



---

*Legal Protection for Children as Victims and Perpetrators of Criminal Acts in the Context of Human Rights*

---

Shinta Romaito Siahaan<sup>1</sup>, Herlina Manullang<sup>2\*</sup>, July Esther<sup>3</sup>

Universitas HKBP Nommensen Medan, Indonesia<sup>1,2,3</sup>

Email: shintaromaito.siahaan@student.uhn.ac.id, herlinamanullang@uhn.ac.id,  
julyesther@uhn.ac.id

**ABSTRACT**

This research highlights critical contributions to understanding the protection of children's rights as both perpetrators and victims of criminal offenses in Indonesia, despite the presence of supportive regulations such as Law No. 35 of 2014 and Law No. 11 of 2012. It specifically identifies the barriers impeding the effective protection of children's rights within the framework of human rights. Using a normative juridical methodology and secondary data analysis from legislation and relevant literature, the study reveals three main challenges: insufficient understanding among law enforcement officials, persistent social stigma, and inadequate access to rehabilitation services. These findings emphasize the necessity of a synergistic approach involving the government, law enforcement agencies, and the community to foster greater awareness of children's rights and to ensure the practical application of human rights principles. Such efforts are vital to provide children with adequate protection and opportunities for optimal growth and development.

**Keywords: child protection, perpetrators of criminal acts, human rights, victims of criminal acts.**

**INTRODUCTION**

Children are an integral part of the younger generation, playing a strategic role in continuing the ideals of the nation's struggle (Millei & Imre, 2016). They represent human resources full of potential and possess unique characteristics that distinguish them from adults. Hence, the protection of children is crucial, encompassing both their physical and mental well-being. Child protection can be defined as efforts to guarantee the freedom and human rights of children, as recognized and protected by law. Each child inherently holds these rights without needing to request them, as part of the recognition of human dignity.

The United Nations Convention on the Rights of the Child (UNCRC) highlights the importance of protecting children from violence, exploitation, and neglect (Nwachukwu, 2023). Article 19 of the UNCRC mandates that states must take measures to protect children from all forms of physical or mental violence, injury, abuse, neglect, or exploitation, including sexual abuse. This international perspective underscores the universality of child protection as a human right.

In Indonesia, Law No. 39/1999 on Human Rights emphasizes that children have the right to live, survive, and improve their standard of living. These rights are integral components of human rights and must be fulfilled and guaranteed by parents, families, communities, and the state. For instance, a study by Nurhayati (2025) revealed the role of community-based programs in strengthening the implementation of child protection laws, particularly in rural areas where legal awareness is often limited.

The legal framework also recognizes the special needs of children involved in the justice system, whether as victims or perpetrators. Law No. 11/2012 on the Juvenile Criminal Justice System specifies that children who are victims of criminal acts are entitled to legal protection during the investigation and judicial process. For example, the case of DS, a minor who testified as a victim of abuse in a judicial process, demonstrated the critical role of psychologists and social workers in mitigating trauma while ensuring accurate testimony (Subarsyah & Achmad, 2023). Article 9 Paragraph (1) of this law ensures that child victims are accompanied by experts or institutions, providing them with psychological support and reducing the risk of further harm during legal proceedings.

Children as perpetrators also require legal protection that prioritizes rehabilitation and guidance over punishment. A study by Rahmawati (2024) analyzed the impact of restorative justice programs on young offenders, showing that rehabilitation-focused approaches significantly reduced recidivism rates among minors. This aligns with human rights principles, which advocate for the treatment of child offenders in ways that consider their age, potential for rehabilitation, and future prospects. Furthermore, international examples, such as the juvenile justice model in Norway, emphasize the importance of treating young offenders with dignity and focusing on reintegration into society (Gutiérrez Olivares, 2021).

Law enforcement procedures for children must incorporate human rights principles, treating children according to their age and specific needs. This is reinforced by Article 2 Paragraph 2 of the Convention on the Rights of the Child, which obliges states to protect children from discrimination and punishment. A notable case is the intervention by UNICEF in supporting the implementation of diversion programs in Southeast Asia, ensuring that juvenile offenders receive appropriate rehabilitation without entering the formal judicial system (Dao et al., 2022).

