

Legal Protection for Child Victims of Sexual Violence Its Relationship with the Child Protection Law and the Convention on the Rights of the Child

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Abstract

Children are a group that is highly vulnerable to becoming victims of violence, especially sexual violence. Sexual violence against children is a serious crime that has a broad impact, especially on the future of children as the next generation of the nation. Legal protection is a state policy to protect, fulfill, and guarantee the fulfillment of children's rights and obligations in the context of law enforcement for the protection of children. This study aims to examine the legal protection provisions for child victims of sexual violence in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection and its compatibility with the principles of the Convention on the Rights of the Child (CRC). The method used in this study is normative juridical and the data used is secondary data. The results of the study show that the child protection law has provided a legal basis for child victims of sexual violence and that the protection provided is in accordance with the principles set out in CRC. In this case, strengthening the monitoring mechanism is very important so that regulations on the protection of child victims of sexual violence can be implemented effectively and in the interests of the victims.

Keywords: *child victims, convention on the rights of the child, legal protection, sexual violence*

Abstrak

Anak merupakan subjek hukum yang memiliki kerentanan tinggi untuk menjadi korban tindak kekerasan, khususnya tindak pidana kekerasan seksual. Kekerasan seksual terhadap anak merupakan kejahatan serius yang menimbulkan dampak multidimensional, baik secara fisik, psikis, sosial, maupun yuridis, serta berpotensi mengganggu tumbuh kembang dan masa depan anak sebagai generasi penerus bangsa. Perlindungan hukum merupakan kebijakan negara yang ditujukan untuk melindungi, memenuhi, dan menjamin pemenuhan hak-hak anak, termasuk melalui mekanisme penegakan hukum, agar hak dan kepentingan terbaik anak terlindungi. Penelitian ini bertujuan mengkaji ketentuan perlindungan hukum bagi anak sebagai korban tindak pidana kekerasan seksual dalam Undang-Undang Nomor 35 Tahun 2014 tentang

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Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak, serta menilai kesesuaianya dengan prinsip-prinsip Konvensi Hak Anak (Convention on the Rights of the Child/CRC). Metode penelitian yang digunakan adalah yuridis normatif dengan bertumpu pada data sekunder berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Hasil penelitian menunjukkan bahwa Undang-Undang Perlindungan Anak telah menyediakan landasan normatif bagi perlindungan anak korban kekerasan seksual dan pada prinsipnya selaras dengan prinsip-prinsip CRC. Oleh karena itu, diperlukan penguatan mekanisme pemantauan dan pengawasan implementasi norma agar ketentuan perlindungan anak korban kekerasan seksual dapat dilaksanakan secara efektif, konsisten, dan berorientasi pada kepentingan terbaik bagi korban.

Kata kunci: anak sebagai korban, konvensi hak anak, kekerasan seksual, perlindungan hukum

1. INTRODUCTION

Sexual crimes are crimes that have been rampant lately, which certainly cause unrest among the public. These crimes have a serious impact on the physical and psychological condition as well as the future of the victims, especially if the victims are children. The mass media and electronic media have reported many cases of sexual violence against minors, and it is not uncommon for child victims to end up dead at the hands of the perpetrators. Children need special attention as they are a group that is vulnerable to various risks and dangers.

Cases of sexual violence against women and children are showing an upward trend. Minister of Women's Empowerment and Child Protection Arifah Fauzi revealed that based on data from the Online Information System for Women and Child Protection (Simponi PPA), as of July 3, 2025, there were 14,039 cases of violence against women and children, with a surge of more than 2,000 cases in just 17 days. However, this figure is still much lower than the results of the 2024 SPHPN and SNPHAR surveys, which show a higher prevalence of violence¹. This indicates a gap between the administrative

¹ biro Humas dan Umum, Kementerian Pemberdayaan Perempuan, dan Perlindungan Anak, "Menteri PPPA: Banyak Perempuan Dan Anak Korban Kekerasan Tidak Berani Melapor Siaran Pers Nomor: B-257/SETMEN/HM.02.08/05/2025" (Jakarta, 2025), <https://www.kemenpppa.go.id/siaran-pers/menteri-pppa-banyak-perempuan-dan-anak-korban-kekerasan-tidak-berani-melapor#>.

data recorded by government agencies and the results of population-based national surveys.

