



## Assessing the New Model Fulfilling the Right to Education for Correctional Students

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### ABSTRACT

The future of the Indonesian nation is very dependent on the current condition of children. Therefore, attention to children is the main focus, especially for Correctional Students (ADP) who live in Special Children Particular Development Institutions (LPKA). One of the things that concern to children in prison is having the same right to obtain formal and informal education. The purpose of this research is to analyze and examine the implementation of the right education for correctional students and to design a model for fulfilling the ideal right to education for children in Class II of LPKA Gorontalo. The type of research used in this research is empirical normative legal research. The results of the research show that the implementation of the ADP education process in LPKA is implemented according to the mandate of Law Number 22 of 2022 that concerning Corrections where ADPs can receive formal and informal education. In the implementation of formal learning process activities there are still obstacles, namely the learning implementation process in another place other than LPKA, so it needs to formulate a learning model that must be made a child-friendly school in the LPKA environment and should be supported by educators who are competent and experienced to educate the children.

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## 1. Introduction

The Child is a gift given by God as the next generation and is expected to bring it to better generation in the future.<sup>1</sup> The definition of a child based on Article 1 Number 1 of Law Number 35 of 2014 concerning Child Protection states that a child is someone who is not yet 18 years old, including a child who is still in the womb.<sup>2</sup> Children are an inseparable part of the future of the Nation and the State. The future of children is our common future.<sup>3</sup>

Law Number 35 of 2014 concerning Child Protection has ensured the fulfillment of children's needs. The law was formed to meet the needs of children's lives to live, grow, develop, and participate optimally in accordance with the dignity and dignity of humanity and receive protection from violence, discrimination to realize quality Indonesian children with noble and prosperous character. Therefore, the fulfillment of children's rights is very important, especially if the status of the child is a Correctional Protégé (ADP).

One of the rights of prisoners is the right to obtain Education. The fulfillment of education is a thing that must be owned by everyone in obtaining education because in Article 31 paragraph (1) of the 1945 Constitution states that every citizen has the right to get an education.<sup>4</sup>

Furthermore, the regulation regarding the right to obtain an education is contained in the provisions of Article 12 letter c of Law Number 22 of 2022 concerning Correctional Services which states that "the right to get education and teaching."<sup>5</sup> Of the overall right of prisoners contained in the Penal Code, the right that is closely related to the mental improvement of children is the right to education and teaching.<sup>6</sup> Based on that, every prisoner including the ADP is entitled to both formal and non-formal education that is carried out within the permissible limits. And then it is explained in Articles 5 and 6 of Law Number 20 of 2003 concerning the National Education System, where in that Article

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<sup>1</sup> "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (n.d.).

<sup>2</sup> *Ibid.*

<sup>3</sup> Husni Mubarak, *Kapita Selecta Pemasarakatan* (Kalimantan Barat: Idea Publishing, 2020).

<sup>4</sup> Pusparini Tunjung Wulan, "Analisis Pemenuhan Hak Atas Pendidikan Anak Sipil Di LPKA Klas I Kutoarjo," *Eksaminasi: Jurnal Hukum* 1, no. 1 (2021): 1–11.

<sup>5</sup> "Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasarakatan" (n.d.).

<sup>6</sup> Sofi Artnisa Siddiq, "Pemenuhan Hak Narapidana Anak Dalam Mendapatkan Pendidikan Dan Pelatihan," *Jurnal Pandecta* 10, no. 1 (2015): 71–90.

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it can be concluded that children placed in LPKA are also entitled to education without being discriminated against and the Government is responsible for the implementation of such education. The education in question is formal and non-formal education that can complement and enrich each other.<sup>7</sup>

This is certainly in line with Article 11 Paragraph 3 of the National Education Law which states that education and teaching in daycare are carried out in accordance with the curriculum applicable to educational institutions with the same rights. Correctional students get the right to obtain education through special elementary, middle, and high school / vocational schools, as well as the right to access information in libraries provided as learning support facilities.<sup>8</sup>

As we have seen recently, the Covid-19 Pandemic has restricted all activities, including those who live in the Children Particular Development Institute (LPKA). Since the outbreak of the Covid-19 pandemic, the implementation of activities outside LPKA has been severely restricted by the issuance of several policies from the Government to prevent and avoid the spread of Covid-19 to ADP. Of course, this has an impact on the fulfillment of the right to formal education for Correctional Students. Correctional Students who should receive formal education through schools are temporarily limited to only obtaining it via *online*.