Despite these legal protections, challenges persist. A study by Sari and colleagues (2023) found that limited awareness among law enforcement officers about child-specific regulations often leads to violations of children's rights during investigations and trials. Moreover, societal stigmatization of child offenders hinders their reintegration, as illustrated by the case of AM, a teenager who faced community rejection despite completing a rehabilitation program.

The legal protection of children in human rights studies extends beyond the prevention and resolution of criminal acts. It ensures that children involved in the justice system, whether as victims or perpetrators, are treated humanely and in alignment with international standards. This is essential for fostering a younger generation that is protected from exploitation and violence and given opportunities to rehabilitate, grow, and contribute positively to society. Addressing the

obstacles to implementing these rights—such as inadequate resources, societal stigma, and lack of awareness—requires a collaborative effort among parents, communities, and the state. Further research and discussions should focus on overcoming these barriers and ensuring the effective implementation of child protection laws, both nationally and globally (Pecora et al., 2018).

## **RESEARCH METHODS**

This study employs a normative juridical approach, as defined by Simanjuntak et al., which involves legal research conducted through an examination of library materials or secondary data. This method serves as the foundation for analyzing legal issues by investigating relevant regulations and literature. The research applies a statute approach and a conceptual approach to support the analysis. The statute approach entails reviewing and interpreting laws and regulations pertinent to the legal issues under study, ensuring a comprehensive understanding of the statutory framework. Meanwhile, the conceptual approach involves exploring legal theories and key concepts that provide deeper insights into the issues being analyzed. A qualitative approach is adopted, utilizing secondary data that includes primary, secondary, and tertiary legal materials. Data sources encompass legislation, official documents, and scholarly publications. The data collection process is carried out through an extensive literature review and systematic document analysis, ensuring a thorough and well-founded examination of the research problem (Belton et al., 2019).

## **RESULTS AND DISCUSSION**

### **Legal Protection of Children as Victims and Perpetrators of Crimes in Human Rights Studies.**

Human rights are standards that recognize and protect the dignity of every human being. They govern how people live in society and interact with each other, including their relationship with the state and the obligations the state has towards them. Children's rights are an integral part of human rights that must be guaranteed, protected and fulfilled by parents, families, communities, the state, government and local governments. This is stated in Article 1 point 12 of Law No. 35/2014 on Child Protection.

Child protection, as stipulated in Law No. 35/2014, has a strong foundation in human rights. This law covers various important aspects needed to support full and sustainable human development. The principles include non-discrimination, the best interests of the child, and the right to life, survival and development. This protection aims to create a situation that enables the humane exercise of children's rights and obligations, both as victims and perpetrators of criminal acts (Petrovska et al., 2022).

For children who are victims of criminal acts, legal protection is regulated in Article 59 of Law Number 35 Year 2014. This protection includes important rights such as physical, psychological, and social protection from further threats; assistance by competent officers; and rehabilitation and recovery services (Rafferty, 2018). Direct protection involves concrete actions

aimed directly at child victims, such as providing education, psychological assistance, maintaining health, and providing facilities for child self-development. Meanwhile, indirect protection involves other parties, such as parents or individuals who play a role in protecting children from the threat of criminal acts.

Legal protection of children, both as victims and perpetrators of criminal acts, is an urgent issue that requires serious attention in the context of human rights (Meyers, 2016). As individuals who are still in a stage of development, both physically, mentally and emotionally, children require special treatment in accordance with the principles of human rights. Based on the Convention on the Rights of the Child (CRC), children have the right to protection from violence, exploitation and discrimination, as well as the right to education, care, and the opportunity to live and develop optimally. The implementation of the principles of non-discrimination, the best interests of the child, the right to live and develop, and the right to be heard are very important to ensure the protection of children's rights as a whole.

As victims of criminal offenses, children often experience adverse effects, both physically and psychologically. The trauma experienced by child victims can affect their lives in the long term, so the state has a great responsibility to protect and restore their condition. This protection includes children's rights to physical and mental health services, psychological assistance, and adequate rehabilitation. The legal process involving child victims must be conducted with a child-friendly approach, such as witness and victim protection mechanisms, child identity protection, and legal assistance. This approach not only views children as legal subjects, but also as individuals who need support to recover from the impact of the crime they have experienced (Halsey, 2018).