Children's rights have long been an important issue that began to receive serious attention since the end of World War I, as a response to the suffering of women and children due to war. In 1923, a female activist named Eglantyne Jebb formulated ten principles of children's rights which were later adopted by the Save the Children Fund International Union. After World War II, on December 10, 1948, the UN General Assembly adopted the Universal Declaration of Human Rights. Finally, on November 20, 1989, the UN officially adopted and declared these ten principles of children's rights in the form of the CRC². This convention on children's rights forms the basis for child protection, as it is the first time that children's rights have been universally recognized and are binding on the countries that have ratified it.

Indonesia ratified the CRC on January 26, 1990, as a result of the UN General Assembly, and ratified it through Presidential Decree No. 36 of 1990 concerning the Ratification of the CRC. The objectives and rationale for the legal protection of children cannot be separated from efforts to realize the welfare of children as an integral part of achieving overall social welfare³. This affirms the state's commitment to guaranteeing the fulfillment of children's rights, including the right to protection from violence, exploitation, and other inhumane treatment.

One form of prevention and legal protection for child victims of sexual violence is legally manifested through Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. Child protection is not only beneficial for the child itself, but also for parents and the government. Therefore, targeted coordination and cooperation are needed so that the implementation of child protection is balanced and comprehensive. Thus, the responsibility for child protection becomes a shared obligation,

² Pruntus Sudarmaji and Muhamad HasanSebyar, "Perlindungan Hukum Bagi Anak Korban Kekerasan Seksual," *Journal of Law and Nation (JOLN)* 2, no. 4 (2023): 398–407, <https://doi.org/10.61104/alz.v3i3.1389>.

³ Diana Yusyanti, "Perlindungan Hukum Terhadap Anak Korban Dari Pelaku Tindak Pidana Kekerasan Seksual," *Jurnal Penelitian Hukum De Jure* 20, no. 4 (2020): 619–35, <https://doi.org/10.30641/dejure.2020.v20.619-636>.

both by parents, families, communities, governments, and the state⁴. Therefore, every citizen is responsible for protecting children in order to achieve their welfare.

This study differs from several previous studies that discussed the protection of child victims of sexual violence. These studies will be used to support this study, including: Pruntus Sudarmaji and Muhamad Hasan Sebyar, entitled Legal Protection for Child Victims of Sexual Violence⁵, This study describes various forms of legal protection provided to children who are victims of sexual violence. In addition, this study also emphasizes that these protection efforts are the collective responsibility of society and require cross-sectoral synergy. Furthermore, this study emphasizes the importance of updating and strengthening the legal substance related to the protection of child victims of sexual crimes.

Ridha Fahmi Ananda, Ediwarman, et al., entitled Legal Protection for Children as Victims of Sexual Abuse Crimes from a Victimological Perspective⁶. The study explains that legal protection for child victims of sexual abuse is regulated in a number of laws and regulations. In addition, it explains that there are two main factors that cause children to become victims, namely internal and external factors. Furthermore, based on Article 3 of the North Labuhanbatu Regency Regulation, legal protection for child victims of sexual abuse has been regulated as an effort to guarantee the fulfillment of children's rights and provide protection from various crimes.

Londa Gabriella Victoria, with the title Legal Protection for Child Victims of Sexual Violence According to Law Number 35 of 2014 as an Amendment to Law Number 23 of 2002 on Child Protection⁷. This study explains that sexual violence has the potential to cause negative impacts on children, both psychologically and physically. In addition,

⁴ Mastur, Syamsuddin Pasamai, and Abdul Agis, "Journal of Philosophy (JLP)," *Journal of Philosophy (JLP)* 1, no. 2 (2020): 122–35, <https://doi.org/https://doi.org/10.52103/jlp.v1i2.213>.