Based on preliminary data obtained at the Gorontalo Class II Children Particular Development Institution (LPKA) out of 26 Correctional Students, there are only 5 Correctional Students who attend formal education in different schools.<sup>9</sup> The implementation of formal education during the Pandemic for the five Correctional Students was carried out *online* using existing facilities at the Children Particular Development Institute (LPKA). It shows that the fulfillment of the right to education (especially formal education) for Correctional Students is still relatively minimal even though the right to get an education is the right of every prisoner.

Several previous studies have examined the fulfillment of the right to education for correctional students. It's just that studies related to the model of improving the rights of

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<sup>7</sup> Yuliyanto, "Pembinaan Anak Yang Berkonflik Dengan Hukum Di Lembaga Pembinaan Khusus Anak Klas II Bandung," *Jurnal Penelitian Hukum D Jure* 20, no. 1 (2020): 103–16.

<sup>8</sup> Maharidho Deel Ziko, "Optimalisasi Kegiatan Pendidikan Sebagai Pemenuhan Hak Anak Di LPKA Klas II Tanjung Pati," *Jurnal Pendidikan Kewarganegaraan Undiksha* 10, no. 2 (2022): 124–32.

<sup>9</sup> Sumber Data : Lembaga Pembinaan Khusus Anak Kota Gorontalo, 2021

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correctional students are things that have never been studied by previous researchers. The following is a review of the literature of previous reviews that have a connection with the author's article. First, a study conducted by Yuliyanto (2020) with the title "*Child Development in Conflict with the Law at the Children Particular Development Institute grade II Bandung*". In a study conducted by Yuliyanto, it was stated that the implementation of coaching at LPKA Class II Bandung does not run optimally, this is due to the lack of officers in terms of coaching ADP so that it does not support provisions for students if later they have left LPKA.<sup>10</sup>

Second, research conducted by Oki Wahyu Budijanto (2013), with the title "*Fulfillment of the Right to Education for Correctional Students in Children Particular Development Institutions*". The results showed that not all ADPs get the same opportunity to obtain an education. There is still an ADP attending education outside the prison at its own expense. Of course, it creates a gap for ADPs who come from poor families.<sup>11</sup>

Third, research conducted by Tatik Mei Widari (2012), with the title "*Fulfillment of the Right to Education of Correctional Students in Correctional Institutions*". The result of this study is that corrections are still needed to the substance of the law that has not provided certain restrictions on issues concerning the subject and object of law regarding the right to education for ADP. The implementation in prisons regarding the fulfillment of the right to education for children has been implemented well, although there are still many things that must be improved and developed.<sup>12</sup>

Therefore, the research conducted by the author is different from the previous research, where the focus of the study in this study is to examine the implementation of the fulfillment of educational rights for children and design an ideal model for fulfilling the right to education for children in LPKA Class II Gorontalo.

This research is expected to solve problems related to the fulfillment of the right to education for correctional students and provide solutions by designing a model for fulfilling the right to education for ADP in LPKA.

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<sup>10</sup> Yuliyanto, "Pembinaan Anak Yang Berkonflik Dengan Hukum Di Lembaga Pembinaan Khusus Anak Kelas II Bandung."

<sup>11</sup> Oki Wahyu Budijanto., "Pemenuhan Hak Pendidikan Bagi Anak Didik Pemasarakatan Di Lembaga Pembinaan Khusus Anak," *Jurnal Ilmiah Kebijakan Hukum* 7, no. 1 (2013): 62–73.

