



## Efforts to protect human rights for child offenders in conflict with the law

Syifa Ramadhani, Jadmiko Anom Husodo

Department of Law, Sebelas Maret University, Surakarta, Indonesia

### Abstract

The purpose behind this research is to decide how legal protection efforts for child perpetrators in conflict with the law are reviewed in Law Number 39 of 1999 concerning Human Rights, their rights are fulfilled. One of the most common forms of street crime and the perpetrators are children that occur in Yogyakarta and its surroundings is klitih. In essence, children are the successors and the up and coming age of Indonesia's goals, so that every child can live, grow and develop, education, receive protection from violence and discrimination, and obtain opportunities and social equality. The method in this study uses a type of normative legal research, through a literature study method in the form of laws and regulations, books and legal journals with the problems to be studied. As stated in Human Rights, a child needs affection, education, and full protection from his parents, even the state must also be responsible for making legal protection efforts for child perpetrators in conflict with the law to prepare themselves and direct themselves for what will happen in the future. Therefore, legal protection for children is very important because they are the assets of the country's future.

**Keywords:** Legal protection, klitih, child perpetrators in conflict with the law, human rights

### Introduction

Indonesia is a large country and has many problems, so we often encounter various legal regulations that serve as the basis for government and community activities. "The State of Indonesia is a state of law" is a clear statement in Article 1 Paragraph 3 of the 1945 The Constitution of the Indonesian Republic. Children are one of the greatest assets of a nation in this increasingly global era. In essence, children are citizens who must be protected because they are the next generation of the nation who will continue to advance the nation and Indonesia. For the Indonesian nation, children are the subject and capital of national development in order to achieve a just and prosperous society according to the mandate of the 1945 Constitution <sup>[1]</sup>.

Jogja Police Watch (JPW) has recorded at least dozens of cases of klitih or street crimes committed by children throughout 2023 <sup>[2]</sup>.

Children can easily utilize programs through social media as a learning medium, but not a few children who commit deviations are completed. There are many problems of crime against children such as murder, assault, harassment, theft and drugs. This is very concerning, considering that the perpetrators are mostly children who should be studying and achieving. The irony is truly unexpected and should be a concern for everyone, the government, but also all parties who have direct or indirect roles.

As per Article 1 section 2 of Regulation Number 35 of 2014 concerning Child Protection, coming up next is meaning of a kid as a not yet 18 years of age, including a kid who is still in the belly. Furthermore, Article 1 section 3 of regulation number 11 of 2012 concerning the Child Criminal Justice System also states that a child in conflict with the law, The child referred to hereinafter as a child is a 12-year-old who is suspected of committing a crime while still under the age of eighteen.

In essence, Indonesia has effectively implemented the insurance of the freedoms of each and every resident through Law Number 39 of 1999 concerning Human Rights.

This law aims to make it clear that child freedoms should be protected in particular. The basic rights given by Allah SWT to all humans and cannot be violated by anyone, even themselves, are called human rights (HAM). So the state here is obliged to safeguard the freedoms, particularly kids who struggle with the law.

The rising number of klitih issues, where people with sharp weapons are common liberties infringement against others, is one of the head violations of human rights in Yogyakarta. We know that Yogyakarta is one of the provinces in Indonesia that is nicknamed the "student city". So the state is obliged to create legal guidelines that can have an impact on society, not only providing a strong deterrent impact for perpetrators of crimes but also giving importance to the crime. Based on Since each child has the right to choose, to create, and to protect themselves from violence and division, as communicated in Article 28 B section 2 of the Republic of Indonesia's 1945 Constitution, the state is obligated to provide child protection. Since each youngster has the honor to get potential open doors as per the law

All law protection of adolescents' fundamental opportunities is one of how the Unitary Condition of the Republic of Indonesia ensures the public power help of its occupants. Therefore, children need special instruction and guidance to maximize their physical, mental, and spiritual growth. The fundamental rights of children are important for human rights as stated in the constitution, including cooperation and the right to protection from savagery and segregation as well as equality and social opportunity.