⁵ Sudarmaji and HasanSebyar, "Perlindungan Hukum Bagi Anak Korban Kekerasan Seksual."

⁶ Ridha Fahmi Ananda et al., "No TitlePerlindungan Hukum Terhadap Anak Sebagai Korban Kejahatan Pelecehan Seksual Dalam Perspektif Viktimologi," *Locus Journal of Academic Literature Review* 2, no. 1 (2023): 52–65.

⁷ Londa Gabriella Victoria, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual Menurut Undang-Undang Nomor 35 Tahun 2014 Sebagai Perubahan Atas UndangUndang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," *Lex Crimen* VIII, no. 2 (2018): 71–81, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/22712/22409>.

this study also emphasizes that the existence of the Child Protection Law explicitly provides various forms of legal protection related to efforts to protect children from sexual violence.

Based on comparisons with previous researchers, there are indeed several similarities with these researchers, namely that they both examine legal protection for child victims of sexual violence. However, this study has a novelty value, namely in its objective to examine the suitability of legal protection arrangements for child victims of sexual violence based on the Child Protection Law and the principles set out in the CRC. Therefore, this study is expected to produce a critical analysis to assess whether the current legal provisions are in line with the global commitments contained in the CRC, both now and in the future.

2. RESEARCH METHODS

The method used in this study is normative legal research. According to Mukti Fajar ND and Yulianto Ahmad, normative legal research focuses on objects of study that are understood as legal norms or rules, which include laws, government regulations, and various other regulations⁸. The data used is secondary data, which is data obtained from literature or sources related to the research object.

Secondary data consists of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are legal materials that have binding legal force, such as legislation, jurisprudence, treaties, and so on. Secondary legal materials are legal materials that provide explanations of primary legal materials, such as academic papers, research by legal experts, and so on. Tertiary legal materials are legal materials that provide explanations of primary and secondary legal materials, such as dictionaries, encyclopedias, and so on.

The research approach uses a statutory approach by examining various regulations governing the protection of child victims of sexual violence and a comparative approach by comparing the provisions in the child protection law with the CRC as an international

⁸ Salim HS and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi* (Jakarta: PT Raja Grafindo Persada, 2013).

instrument. The technique for collecting secondary data is to use documentary studies, namely by analyzing or tracing various documents relevant to the research object. Next, data analysis will be carried out, namely qualitative analysis, in which the research results will be presented descriptively, meaning that they will be conveyed in the form of sentences arranged systematically so that they are easy for readers to understand.

3. RESULTS AND DISCUSSION

3.1. Legal Protection Provisions for Child Victims of Sexual Violence in the Child Protection Law

The phenomenon of increasing cases of sexual crimes against children from year to year is a serious warning for all of us to immediately find the right solutions in prevention and mitigation efforts so that it does not spread further. The state has an obligation to provide legal protection to children, as stipulated in Article 28B paragraph (2) of the 1945 Constitution, which states that every child has the right to survival, growth, and development, as well as protection from all forms of violence and discrimination. This guarantee of protection is also reinforced through the ratification of international conventions on children's rights, namely the CRC, which was ratified through Presidential Decree No. 36 of 1990⁹. The existence of this regulation shows that the state has not only a moral obligation, but also a legal obligation to ensure that children are free from all forms of crime that could hinder their growth and development.