Unlike the treatment of victims, children who are perpetrators of criminal acts still have fundamental rights that must be protected. Human rights prioritize the main approach in dealing with child offenders. This approach emphasizes rehabilitation and social reintegration, not punishment. One of the main mechanisms is diversion, which is an effort to resolve cases outside the court. Diversion provides opportunities for juvenile offenders to take responsibility for their actions without having to serve prison sentences that can damage their development. The state must also ensure that the death penalty, torture or other inhumane treatment is not applied to children. During this period, juvenile offenders should be given access to education, skills training, and rehabilitation programs to prepare them to return to society as productive and responsible individuals (Segalo & Sihlobo, 2021).

States have an important role in ensuring the legal protection of children in accordance with human rights standards. The juvenile criminal justice system must be designed to meet international principles, such as those set out in the CRC and the Riyadh Guidelines. In Indonesia, Law No. 11/2012 on the Juvenile Criminal Justice System provides the legal framework for the protection of children's rights in the legal process. However, implementation on the ground often faces challenges, such as a lack of adequate facilities and human resources, including specialized juvenile courts and training of legal officers on children's rights. The state needs to take concrete steps to ensure more effective policies are implemented.

A key challenge in child protection is the lack of awareness of human rights-based approaches among law enforcement officials, such as police, prosecutors and judges. In addition, child victims often do not receive adequate assistance due to limited access to support services. Conversely, child offenders often receive discriminatory treatment from the community and law enforcement, which worsens their situation. Stigmatization of child victims and perpetrators is also a serious obstacle in the rehabilitation and social reintegration process (Pandey et al., 2018). Children who have experienced trauma or rights violations often lose trust in the legal system that is supposed to protect them.

To strengthen the protection of children's rights, the state needs to improve the quality of the juvenile criminal justice system through strengthening the principle of rehabilitation. Law enforcement officials should be provided with specialized training on human rights-based approaches and child-friendly criminal justice. The government should also ensure that all national policies are aligned with international standards, such as the CRC, and strengthen oversight of the implementation of laws to prevent violations of children's rights. Community participation in the rehabilitation and reintegration of children is also crucial to create a supportive environment for both child victims and perpetrators (Guercio & Massidda, 2024).

Article 64 paragraph (3) of Law No. 35/2014 also regulates special protection for child victims through rehabilitation, both inside and outside institutions. Medical and social rehabilitation aims to restore the physical, mental, and social conditions of child victims so that they can resume their social functions in the community. In addition, legal protection for child victims also includes medical assistance, information on case progress, and treatment that favors the best interests of the child throughout the judicial process.

In the legal protection of juvenile offenders, Article 9 of Law No. 11/2012 regulates the application of diversion as a form of alternative resolution. This diversion aims to maintain community harmony while ensuring that child offenders receive appropriate rehabilitation. The diversion process takes into account the category of the criminal offense, the age of the child, and support from the family and community. With this approach, the legal system seeks to ensure the best interests of the child are maintained, while supporting optimal rehabilitation.

With a holistic approach based on human rights, the protection of children as victims and perpetrators of criminal acts can be realized. This not only guarantees children's rights, but also creates a better, stronger generation that is able to contribute positively to society. Synergy between the government, society and related parties is needed to realize proper protection for every child (Karimullah, 2022).

### **Obstacles in the Implementation of Children's Rights as Perpetrators and Victims of Crime in the Perspective of Human Rights.**

Children's human rights should be distinguished from human rights that apply to adults. This is due to the condition of children whose lives are still very dependent on adults, both in terms of fulfilling nutrition, health, education, religious knowledge, skills, employment, security, and welfare. In addition, children also have the right to freedom from fear and anxiety. Therefore,

children need special treatment in the form of legal protection to ensure the fulfillment of civil, political, economic, social and cultural rights in order to grow and develop properly.