<sup>12</sup> Tatik Mei Widari, "Pemenuhan Hak Pendidikan Anak Didik Pemasarakatan Di Lembaga Pemasarakatan," *DIH: Jurnal Ilmu Hukum D Jure* 8, no. 15 (2012): 28–47.

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## 2. Legal Material and Methods

The type of research used in this study is empirical normative legal research.<sup>13</sup> The research location was conducted at the Children Particular Development Institute (LPKA) Class II Gorontalo. The type of data used by the author is divided into primary data and secondary data, where primary data is obtained directly by the author through direct interviews in the field with the respondents. Meanwhile, secondary data is obtained from searching for literature review materials in the form of writings or articles related to research results, journals, and laws and regulations. The data obtained are then processed and analyzed descriptively and qualitatively.

## 3. Result and Discussion

### A. Implementation of the fulfillment of the right to education for children at the Children Particular Development Institution (LPKA) Class II Gorontalo.

Prisons are part of the criminal justice sub-system that plays an important role in guiding to inmates and correctional students.<sup>14</sup> Especially for coaching children, is carried out at the Children Particular Development Institute. In the implementation of coaching at LPKA, the fulfillment of educational rights must be considered. The fulfillment of the Right to Education for Children in Children Particular Development Institutions certainly refers to Law Number 22 of 2022 concerning Correctional Services, Government Regulation Number 31 of 1999 concerning The Development and Guidance of Correctional Assisted Citizens, and the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-03. OT.02.02 of 2014 concerning Guidelines for Child Treatment in LPKA.

The mandate of Law Number 22 of 2022 concerning Correctional Services in Article 12 letter c states that one of the rights of Correctional Students is to get an education even though they are undergoing the punishment process at the Children Particular Development Institution. The right to obtain an education is a right that must be a concern of the LPKA to ADP because education is part of the process of implementing coaching at LPKA. This is in line with the provisions of Article 31 of Law Number 22 of 2022

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<sup>13</sup>Mukti Fajar and Yulianto Ahmad., *Dualism of Normative And Empirical Legal Research*. (Yogyakarta: Pustaka Pelajar, 2017).

<sup>14</sup> Darmawati, "Pembaharuan Model Penilaian Pembinaan Narapidana Residivis Berbasis Teknologi," *Al-Adalah* 7, no. 1 (2022): 74–93.

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concerning the new Correctional Service where the implementation of child services is prioritized in the implementation of education based on the principle of the best interests of children where the implementation does not have to adjust to the length of the detention period. With the provisions governing the fulfillment of the right to education for children in the latest Correctional Law, there has been progressing in terms of protecting children's rights even though they live in LPKA.

The purpose of education and coaching is basically to produce a creative society in the sense of increasing its knowledge, skills, attitudes, and motivations and applying it to the useful activities. The education and coaching of prisoners are now carried out initially departing from the fact that the purpose of punishment is no longer in accordance with the development of values and the nature of life that grows in society.<sup>15</sup> Based on data from the Children Particular Development Institute (LPKA) Class II Gorontalo that until now there are 8 (eight) Correctional Students (ADP) who are undergoing the coaching process at the Children Particular Development Institute (LPKA).<sup>16</sup>

Coaching is defined as giving the treatment of someone who is an adult directly to the child in the form of guidance, direction, and teaching so that later the child returns to society and can be formed into a whole and better person.<sup>17</sup> Coaching is very important for correctional students because this coaching has a positive impact on children to make changes so that children become better and have skills so they can be utilized in the future.<sup>18</sup>

The implementation of coaching at LPKA Class II A Gorontalo is still carried out through a phasing process of coaching starting from personality coaching, independence, and the right to undergo integration as the coaching process in adults. The process of coaching adult inmates is separated from correctional students. Article 50 of Law Number 22 of 2022 concerning Correctional Services states that based on the results of the Litmas,

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<sup>15</sup> Arif Dwi Rusdiana, "Hak Pendidikan Anak Didik Pemasarakatan Di Lembaga Pemasarakatan Anak Klas II A Blitar," *Jurnal Ilmu Hukum, MIZAN* 1, no. 2 (2012): 81–90.