The principle of protecting children's rights must be upheld in the same way as the rights of adults, so that the state has an obligation to ensure that these rights are fulfilled. This is reaffirmed in Law No. 35 of 2014 concerning Child Protection, specifically Article 59, which states that the central government, regional governments, and other state institutions have an obligation and responsibility to provide special protection to children¹⁰. Sexual violence against children is any form of sexual act or activity committed by adults, adolescents, or children of the same age as the victim. These acts

⁹ Dimas Handoko and Yeni Widowaty, "Analisis Perlindungan Hukum Terhadap Anak Sebagai Korban Kejahatan Kekerasan Seksual," *Media of Law and Sharia* 4, no. 1 (2022): 14–33, <https://doi.org/https://doi.org/10.18196/mls.v4i1.17208>.

¹⁰ Handoko and Widowaty.

involve or force children to participate in sexual activities, regardless of whether the children understand or are aware of what is happening. There are various forms of sexual violence against children, including:

- a) Exhibitionism, exposing or revealing the perpetrator's genitals to a minor.
- b) Making physical contact, for example by touching or groping with a specific intent.
- c) Engaging in sexual intercourse with a child.
- d) Masturbating or forcing a minor to masturbate.
- e) Engaging in obscene conversations, whether by telephone, text message, or other digital interactions.
- f) Creating, storing, or distributing pornographic images or videos to children.¹¹

Child protection is an effort to create conditions and situations that enable children to exercise their rights and obligations in a humane and positive manner, as a tangible manifestation of justice in society. Therefore, child protection needs to be realized in various aspects of life, whether in the family, community, or state, based on the law in order to provide appropriate and fair treatment and ensure the welfare of children.¹² Thus, child protection is not only seen as the responsibility of parents, but also as the obligation of the state and all elements of society.

Legal protection is an important aspect that serves to regulate and protect citizens who are victims of crime. Legal protection is defined as measures or efforts taken by law enforcement officials to ensure mental and physical safety from all forms of disturbance or threat from any party.¹³ The forms of child protection stipulated in the Child Protection Law are the result of the adoption, consolidation, or reformulation of provisions regarding child protection that were previously contained in the Criminal Code¹⁴. This shows that regulations concerning child protection in Indonesia have undergone progressive

¹¹ Teguh Priyambudi, Andy Usmina Wijaya, and Ani Purwati, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual Di Indonesia," *Jurnal Ilmu Hukum Wijaya Putra* 1, no. 2 (2023): 116–25, <https://doi.org/10.38156/jihwp.v1i2.116>.

¹² Moch Faisal Salam, *Peradilan HAM Di Indonesia* (Bandung: Pustaka, 2002).

¹³ Diana Yusyanti, Op. Cit

¹⁴ Victoria, Op.Cit.

development, from merely general provisions in the Criminal Code to a more comprehensive and specific form through the Child Protection Law.

The Child Protection Law explicitly provides various forms of legal protection related to efforts to protect children from sexual violence. Article 15(f) stipulates that every child has the right to protection from sexual crimes. This provision was created in response to the increasing number of cases of sexual violence against children in Indonesia. This law establishes various prohibitions for everyone not to commit sexual crimes against children, as stated in Articles 76D and 76E.

Article 54 paragraph (1) of the Child Protection Law states that every child within or in the environment of an educational unit has the right to protection from physical violence, psychological violence, sexual abuse, or other forms of abuse committed by educators, educational staff, fellow students, or other parties. The four rights of children that must be guaranteed in accordance with this article include¹⁵:

1) The right to protection from physical harm

Physical violence includes actions such as hitting, slapping, kicking, pinching, pushing, using objects or electric shocks, locking children in rooms, forcing them to perform excessive physical activities, forbidding them to urinate, and other actions that can cause harm to children.

2) The right to protection from psychological violence

Psychological violence includes various acts aimed at intimidating, mentally harming, threatening, abusing power, ostracizing, and the like. This form of violence is a form of torture that attacks the psychological condition, making victims feel helpless, afraid, and lose their self-confidence.