In the criminal justice system, children who are both perpetrators and victims of criminal acts require special attention and legal protection. Children entering the Indonesian criminal justice system must receive legal assistance to ensure their rights are fulfilled. As mandated in the 1945 Constitution, Indonesia is a state of law (*rechtsstaat*) that upholds justice based on rules, not mere power (*machtsstaat*). Therefore, the implementation of the law must guarantee the upholding of human rights, including through clear and concrete legal aid arrangements in legislation.

The implementation of children's rights as perpetrators and victims of criminal acts from a human rights perspective faces a variety of complex obstacles. Although there is a clear legal basis, both national and international, that regulates the protection of children's rights, various inhibiting factors often prevent effective implementation. This problem can be seen in various dimensions, both in terms of law enforcement officials' understanding of children's rights, limited rehabilitation facilities, inherent social stigma, and gaps in the implementation of human rights principles that protect children as victims or perpetrators of criminal acts. As a vulnerable group, children require special protection that not only takes into account their best interests but also treats them in accordance with the human rights established by international and national law (Smith, 2022).

#### **Lack of Understanding of Human Rights among Law Enforcement Officials**

One of the main obstacles in the implementation of the protection of children's rights as perpetrators and victims of criminal offenses is the lack of in-depth understanding of human rights, especially children's rights, among law enforcement officials. Many law enforcement officials, such as police, prosecutors, and judges, do not fully understand that children have basic rights that must be protected, even though they are involved in criminal offenses. From a human rights perspective, children should be treated differently from adults, in accordance with the principles of "best interests of the child" and "protection of the child". However, in reality, many children are still treated as if they were adults in the criminal justice process, without regard to their basic rights, such as the right to be treated humanely, the right to education, and the right to rehabilitation.

#### **Abuse of the Right to Protection and Legal Assistance**

In the context of protecting children's rights as victims or perpetrators of criminal acts, many children do not receive adequate legal assistance, which should be their right. According to human rights principles, every individual, including children, has the right to access to a fair trial and legal representation. However, in many countries, including Indonesia, children involved in criminal offenses often do not receive proper legal representation. This undermines children's right to a fair defense and can result in decisions that do not consider their best interests. It is not uncommon for children involved in criminal offenses, whether as victims or perpetrators, to be denied access to appropriate legal representation, in violation of their human rights.

#### **Lack of Protection from Social Stigma and Discrimination**

The next obstacle that is directly related to human rights is the social stigma that is often labeled to children involved in criminal acts, both as victims and perpetrators. From a human rights

perspective, children are entitled to protection from all forms of discrimination and stigma. However, in reality, child victims of criminal offenses are often seen as "weak" or even blamed for the events that befall them. Meanwhile, child offenders often experience social discrimination that leads to marginalization and stigmatization, which prevents them from getting the rehabilitation they need. This discrimination contradicts human rights principles that affirm that all individuals, without exception, have the right to live without discrimination and to be treated with equal dignity (Sangiovanni, 2017).

### **Limited Access to Rights-Compliant Rehabilitation Facilities for Children**

In the implementation of human rights, children who are victims or perpetrators of criminal acts are entitled to adequate rehabilitation. This rehabilitation is not only physical, but also psychological and social. However, the obstacle that is often faced is the limited rehabilitation facilities that are in accordance with the needs of children. Many institutions that deal with children as victims or perpetrators of criminal acts do not have adequate facilities to provide a comprehensive recovery in accordance with their human rights (Suseno et al., 2025a). From a human rights perspective, rehabilitation should include education, skills training, and psychological assistance so that children can re-develop and reintegrate into society with better conditions. These limitations reflect a failure to fulfill children's right to optimal personal development.

### **Challenges in Implementing Diversion Based on Children's Rights Principles**

Diversion, as an out-of-court settlement mechanism, should be a means of avoiding the formal justice process for juvenile offenders. However, inconsistent implementation of diversion and a lack of understanding of the principles of children's rights are major obstacles. From a human rights perspective, diversion aims to avoid punishments that damage children's development and provide opportunities for them to take responsibility for their actions without damaging their future. However, in practice, not all criminal cases involving children can be accessed through diversion mechanisms, due to various bureaucratic obstacles and the unpreparedness of the legal system to accommodate the principles of children's rights as a whole.

