Pid.B/2015/PN Spg in a criminal case with regular examination proceedings on behalf of Ridwan Bin Mujahit involves a child facing the law, namely Ernawati, who is a 15-year-old victim. Despite still being classified as a minor, she was previously married under state law and then divorced. Now, at the age of 17, the victim is married according to religious law (nikah siri) to the defendant. Based on the minutes of the proceedings and witness testimonies at the Sampang District Court, there was violence against the victim perpetrated by the defendant.

In relation to the above case, there are considerations that:

“Considering that at the time of the violence, according to the testimony of the victim Ernawati, which was corroborated by the statements of witness Tirah and others, and which was not disputed by the defendant, the victim Ernawati was 17 years old. After the panel of judges reviewed the investigation documents, it was found in Ernawati's elementary school diploma, dated June 16, 2012, that it stated she was born on August 17, 1998, which clearly indicates she is still under the age of 18 (eighteen).”

“Considering that based on the testimony of the victim Ernawati, supported by the testimonies of witnesses Tirah, Ach. Fauzi, Moh. Selket, and the defendant, it was explained that the victim Ernawati had previously married under state law when she was 15 years old, but that marriage has since been dissolved. After the panel of judges reviewed the documentary evidence submitted by witness Ach. Fauzi, namely Marriage Certificate Number 0536/116/VI/2013, which essentially states that a marriage took place between the victim Ernawati and Hasanuddin, it was noted that this marriage has since been dissolved according to Divorce Certificate Number 132/AC/2014/PA.Sampang. Subsequently, the victim Ernawati remarried the defendant according to religious law (nikah siri), and now the victim Ernawati has divorced the defendant.”

Based on the aforementioned facts, the panel of judges believes that the victim Ernawati is not classified as a minor, because although she is under 18 years of age, she has been married. The court's ruling states that the defendant Ridwan Bin Mujahit is acquitted of the second charge of committing violence against a child and finds that the defendant Ridwan Bin Mujahit is proven legally and convincingly to have committed the crime of "theft" as stated in the first charge.

The considerations of the judge in the Sampit District Court Decision Number: 03/Pid.Sus-Anak/2015/PN.Spt categorizes a child as defined in Article 1, paragraph 1 of Law Number 23 of 2002 on Child Protection, which states that a child is someone who is under the age of 18 (eighteen), including an unborn child. The considerations in Decision Number 125/Pid.B/2015/PN Spg categorize a child as defined in Law Number 39 of 1999 on Human Rights, Article 1, paragraph 5, which states that a child is any human being under the age of 18 (eighteen) who is not married. This difference in the categorization of children not only occurs at the level of understanding by judges who will decide cases but also takes place within law enforcement agencies and prosecutors. In practice, the understanding related to the category of children depends on the perspective of the police officer or prosecutor handling the case.

Based on the description above, the prospective researcher will conduct an in-depth legal analysis regarding the differences in the age limit for children between the Child Protection Law and the Human Rights Law, with the title **"Implications of the Contradiction in the Definition of Childhood Between the Child Protection Law and the Human Rights Law in the Juvenile Justice Process"**.

2. METHODS

The type of legal research in this study is normative legal research, which is a process of discovering legal rules, principles, and doctrines to address the legal issues at hand. The approach used in this research is the statutory approach, which involves examining legal products. This approach entails reviewing regulations related to the legal issues raised and using them to analyze those issues. The case approach involves analyzing and examining cases as a guideline for addressing legal problems in order to resolve legal matters.