<sup>16</sup> Data Source: Gorontalo City Children Particular Development Institute, October 2022

<sup>17</sup> Adhi Klistra Indra Setya, "Anak Didik Pemasarakatan Di Dalam Lembaga Pemasarakatan Khusus Anak," *Jurnal Ilmu Pengetahuan Sosial* 8, no. 3 (2021): 55–66.

<sup>18</sup> Narvedha Andriyana, "Pola Pembinaan Anak Didik Pemasarakatan Di Lembaga Pembinaan Khusus Anak Kelas I Kutoharjo," *Jurnal Komunikasi Hukum (JKH) Universitas Pendidikan Ganesha*. 6, no. 2 (2020): 592–99.

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fostered children are given guidance in the form of education, personality development, and independence coaching.

Based on a direct interview with Mr. Dedi Abdul, he stated that the implementation of coaching at LPKA still pays attention to the three coaching processes, namely personality coaching, and independence including education and integration programs. However, in the best interest of children, the implementation of coaching is carried out without having to pay attention to the stages of coaching and children can be expelled to carry out education and other coaching programs outside LPKA. So, assimilation can be done to the child without waiting for the child to have served 1/2 of his criminal term.<sup>19</sup>

Based on the author's view that the implementation of existing guidance in LPKA children has paid attention to the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-03. OT.02.02 of 2014 concerning Guidelines for Child Treatment in LPKA. The rule states that every child facing the law has the right to survival, growth, and development, including the right to obtain education and obtain social security according to physical, mental, and spiritual needs. This includes the implementation of coaching that the phasing of the coaching process is carried out regardless of the length of time the crime has been served by the ADP. In terms of providing assimilation to ADP, of course, you must pay attention to the results of the Litmas from the Community Advisor. This is done in the best interest of correctional students.

The results obtained in the field related to the implementation of Personality Development for Correctional Students at the Gorontalo Class II Children Particular Development Institution are carried out through several activity programs including reading and writing the Quran, cheerful Islamic crash course, religious competitions on religious holidays where the overall implementation of religious guidance still involves relevant agencies such as the Ministry of Religious Affairs of Cities and Provinces, KUA. Personality coaching activities aimed at mental and spiritual coaching.

Furthermore, coaching in the form of skills is made in collaboration with LLK (Job Training Institute) in the form of skills training activities through Electrical activities, Welding Practices, and so on. So, the implementation of this skills coaching program is

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<sup>19</sup> Hasil Wawancara Dengan Kepala Seksi Pembinaan Lembaga Pembinaan Khusus Anak (LPKA) Kelas II Gorontalo, Tanggal 31 Oktober 2022.

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carried out outside LPKA. If LLK has opened a training program, the Correctional Students (ADP) go directly to the location of the designated training place and cooperate with the LPKA Class II Gorontalo so that sometimes the LPKA is empty because all ADP in LPKA goes to the training place. They attended the training from morning to noon.

Based on the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-03. OT.02.02 of 2014 concerning Guidelines for Child Treatment in LPKA states that Children must be pursued and ensured to receive educational programs by considering the willingness and ability of Children to participate in the program. If the child does not have an interest in the educational program, the child must be directed to the independence development program.

Coaching in the form of an Education program at the Children Particular Development Institution (LPKA) Class II Gorontalo is carried out by accordance with the mandate of Law Number 22 of 2022 concerning Correctional Services. Education as referred to in the provisions of Article 50 of the Act is pursued by ADP through formal, non-formal, and/or informal education. Formal Education consists of compulsory education of 9 years / elementary school, junior high school, and high school, while informal education includes Pursuing Package A for the elementary level, Package B for the junior high level, and Package C for the high school level.

Data from LPKA Class II Gorontalo states that there is 1 (one) Correctional Student (ADP) who has completed non-formal education through Package A pursuit activities and is now continuing to the non-formal education level pursuing Package B. While the other 7 (seven) ADPs are still temporarily participating in informal education through pursuing Package A, Package B, and Package C activities as well as the implementation of Learning Activity Workshops (SKB) activities.