### **Lack of Protection of Children's Identity in Legal Proceedings**

Another important obstacle in the implementation of children's rights as perpetrators and victims of criminal acts is the lack of protection of children's identity during the legal process (Suseno et al., 2025b). One of the rights of children stipulated in the Convention on the Rights of the Child (CRC) is the right to have their identity protected, especially when they are victims or perpetrators of criminal offenses. However, in many cases, children's identities are still often made public, which goes against their right to privacy and protection. The inability to protect a child's identity in legal proceedings can lead to ongoing social stigma and damage their reputation, which in turn hinders their rehabilitation and social reintegration.

Overall, the implementation of legal protection for children as perpetrators and victims of criminal acts from a human rights perspective faces a number of significant obstacles. These obstacles, whether structural, social or technical in nature, have the potential to reduce the

effectiveness of the protection that should be provided to children. One of the main obstacles is the lack of in-depth understanding of human rights, especially children's rights, among law enforcement officials. This has led to treatment that is not in accordance with the basic principles of children's rights, such as the principle of "best interests of the child" and "protection of the child". In addition, children's access to adequate legal assistance is often limited, which in turn results in unfair legal defense for children as victims and perpetrators.

In addition, social stigma and discrimination against children involved in crime, both as victims and perpetrators, worsen their situation and hinder the much-needed rehabilitation process. Children who are victims are often trapped in perspectives that place them as "weak" or even responsible for the events that befall them, while children who are perpetrators of criminal acts are often viewed with negative views that are detrimental to their development. This is certainly contrary to human rights principles that regulate children's right to live without discrimination and get protection against social stigma.

Another obstacle that is no less important is the limited rehabilitation facilities that suit the needs of children as victims and perpetrators of criminal acts. Adequate rehabilitation, whether physical, psychological or social, is an integral part of efforts to protect children's rights. However, there are still many institutions that do not have adequate facilities to provide optimal rehabilitation services that can support children's social reintegration. In addition, the application of the diversion principle, which aims to avoid the formal justice process for juvenile offenders, still faces obstacles, both in terms of understanding and implementation in the field.

Thus, to overcome these obstacles, more coordinated efforts are needed between the government, law enforcement officials, child protection agencies and the community. It is important to increase the capacity and understanding of law enforcement officials regarding children's rights, strengthen the child-friendly justice system, and expand access to adequate rehabilitation services. In addition, there needs to be a policy that is more in favor of protecting children's rights, which does not only focus on punishment but also on the recovery and social reintegration of children. With these measures, it is hoped that the rights of children, both as perpetrators and victims of criminal acts, can be better protected and in accordance with international human rights standards.

## **CONCLUSION**

Children as perpetrators and victims of criminal acts are part of a vulnerable group and require legal protection in accordance with human rights principles. This protection must be provided fairly and humanely to ensure their rights are safeguarded. As victims, children need comprehensive psychological assistance, access to rehabilitation services, and guarantees of justice throughout the legal process. Meanwhile, as perpetrators, children should be treated in a manner appropriate to their age and developmental stage, employing rehabilitative approaches such as diversion programs to mitigate the adverse effects of the formal justice system. Barriers to the implementation of children's rights remain significant, including a lack of community and law



enforcement understanding, weak enforcement of existing regulations, inadequate facilities and professional resources, and pervasive social stigma that undermines children's rights. Strengthening the protection of children's rights necessitates concrete and collaborative efforts, supported by robust legal frameworks and best practices derived from global and regional research, to ensure that every child—whether as a victim or a perpetrator—can grow and develop optimally with their rights guaranteed.