Sources of legal research can be categorized into primary legal materials and secondary legal materials. Primary legal materials are authoritative sources, meaning they hold legal authority. These primary materials include legislation, official records or minutes from the legislative process, and judicial decisions. Secondary legal materials encompass all publications about the law that are not official documents. Legal publications include

textbooks, legal dictionaries, law journals, and commentaries on court decisions.³

The technique for collecting legal materials used in this research is a documentary study or literature review, which involves gathering legal materials such as regulations, books, and journals.⁴ This research employs legal material analysis using the method of interpretation. P.W.C. Akkerman explains that systematic interpretation involves examining the relationships between interdependent rules within a law. The underlying principle of systematic interpretation is that laws form a cohesive whole, and no provision within a law stands alone.⁵

3. DISCUSSION

The Protection of children is a central issue in the legal system of Indonesia, reflected in various national and international regulations. One important aspect of child protection is the legal definition of who is considered a "child." This definition can influence how the law views children's rights and how those rights are protected. In Indonesia, there are two main laws that provide definitions of a child: Law Number 35 of 2014 on Child Protection (Child Protection Law) and Law Number 39 of 1999 on Human Rights (Human Rights Law). These two laws have significant differences in defining a child, leading to debates about the protection that should be afforded to children in Indonesia.

The Human Rights Law defines a child as someone who is under the age of 18 and not married, with the exception that a child who is married is no longer considered a child under this law. This difference has implications for children's rights, particularly regarding legal protection. This approach emphasizes the autonomy of children and their right to participate in decisions that affect their lives, as reflected in Article 12 of the Convention on the Rights of the Child (CRC), which grants children the right to be heard in legal proceedings, in accordance with their maturity. However, this definition, which limits children's rights based on marital status, creates a gap in protection for married children, even though their position still places them within an age group vulnerable to exploitation, violence, and rights violations.

The difference in the definition of a child creates challenges in the implementation of law in Indonesia. Legal cases involving children who are married but under the age of 18 often face ambiguity in determining their legal status. For example, in several court rulings, married children are treated differently depending on which law is referenced. In the case of the Sampit District Court (Number: 03/Pid.Sus-Anak/2015/PN.Spt), the judge used the Child Protection

³ Ibid.

⁴ Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

⁵ Marzuki, *Penelitian Hukum*.

Law to recognize the child's status despite being married, thereby providing protection. However, in the case of the Sampang District Court (Number: 125/Pid.B/2015/PN Spg), the judge referred to the definition of a child in the Human Rights Law, which excludes married children from child protection, thus neglecting the need for protection for that child.

The discrepancies in the treatment of married children indicate inconsistencies within Indonesia's judiciary, which can result in injustices and disadvantage children who genuinely require protection. This ambiguity also confuses law enforcement officers, who occasionally must determine whether an individual under the age of 18, yet married, should be regarded as a child or an adult.

According to Aristotle⁶, distributive justice demands that each individual receive treatment appropriate to their needs and circumstances. In the context of children, this means that the state must provide greater legal protection to children who are in vulnerable situations, such as those who are married but still under the age of 18. However, the differing definitions of a child in the Child Protection Law and the Human Rights Law create an unequal distribution of protection. A married child may lose protective rights if the definition in the Human Rights Law is applied.

This unequal distribution of protection contradicts the principle of distributive justice, as married children, who are more vulnerable to violence, exploitation, and neglect, require greater protection than those who are unmarried. The state, as the party responsible for upholding children's rights, should prioritize this group to ensure that their needs are met.

The concept of the best interest of the child in the Convention on the Rights of the Child (CRC) aligns with Aristotle's notion of distributive justice. This principle requires that every decision involving a child prioritizes their well-being.⁷ However, the mismatch in the definition of a child in Indonesia's national law hinders its application. Children who are already married, despite being below the age of 18, are frequently not recognized as children in specific legal contexts, resulting in much less protection compared to unmarried children.

Corrective justice, according to Aristotle, aims to rectify injustices that arise from violations or imbalances.⁸ In the context of child protection, corrective justice can be applied to address cases where children, particularly those who are married, do not receive protection that meets their needs. For instance, in cases of children who are victims of domestic violence,

⁶ Mohammad Alvi Pratama Febrian Duta Pratama, Rafly Pebriansya, "Konsep Keadilan Dalam Pemikiran Aristoteles," *Praxis : Jurnal Filsafat Terapan* 1, no. 2 (2024): 1–25.