3) The right to protection from sexual abuse/violence

Article 8 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence explains that sexual violence includes any act that results in forced

¹⁵ Binaadi Ryanjaya and Rachmat Ihy, "Perlindungan Anak Dan Pertanggungjawaban Hukum Terhadap Pelaku Kekerasan Seksual Terhadap Anak (Tinjauan Yuridis Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak)," *Journal of Law and Nation (JOLN)* 3, no. 1 (2024): 243–52, <http://joln.my.id/index.php/joln/article/view/108/119>.

and/or inappropriate sexual contact with another person, as well as forcing sexual intercourse.

4) The right to protection from criminal activity

The idea generally applied at this point is to create conditions that support development and increase community participation in child protection efforts. This is a manifestation of legislation (positive law), informal norms derived from formal provisions, and the values of customary law and religious law.

3.2. The Suitability of Legal Protection Provisions for Child Victims of Sexual Violence Based on the Child Protection Law and The Principles Set Out in the Convention on the Rights of the Child (CRC)

Following the ratification of the CRC, the convention gained widespread support from various UN member states, including Indonesia. After ratifying the CRC Presidential Decree No. 36 of 1990 on August 25, 1990, Indonesia at that time did not yet have policies or regulations based on the principles of the Convention on the Rights of the Child¹⁶. These conditions prompted the government to harmonize national laws with international provisions, which was then realized through the enactment of Law No. 23 of 2002 on Child Protection, and subsequently updated with Law No. 35 of 2014.

Indonesia is obliged to implement policies by adopting international agreements through various programs that focus on children. This step aims to respect children by fulfilling their rights while providing adequate protection. The main objective is for each country, in accordance with its commitments, to guarantee the fulfillment of all children's rights and to implement protection as stipulated in the CRC and their respective national laws and regulations. One important aspect in realizing the objectives of the CRC is to ensure the role of the family as the smallest unit in society, which is the first and foremost party in providing responsibility to children, so that they have full awareness of the importance of fulfilling children's rights¹⁷. In addition to the family, the involvement of

¹⁶ Ahmad Tang, "Hak-Hak Anak Dalam Pasal 54 UU No. 35 Tahun 2014 Tentang Perlindungan Anak," *Jurnal Al-Qayyimah* 2, no. 2 (2019): 98–111, <https://doi.org/10.30863/aqym.v2i2.654>.

¹⁷ Silvia Fatmah Nurussobah, "Konvensi Hak Anak Dan Implementasinya Di Indonesia," *BIYAN: Jurnal Ilmiah Kebijakan Dan Pelayanan Pekerjaan Sosial* 1, no. 2 (2019): 118–40,

the state and society plays an equally important role in creating a safe environment that supports child development.

KHA has five clusters of children's rights, including¹⁸:

- (1) civil rights and freedoms
- (2) family environment and alternative care
- (3) basic health and welfare
- (4) education, leisure, and cultural activities
- (5) special protective measures.

The scope and objectives of child protection are essentially in line with the CRC and the principles of human rights as enshrined in the 1945 Constitution of the Republic of Indonesia. The provisions of Article 22B paragraph (2) of the 1945 Constitution then became the basis and foundation for the implementation of child protection, as stated in Article 2 Law Number 35 of 2014. These provisions emphasize that child protection is based on Pancasila, grounded in the 1945 Constitution, and guided by the basic principles of the CRC, which include:

- 1) non-discrimination;
- 2) the best interests of the child;
- 3) the right to life, survival and development; and
- 4) respect for the views of the child.¹⁹

First, the principle of non-discrimination is evident in the police's handling of sexual abuse reports. Law enforcement officials are obliged to follow up on every report without discriminating against the victim's educational status or family background, because everyone is equal before the law. Second, the principle of the best interests of the child is realized through the police's efforts to maintain the confidentiality of the victim's identity in cases of sexual abuse. This measure aims to protect the safety, comfort, and survival

<https://download.garuda.kemdikbud.go.id/article.php?article=2495627&val=23815&title=Konvensi Hak Anak dan Implementasinya di Indonesia>.