Attempts to safeguard children that go against the law concerning Law Number 39 of 1999 concerning Human Rights (HAM) are interpreted as what has been stipulated in the event on children's rights, considering that in the context of taking action against children in conflict with the law, children who are still in the womb already have the right to be preservation by both the state and the government, which in essence means that the child remains under protection. Children who aren't yet able to live on their own absolutely require protection from other people. Numerous segments of

society have voiced their disapproval of Indonesia's inadequate child protection system.

In light of the rising number of children in Indonesia who are in violation of the law, the government should give priority to the rights of perpetrators, particularly the children of perpetrators who are in violation of the law, not only in terms of legal protection but also in terms of recovery and protection of youngster culprits. This will ensure that children's rights and the future of children are safeguarded from a human rights perspective. Endeavors by society and the state to guarantee that each youngster can practice their limitations for physical, mental, and social turn of events and improvement are known as child protection.

According to the perspective of public and state life, human rights include children's rights. Since kids are the eventual fate of the country and the up and coming age of Indonesia's standards, each kid has the option to live, develop, and take an interest, get security from viciousness and segregation, and acquire social equality and opportunities. Therefore, children must be given equal opportunities to practice and be given the responsibility to train and prepare themselves to face the future. However, it is common knowledge that children's problems, especially those involving children in conflict with the law, are getting worse day by day, indicating that legal protection has not been implemented effectively. Based on the description above, from the many problems that occur to children that are the most serious and even occur frequently, the author is interested in studying and analyzing research, namely how are legal protection efforts for children in conflict with the law from a human rights perspective?

### Methodology

This research method is a type of normative legal research. By using the library study method in the form of books and legal journals. Normative legal studies are research that is coordinated by viewing at library materials as fundamental examination materials by coordinating the quest for guidelines and works connected with the issue to be considered. Namely where The law is thought of as what is written in statutory regulations or as a rule or norm that serves as a standard for how people should behave and is thought to be appropriate <sup>[3]</sup>.

### Results and discussion

Children are a vulnerable group at risk of experiencing human rights violations by those involved within the framework of law enforcement. As child offenders are in violation of the law, the Indonesian government's efforts to protect special rights are demonstrated by legislation designed to respect children's rights. However, currently, in its implementation, it is important to focus on legal protection efforts that must be carried out by the parties to have the option to give protection guarantees and certification of children's rights in the criminal justice system for children, especially those that focus on child welfare.

This is comparable to Convention on the Rights of the Child Ratification Presidential Decree (Keppres) Number 36 of 1990. Indonesia is one of 191 countries that ratified the Convention on the Rights of Children in 1990 through Presidential Decree Number 36 of 1990 <sup>[4]</sup>. After World War II and when the United Nations (UN) was established in 1945, the term "human rights" (HAM) was replaced by

"natural rights," making human rights an important topic. On December 10, 1948, The Universal Declaration of Human Rights, also known as the General Statement of Human Rights (HAM), was published by the United Nations (PBB). It expressed that youngsters' privileges are a piece of each and every basic human rights

Any person under the age of 18 who has not yet married is considered a child, including children who wish to remain in the womb, in accordance with Article 1 section 5 of the 1999 Human Rights Law. The privilege of a child is a will owned by a child who is equipped with the power (*macht*) given based on valid general law to the child concerned.