The implementation of the Education process activities through the pursuit of the package was carried out with the initiation of the Gorontalo Class II Children Particular Development Institute (LPKA) in collaboration with the SPNF-SKB of Gorontalo City and the Gorontalo City Education Office. The implementation of the learning process in the form of chasing packages is carried out outside LPKA. So, ADP left LPKA in the morning accompanied by a Correctional Officer and returned the day after they participated in the Education program at a place designated by the LPKA. In addition, for the fulfillment of the right to ADP Education in terms of informal education, it is carried out in the form of



Learning Activity Workshops (SKB) activities whose implementation is carried out in the LPKA<sup>20</sup>

Based on the results of interviews with Mr. Dedi Abdul, so far there have been several Correctional Students who dropped out of school before entering LPKA, so LPKA authorities sent these ADPs through Equivalency Education Program then after their release they already have an equivalence certificate.<sup>21</sup>

Until now, LPKA Class II Gorontalo has not carried out formal learning process activities because the facilities and infrastructure in LPKA are still relatively minimal, such as buildings that are relatively small and just existed in 2018 and the location is still in the middle of the city. In addition, existing Human Resources have not been able to carry out formal learning activities within LPKA. However, the limited infrastructure does not dampen LPKA's intention to continue to carry out informal learning activities through art studios within LPKA.<sup>22</sup>

The number of Correctional Officers in LPKA Class II Gorontalo based on educational qualifications is as follows:

**Table 1. Correctional Officers LPKA Class II Gorontalo**

No.	Education Degree	Amount
1	Master's degree	2 People
2	Bachelor's degree	11 People
3	Senior High School	27 People
	<b>Total</b>	<b>40 People</b>

Data Sources: LPKA Gorontalo, October 2022

Based on the data mentioned above, the number of correctional officers in LPKA Gorontalo when compared to the number of ADPs is still adequate, but when viewed from the level of education, the career development of these officers should be carried out. In addition, LPKA officers should also always follow general and special competency training related to child handling techniques at LPKA.

<sup>20</sup> Sumber Data : Lembaga Pembinaan Khusus Anak Kota Gorontalo, Oktober 2022

<sup>21</sup> Hasil Wawancara Dengan Kepala Seksi Pembinaan Lembaga Pembinaan Khusus Anak (LPKA) Kelas II Gorontalo, Tanggal 31 Oktober 2022.

<sup>22</sup> *Ibid*

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Especially for formal education, LPKA Class II Gorontalo has collaborated with the State High School (SMA) 7 Prasetya Gorontalo City and the State Junior High School (SMP) 7 Gorontalo City, Kabila High School. However, of the 8 (eight) inmates who live in LPKA Class II Gorontalo currently they do not attend formal education at all. The form of cooperation in terms of the implementation of formal education has previously been established with the LPKA by including ADP in the formal education process but the ADP has completed the punishment period at LPKA.

### **B. The Ideal Model for Fulfilling the Right to Education for Children in LPKA Class II Gorontalo.**

The right of the child is one of the most important things that should not be forgotten because it is a side approach to protecting children from legal problems. Every Children have the same standing as other human beings or other legal subjects. The right of the child is a will owned by the child equipped with the power (*macht*) given by the legal system / legal order to the child concerned.<sup>23</sup>

The implementation of the rights and obligations of correctional students' needs attention and children need to be treated according to situations, conditions, social circumstances, and ages where at each age level children have different abilities.

The rights obtained by children while placed in LPKA are granted by accordance with the provisions of the law on correctional services. In granting these rights, it is still necessary to pay attention to coaching for the child concerned, including regarding the development and growth of the child, both physically, mentally, and socially.<sup>24</sup> This includes the right to obtain education even if the child is facing the law. The right to education and teaching becomes a human right for every individual so that every individual has the right to obtain the highest education and teaching from the state.<sup>25</sup>

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<sup>23</sup> Harris Pratama Teguh, *Hukum Pidana Perlindungan Anak Di Indonesia* (Bandung: CV. Pustaka Setia Bandung, 2020).