## REFERENCES

- Belton, I., MacDonald, A., Wright, G., & Hamlin, I. (2019). Improving the practical application of the Delphi method in group-based judgment: A six-step prescription for a well-founded and defensible process. *Technological Forecasting and Social Change*, *147*, 72–82. <https://doi.org/10.1016/j.techfore.2019.07.002>
- Dao, L. T., Duy, L. H. T., Sornprohm, U., & Dandurand, Y. (2022). Diversion and restorative justice in the context of juvenile justice reforms in Indonesia, Thailand, the Philippines and Vietnam. *International Journal of Restorative Justice*, *5*(2).
- Guercio, L., & Massidda, P. (2024). Creating an International Institution for the Rehabilitation and Reintegration of Children Involved in Armed Conflict. In *Globalisation, Cultural Diversity and Human Rights* (pp. 61–86). Springer.
- Gutiérrez Olivares, N. (2021). *Piecing the Puzzle: Restorative Justice with Children and Young Offenders in Scandinavia, an Interview Study with Professionals*.
- Halsey, M. (2018). Child victims as adult offenders: Foregrounding the criminogenic effects of (unresolved) trauma and loss. *The British Journal of Criminology*, *58*(1), 17–36.
- Karimullah, S. S. (2022). The Urgency of Building Legal Awareness on Care of Children in the Family. *Amsir Law Journal*, *3*(2), 76–86.
- Meyers, D. T. (2016). *Victims' stories and the advancement of human rights*. Oxford University Press.
- Millei, Z., & Imre, R. (2016). *Childhood and nation: Interdisciplinary engagements*. Springer.
- Novrita, J., Elizarni, Oktavia, R., & Sari, T. Y. (2025). Making 'Taman Baca' Sustainable", lessons learned from community-based non-formal education in Aceh, Indonesia. *International Journal of Educational Development*, *113*, 103186. <https://doi.org/10.1016/j.ijedudev.2024.103186>
- Nwachukwu, I. (2023). Rights of Children under the United Nations Convention on the Rights of the Child: The Challenges of Implementation. *ACARELAR*, *4*, 45.
- Pandey, S., Tewari, H. R., & Bhowmick, P. K. (2018). Reintegration as an end of trafficking ordeal: A qualitative investigation of victims' perceptions. *International Journal of Criminal Justice Sciences*, *13*(2).

- Pecora, P. J., Whittaker, J. K., Barth, R. P., Borja, S., & Vesneski, W. (2018). *The child welfare challenge: Policy, practice, and research*. Routledge.
- Petrovska, N., Lazetic, G., & Nanev, L. (2022). A new model for protection of child victims/witnesses of violence—children’s house (BARNAHUS). *International Yearbook of the Faculty of Security*, 2, 59–71.
- Rafferty, Y. (2018). Mental health services as a vital component of psychosocial recovery for victims of child trafficking for commercial sexual exploitation. *American Journal of Orthopsychiatry*, 88(3), 249.
- Sangiovanni, A. (2017). *Humanity without dignity: Moral equality, respect, and human rights*. Harvard University Press.
- Segalo, L., & Sihlobo, M. (2021). Rehabilitation of Inmate Young Offenders and the Education system: Offenders’ Perspective in South Africa. *FWU Journal of Social Sciences*, 15(3), 43–59.
- Simanjuntak, V. D., Fadlan, F., Prasetyasari, C., & Fadjriani, L. (2023). Juridical Analysis of Police Authority for Community Protection of Robberies that Occurred in Batam City (Research Study in the Barelang Police Legal Area). *QISTINA: Jurnal Multidisiplin Indonesia*, 2(2), 1459–1470.
- Smith, R. K. M. (2022). *International human rights law*. Oxford University Press.
- Subarsyah, S., & Achmad, W. (2023). Restorative Justice in the Juvenile Justice System against Juvenile Delinquency. *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 22(1).
- Suseno, S., Rukmini, M., & Iskandarsyah, A. (2025a). Legal Protection of Child Victims of Sexual Crimes from a Legal and Psychosocial Perspective. *Journal of Lifestyle and SDGs Review*, 5(1), e02719–e02719.
- Suseno, S., Rukmini, M., & Iskandarsyah, A. (2025b). Legal Protection of Child Victims of Sexual Crimes from a Legal and Psychosocial Perspective. *Journal of Lifestyle and SDGs Review*, 5(1), e02719–e02719.
- Traub, B. L. (2024). Rehabilitation over Retribution: Rethinking Juvenile Justice for Traumatized Youth. *U. Cin. L. Rev.*, 93, 236.

*This is an open access article under the Attribution-ShareAlike 4.0 International (CC BY-SA 4.0)*



Copyright holders:

Shinta Romaito Siahaan, Herlina Manullang, July Esther (2025)

First publication right:  
Journal of Law and Regulation Governance