¹⁸ Nurussobah.

¹⁹ Estee M. Bella, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Psikis, Fisik dan Seksual Menurut UU No. 35 Tahun 2014 Tentang Perubahan Atas UU No. 23 Tahun 2002 Tentang Perlindungan Anak," *Lex Privatum* IV, no. 4 (2016): 55–63, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/11993>.

of the victim, so that the child continues to receive protection even after reporting the crime they have experienced²⁰. Thus, the application of the basic principles of the Convention on the Rights of the Child in law enforcement practices is important to ensure that every child victim of sexual abuse receives comprehensive protection in accordance with their inherent dignity and rights.

Third, the principle of the right to life, survival, and development is realized by the police through the provision of assistance to victims of sexual abuse. This is implemented, among other things, through counseling services provided by the authorities with the involvement of psychiatrists. This measure aims to identify and address possible psychological disorders experienced by child victims. The fourth principle is the principle of respect for the views of the child. This is in line with the provisions of Article 12 of the CRC.²¹

The 1989 CRC affirms that every child has the right to protection, opportunities, and special facilities to support their health and development in a reasonable manner. This convention also established the Committee on the Rights of the Child, which is tasked with overseeing the implementation of the provisions of the convention and reviewing reports submitted by the signatory countries²². Thus, the Children's Rights Committee not only serves as a watchdog, but also as a strategic partner for the state in strengthening child protection policies, regulations, and programs that are in line with international standards.

Reviewing the status of the CRC, it can be concluded that from a policy perspective, the child protection system in Indonesia is not yet fully organized. This is because the Convention on the Rights of the Child was only ratified through Presidential Decree No. 36 of 1990, so that many policies related to child protection do not use it as a normative

²⁰ Nikyta Legoh, "Pelecehan Seksual Terhadap Anak Ditinjau Dari Undang-Undang Nomor 35 Tahun 2014," *Lex Crimen* 8, no. 4 (2018): 47–54, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/20383/19989>.

²¹ Legoh.

²² Tizza Ihfada Faizal Dalag Patepa, Selviani Sambali, and Anna S. Wahongan, "Perlindungan Khusus Bagi Anak Menurut Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," *Lex Et Societatis* 8, no. 4 (2020): 93–103, <https://doi.org/https://doi.org/10.35796/les.v8i4.30914>.

basis, including Law about Child Protection. This situation has arisen because Law No. 10 of 2004 on the Formation of Legislation stipulates that Presidential Decrees cannot be used as a basis for the formation of laws. However, in terms of legal logic, the main source of child protection should be rooted in the Convention on the Rights of the Child, which is then adapted to the social and cultural values of the nation²³. The comparison between the provisions in the Child Protection Law and the principles outlined in the CRC is crucial.

CONCLUSION AND SUGGESTION

Legal protection for children who are victims of sexual violence in Indonesia is regulated in a number of regulations, including Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which is further reinforced by Article 59 of Law Number 35 of 2014. In addition, protection guarantees are also affirmed in international instruments, namely the Convention on the Rights of the Child, which was ratified through Presidential Decree No. 36 of 1990. Article 15 letter (f) of the Child Protection Law clearly states that every child has the right to protection from sexual crimes. In substance, the scope and objectives of child protection contained in the child protection law are in line with the Convention on the Rights of the Child and the principles of human rights as stipulated in the 1945 Constitution of the Republic of Indonesia.

Based on the results of the research conducted by the author, the recommendation that can be given is the need for more intensive supervision of the implementation of regulations on the protection of child victims of sexual violence so that victims truly benefit from the existing regulations. Law enforcement officials, including the police, prosecutors, and judges, should be given special training in handling cases involving children so that they are gender sensitive. In addition, the government should conduct periodic evaluations of the implementation and suitability of regulations to ensure that they are always relevant and in line with international standards in the convention on the rights of the child.

²³ Yusyanti, Op. Cit. "

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