<sup>24</sup> Rafika Nur, "Eksistensi Lembaga Pembinaan Khusus Anak (LPKA) Di Kota Gorontalo," *Jurnal Cahaya Keadilan* 5, no. 2 (2017): 60–71.

<sup>25</sup> Dkk Mohamad Yusuf, "Implementasi Pemenuhan Hak Pendidikan Dan Pengajaran Bagi Anak Didik Masyarakat Menurut Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak," *Jurnal Kolaboratif Sains* 5, no. 5 (2022): 243–47.

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Based on the results of research conducted by researchers at the Children Particular Development Institute (LPKA) Class II Gorontalo that in the implementation of activities to fulfill the right to education for Correctional Students there are still shortcomings so it is necessary to create a model for fulfilling the right to education for ADP in LPKA so that the implementation of the fulfillment of children's education rights in LPKA can be achieved by the mandate in the Law.

Obstacles in terms of fulfilling the right to education for children that the work area of the Gorontalo Class II Children Particular Development Institute which is very wide results in a lack of communication between families and Correctional Students who live far from the LPKA area. Family support and communication are one of the most crucial things in terms of implementing guidance for ADP.

Against the obstacles experienced in the field, two-way communication is needed between the guardians of correctional students and parents so that the implementation of coaching programs including the fulfillment of educational rights for children can run optimally.

In addition, due to the large working area of LPKA, children who undergo short/short sentences at LPKA will experience problems in terms of continuing their education. For example, if a child who temporarily participates in a non-formal education program from the LPKA program but the program is not completed is followed by the ADP because the ADP has expired its criminal period so they must be expelled from the LPKA. From these problems, a learning model can be created so that the fulfillment of the right to education for the child does not just stop. It requires support and cooperation from relevant agencies, especially for the farthest and most difficult areas reached by LPKA to work hand in hand to encourage children to continue their education after the child leaves LPKA. The Education Office is expected to monitor correctional students who have just left and coordinate with the LPKA through correctional guardians to find secondary schools for ADP who have been released so that the child does not drop out of school. In addition, to facilitate coordination between LPKA and the Education Office in the regions, LPKA work units can be created and placed in prison units in each district because considering that LPKA only exists in every provincial capital.

And to non-formal education, formal education for ADP also needs attention. So far, the implementation of the fulfillment of children's education rights for ADP has been carried out in collaboration with schools at both junior high and high school levels and is

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held outside LPKA. It is better that the implementation of the fulfillment of the right to education for ADP is carried out within the LPKA itself by providing supporting facilities and facilities like other formal schools such as teaching and learning classroom activity rooms.

Facilities in the form of more educational buildings can influence children's psychology to have enthusiasm for participating in coaching programs.<sup>26</sup> In addition, the support of human resources is also important for the implementation of formal education activities. Existing human resources must be equipped with knowledge in terms of educating children such as child psychologists, child assessment staff, and so on. So that students who take part in formal education programs in LPKA do not feel unfamiliar because they both come from children who face the law. The formal school model referred to above is a child-friendly school so that students can develop their potential without them having to be depressed because they are serving a criminal period.

#### **4. Conclusion**

The implementation of the fulfillment of the right to education for correctional students at the Gorontalo Class II Children Particular Development Institution has been carried out by what is mandated in the Correctional Law, where the fulfillment of the right to education for ADP is carried out through formal and informal education. Although in its constraints that the implementation of the fulfillment of ADP education rights is still carried out outside the LPKA in collaboration with other agencies. For this reason, the model of fulfilling the right to education for ADPs should be carried out at LPKA by making schools suitable for children so that ADPs can take the Education route without the need to feel alienated because education can be obtained directly in LPKA with all ADPs.

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<sup>26</sup> Dkk Sabaruddin, "A Model of Child Development in Conflict with Law in the Correctional System," *Philosophia Law Review* 1, no. 2 (2021): 104–25.

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