⁷ Silvia Fatmah Nurushshobah, "Konvensi Hak Anak Dan Implementasinya Di Indonesia," *BIYAN: Jurnal Ilmiah Kebijakan dan Pelayanan Pekerjaan Sosial* 1, no. 2 (2019): 123.

⁸ Febrian Duta Pratama, Rafly Pebriansya, "Konsep Keadilan Dalam Pemikiran Aristoteles."

the legal system often fails to provide adequate restitution if the child is not recognized as a minor under the Human Rights Law.

The differing definitions of a child in the Child Protection Law and the Human Rights Law create gaps in both distributive and corrective justice. Children who are married but still under the age of 18 often find themselves in an ambiguous position within the legal system. In some cases, they are regarded as children and receive appropriate protection, while in others, they are treated as adults and lose their rights as minors.

This uncertainty not only harms children but also creates challenges for law enforcement officials, such as police officers, prosecutors, and judges, in determining how cases involving children should be handled. This uncertainty highlights the need for a uniform and consistent definition of a child in national law to ensure that all children, regardless of marital status, receive equal protection.

In Aristotle's distributive justice, individual needs serve as the primary basis for determining the distribution of rights and obligations.⁹ In the case of married children, the need for legal and social protection does not diminish simply because of their marital status. On the contrary, they may require even greater protection, as early marriage often brings additional risks, such as domestic violence, economic dependency, and loss of access to education.

However, the definition of a child in the Human Rights Law that excludes married children creates injustice in the distribution of protection. This underscores the need for a legal revision to ensure that all children, including those who are married, continue to receive protection appropriate to their stage of development.

The Child Criminal Justice System (SPPA) in Indonesia is governed by Law Number 11 of 2012 on the Juvenile Criminal Justice System. This law is designed to provide special protection for children who come into contact with the law, whether as offenders, victims, or witnesses. The main principle of SPPA is the application of a different approach from the adult criminal justice system, emphasizing rehabilitation and social reintegration while prioritizing the best interest of the child. However, the implementation of child protection principles within SPPA faces serious challenges, particularly regarding the differing definitions of a child in various laws in Indonesia, such as the Child Protection Law and the Human Rights Law.

⁹ Ibid.

1. The Principle of the Best Interest of the Child in SPPA

The principle of the best interest of the child is at the core of SPPA, requiring that every step in the juvenile justice process considers the welfare and developmental needs of the child. This principle aligns with the Convention on the Rights of the Child (CRC), which Indonesia ratified through Presidential Decree Number 36 of 1990. In the context of SPPA, this principle is applied through rehabilitative and restorative approaches, aimed at avoiding punitive measures that could harm a child's development.

However, the differing definitions of a child in the Child Protection Law and the Human Rights Law can hinder the application of this principle. For instance, married children who are still under the age of 18 are often not treated as children in certain legal contexts. This creates a gap in the implementation of SPPA, as these children may not receive treatment that aligns with their needs as individuals still in a developmental stage.

2. Diversion and Restorative Justice in SPPA

One of the main approaches in SPPA is the implementation of a diversion mechanism, which allows for the resolution of cases involving children outside of the formal judicial process. Diversion aims to avoid stigmatization of children who come into contact with the law and provides an opportunity for rehabilitation. This approach is supported by the concept of restorative justice, which focuses on restoring relationships between the offender, the victim, and the community.

However, this diversion mechanism is often difficult to apply if a child's status as a minor is questioned due to differing definitions in the laws. Married children may not qualify for diversion if they are considered adults under certain legal systems. This inconsistency can hinder children from receiving the protection they need while also reducing the effectiveness of the restorative justice approach within SPPA.

3. Rehabilitative Approach in SPPA

The SPPA emphasizes the importance of rehabilitation for children who come into contact with the law, aiming to help them reintegrate into society as productive individuals. This rehabilitation includes educational programs, skills training, and psychological counseling. However, married children often do not have equal access to these rehabilitation programs, especially if they are considered adults in certain legal contexts.

The rehabilitative approach in SPPA also aligns with Aristotle's theory of corrective justice, which emphasizes the importance of remedying injustices experienced by individuals. In this context, the state has a responsibility to ensure that every child, regardless of marital status, has equal access to rehabilitation programs designed to meet their developmental needs.