One of the endeavors to patronage of Indonesian children is the rumor of children's legal protection. Children have the right to legal protection, according to Article 34 of the 1945 Constitution. Children are a gift from the creator given to his people and are part of the daily routine that should be experienced and cannot be isolated from the generation of humanity exists and the reasonableness of the age of a country and state. Legitimate protection concerns the realization of children's rights is one component of the Indonesian strategy for protecting children. There are four places of recognition by the international community for the privileges granted to the younger generation, in particular the rights to survive, develop, participate and protect, and anything

In light of article 28 A-J of the 1945 Republic of Indonesia Regulation on human rights, states that everyone has a guarantee and must be considered equal under the law, without religious discrimination, ethnicity, culture, and gender. The guideline of equity under the watchful eye of the law is that everybody is dependent upon a similar legal cycle. Regulations also raise significant and complex issues of correspondence, fairness, and equality. Because equal legal standing has been guaranteed by the Indonesian constitution without exception. According to Human Rights Law Number 39 of 1999, Article 1 it is an assortment of honors innate in people as animals of God All-powerful furthermore, is a gift that should be regarded and safeguarded by the state, regulation, government and everybody.

According to Human Rights (HAM), a child needs love, direction, and full protection from his parents. According to The Republic of Indonesia's 1945 Constitution and Pancasila, protecting Indonesian children means maintaining the potential of human resources and developing the Indonesian nation as a whole towards a just and prosperous society, both materially and spiritually. One part of the Indonesian kid shelter system is the issue of freedoms and lawful assurance for their youngsters, such as taking legal action as an activity to protect children that must have legal consequences. Child protection should be sought after per the capabilities of the nation and state as a standard for a nation's civilization. Genuine assurances of common liberties security should be all over.

Therefore, human rights in Indonesia must be guaranteed in real terms, considering that Indonesia views human rights as a privilege that is intrinsic and inseparable from society. Child protection efforts must be able to emphasize the need to implement an approach as an effort to trace the arrangement on the best way to impose sanctions on youngsters in struggle with the law and urge substantial steps towards efforts to restore or heal the total physical, mental and social health of the child perpetrators in conflict

with the law. According to the postulation of Sahardjo's thoughts, who is a Legal Figure and Former Minister of Law and Human Rights, who states that everyone is human and must be treated humanely, even though they have gone astray and it should not be shown that the prisoner is a criminal. He must feel seen and treated humanely<sup>[5]</sup>.

As a form of equity in the public arena, efforts to safeguard children who have been caught breaking the law are carried out in a variety of public and state life settings. Legitimate Legal safeguards for children are part of national development, therefore it must be attempted following the capacity of the state and nation. According to Article 1 number 3 of Law No. 11 of 2012, which deals with the Criminal Justice System, youngsters who are in trouble with the law are children who commit or have committed crimes. Children's criminal behavior is a difficult problem to face in every country.

Children who break the law receive special protection, as stated in Article 1 Paragraph 15 of Law No. 35 of 2014 Concerning Child Protection. The motivation behind giving exceptional lawful security to culprits of infringement is to regard the basic freedoms of the culprits Article 64 of Law No. 35 of 2014 Concerning Child Protection provides special legal protection for child liars in violation of the law, which can be realized through:

- a. Humane treatment by focusing on needs as per their age.
- b. Separation from adults.
- c. Independence from torment, discipline, or other horrible, heartless, and debasing treatment and status.
- d. Provision of justice in a goal, unbiased juvenile justice, and in a closed trial for the public.
- e. Provision of assistance from the child's parents or guardians and other people the child trusts.
- f. Provision of a private life.
- g. Provision of Health Services.
- h. Provision of education and
- i. Other rights are granted in accordance with regulations and laws<sup>[6]</sup>.

Child protection means making the right conditions for children. Necessary for each child to exercise their responsibilities and rights so that the child's natural physical, mental, and social development can occur. From a human rights perspective, the state must be accountable for its citizens' human rights. Responsibilities and obligations of public authorities and structures that pay attention to, protect, enforce and promote the advancement of human rights. In order to expedite the fulfillment of human rights for children who are in violation of the law, Articles 71 and 72 of Law Number 39 of 1999 Concerning Human Rights mandate effective implementation steps in the fields of law, politics, economics, social, culture, fortress and protection of the state, and other fields.