4. Challenges of Implementing SPPA in the Context of Differing Definitions of a Child

One of the main challenges in implementing SPPA is the inconsistency between the definition of a child in the Child Protection Law and the Human Rights Law. This inconsistency creates legal uncertainty for law enforcement officials, such as police officers, prosecutors, and judges, in determining how cases involving children should be handled. For example, married children are often considered adults in certain legal contexts, resulting in the loss of special rights guaranteed by SPPA.

This inconsistency also impacts the implementation of the principle of the best interest of the child within the criminal justice system. Children who are not recognized as minors in specific legal contexts may not receive protection that aligns with their needs, which contradicts Indonesia's obligations as a country that has ratified the Convention on the Rights of the Child (CRC).

5. The Principle of Non-Discrimination in SPPA

The Convention on the Rights of the Child (CRC) establishes the principle of non-discrimination as one of the main pillars of child protection. This principle requires states to ensure that all children, without exception, receive equal protection. However, in practice, married children often face discrimination within the criminal justice system, as they are not considered children in certain legal contexts.

This discrimination contradicts the principle of distributive justice proposed by Aristotle, which emphasizes the importance of providing treatment that is appropriate to individual needs. In this regard, married children are in a more vulnerable position and require greater protection. Therefore, the state must ensure that all children, regardless of marital status, receive the rights guaranteed by SPPA.

Inconsistency in Court Rulings Regarding Married Children Under 18: A Case Study

Inconsistency in court rulings regarding married children under 18 highlights a serious issue within Indonesia's legal system. This is primarily due to the differing definitions of a child in Law Number 35 of 2014 on Child Protection (Child Protection Law) and Law Number 39 of 1999 on Human Rights (Human Rights Law). In the Child Protection Law, a child is defined as someone who is under the age of 18, including those who are married. In contrast, the Human Rights Law excludes married children from its definition of a child. This inconsistency creates a real legal dilemma for judges when deciding cases involving children, particularly those who are married.

1. The Sampit District Court Case with the Approach of the Child Protection Law

One example is the case handled by the Sampit District Court. In this case, the defendant is a 15-year-old child who is married. The judge referred to the Child Protection Law, which continues to regard the defendant as a child despite being married. This approach provides additional protection to the defendant, including access to a juvenile justice system that is more focused on rehabilitation rather than punishment.

This ruling demonstrates consistency with the principle of the best interest of the child, as outlined in the Convention on the Rights of the Child (CRC). By referencing the Child Protection Law, the judge ensures that the best interests of the child are a primary consideration in decision-making. This aligns with Indonesia's obligations as a country that has ratified the Convention on the Rights of the Child (CRC) to provide full protection to all children without discrimination.

2. The Sampang District Court Case with the Approach of Human Rights Law

In the case handled by the Sampang District Court, a 15-year-old child who was married was not treated as a child based on the definition in the Human Rights Law. In this case, the judge ruled that due to her marital status, the defendant was considered not a child, and therefore did not receive the special protection outlined in the Child Protection Law.

This approach creates a gap in legal protection for married children. By using the definition in the Human Rights Law, the judge overlooked the physical, mental, and social conditions of the defendant, who still required special treatment as a child. This contradicts Aristotle's principle of distributive justice, which demands that the most vulnerable individuals receive greater protection.

The differing approaches in these two cases reflect an inconsistency in the application of the law, creating legal uncertainty for married children. In one case, a married child is still considered a child and receives additional protection, while in another case, marital status results in the loss of rights as a child.

This inconsistency not only harms the children involved in legal cases but also presents challenges for law enforcement officials, such as judges, prosecutors, and police, in determining which laws to reference. This uncertainty highlights the need for harmonization of the definition of a child in both the Child Protection Law and the Human Rights Law to ensure consistent legal protection for all children.

The approach used in the Sampit District Court case is more consistent with this principle, as it provides additional protection to married children. In contrast, the approach taken in the Sampang District Court case reflects an inability to prioritize the best interests of the child, resulting in the loss of legal protections that should have been afforded.

From the perspective of justice theory, the approach in the Sampit District Court case aligns more closely with Aristotle's principle of distributive justice. A married child, despite having a different social status, remains in a more vulnerable condition compared to adults. Therefore, they require greater legal protection to ensure their well-being. Conversely, the approach in the Sampang District Court case contradicts the principle of distributive justice by neglecting the special needs of married children. This approach reflects a failure to understand that marital status does not diminish a child's need for adequate legal protection.

As a country that has ratified the Convention on the Rights of the Child (CRC), Indonesia has an obligation to provide full protection to all children without discrimination. The differing approaches in these two cases indicate that Indonesia still faces challenges in fulfilling its international obligations. Married children often do not receive the same protections as unmarried children, which contradicts the principle of non-discrimination outlined in the CRC.

To meet its international obligations, Indonesia needs to align its national laws with the principles of the Convention on the Rights of the Child (CRC). This includes ensuring that all children, including those who are married, receive equal legal protection that is appropriate to their needs. The inconsistency in the definition of a child also affects the implementation of the Child Criminal Justice System (SPPA). Married children often do not have access to a juvenile justice system that is more focused on rehabilitation rather than punishment. This hinders efforts to provide protection that is suitable for their developmental stage.

The application of the principle of restorative justice in SPPA also becomes difficult if a child's status as a minor is questioned. Married children may be regarded as adults, resulting in the loss of their right to diversion or resolution outside of the formal judicial process. The inconsistency in court rulings regarding married children under 18 reflects a significant challenge within Indonesia's legal system. The differing definitions of a child in the Child Protection Law and the Human Rights Law create legal uncertainty that harms children who should receive full protection.

4. CONCLUSION

The differing definitions of a child between the Child Protection Law and the Human Rights Law create significant contradictions within Indonesia's legal system, particularly in the juvenile justice process. This inconsistency leads to legal uncertainty in the treatment of married children who are still under 18 years old. In some cases, married children lose their rights as minors and are treated as adults, which contradicts the principles of justice and child protection.

This ambiguity not only affects children who come into contact with the law but also creates challenges for law enforcement officials, who often must choose which laws to reference. Different rulings in similar cases indicate inconsistencies in the application of the law and create potential injustices. To address this issue, it is necessary to harmonize the definition of a child across various regulations, thereby creating uniformity in child protection. The principle of the best interest of the child must serve as the primary foundation in every judicial process involving children, regardless of marital status. Thus, legal harmonization and the enforcement of non-discrimination principles will ensure that all children receive equal protection in accordance with Indonesia's obligations as a country that has ratified the Convention on the Rights of the Child (CRC).

REFERENCES

- Achmad, M. F., & Yulianto. (2010). *Dualisme penelitian hukum normatif & empiris*. Yogyakarta, Indonesia: Pustaka Pelajar.
- Marzuki, P. M. (2014). *Penelitian hukum*. Jakarta, Indonesia: Kencana.
- Nurusshobah, S. F. (2019). Konvensi Hak Anak dan implementasinya di Indonesia. *BIYAN: Jurnal Ilmiah Kebijakan dan Pelayanan Pekerjaan Sosial*, 1(2), 123.
- Pratama, F. D., Pebriansya, R., & Pratama, M. A. (2024). Konsep keadilan dalam pemikiran Aristoteles. *Praxis: Jurnal Filsafat Terapan*, 1(2), 1–25.
- Soleh, N. I., Heriamariaty, Farina, T., & Asriadi, N. (2020). Analisis hukum terhadap anak yang sudah kawin sebagai subyek yang berhadapan dengan hukum (Studi kasus putusan Pengadilan Negeri Sampit Nomor: 03/Pid.Sus Anak/2015/PN.Spt). *Journal of Environment and Management*, 1(3), 232–240.
- Yuliartini, N. P. R., & Mangku, D. G. S. (2021). Legal protection of child victims of sexual violence. *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, 6, 343.