Human rights for children in conflict with the law are certainly not exempt from other areas mentioned in the law. Based on the convention on the rights of the child, one of the things regulated is the right of children to receive protection rights, to be specific, the privileges in the show on the freedoms of the youngster which incorporate the right to assurance from segregation, viciousness and disregard for kids who don't have families for exile kids. This right consists of 2 (two) categories, namely:

1. There is a prohibition on child discrimination;

2. Prohibition on child exploitation, for example the right to gather with their families, the state's obligation to protect children from all forms of mistreatment by parents or others, protection for orphans, the state's obligation to protect children from involvement in work that threatens the health, education and/or development of children, prohibition on torment, awful treatment or discipline, capital punishment, life detainment, and inconsistent confinement<sup>[7]</sup>.

The regulations and principles that are used as reasons for implementing legal protection for children in conflict with the law are as follows:

1. Adoption, of the guideline of the wellbeing of the kid which expresses that the interests of the kid should be viewed as the most important thing in every decision-making concerning the child, is necessary for the realization of good child protection.
2. Cross-sectorally, the destiny of kids relies upon different large and small-scale factors that are direct or indirect, an education system that emphasizes retention and immaterial materials, and so on that cannot be managed by the region, let alone by the family or the child itself.
3. Children cannot fight alone, children are the capital of the resilience of society, the state and the family, therefore children's human rights must be protected.
4. Threats to the life cycle, its certainty must start early and be carried out continuously from when the baby is still in the womb until he/she reaches adulthood.

According to the perspective of public and state life, children rights are important for basic human rights. Children are the nation's future and the upcoming generation of Indonesian ideals, so every child has the right to live, grow, and participate, as well as protection from violence and discrimination and civil rights and freedoms<sup>[8]</sup>. Regarding legal protection for children in conflict with the law, there are 2 human rights instruments, namely national and international, which function as regulations, namely:

National Human Rights Instruments, consisting of:

1. The 1945 Constitution of the Republic of Indonesia (UUD 1945),
2. MPR Decree Number XVII/MPR/1998,
3. Law Number 39 of 1999 concerning Human Rights, and
4. Indonesian Charter of Human Rights (HAM)<sup>[9]</sup>.

International Human Rights Instruments, including:

1. International Covenant on Civil and Political Rights (ICCPR),
2. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
3. International Covenant on Economic, Social and Cultural Rights (ICESCR), and
4. Convention on Elimination of All Forms of Race Discrimination (CERD)<sup>[10]</sup>.

The Convention on the Rights of the Child is a document that establishes standard legal provisions for children and universal principles. Broadly speaking, the following categories can be applied to the Convention on the Rights of the Child:

1. Emphasis of the rights children;

2. Protection of children by the state; and
3. The task of cooperation as parties such as government, society and confidential area in paying attention to youngsters' privileges.

Human rights have several principles with the aim that these privileges can be called human rights. As indicated by Manfred Nowak there are 4 (four) standards of basic freedoms, to be specific general, related, unbreakable and interrelated. Meanwhile, Rhona K.M. Smith claims other rights of the human person are non-discrimination, human dignity what's more, equity. At the same time, Indonesia also has extraordinary importance to the principle of state responsibility. The following are the principles of human rights, namely:

1. Universal
2. Interdependent,
3. Indivisible,
4. Interrelated,
5. Equality,
6. Non-discrimination,
7. Human dignity, and
8. State responsibility

This should be seen in Law Number 39 of 1999 concerning Human Rights, where children's human rights have a special place in this regulation. Children are legal subjects who are very weak in supervision, especially in the legal realm. Article 37 and Article 40 of the rights of children who are in violation of the law are specifically covered by the Rights of the Child Convention. All parties to the Convention on the Rights of the Child agree that children must be protected and given basic rights. This is a commitment made by the Unitary State of the Republic of Indonesia, which promises to provide all of its citizens with assistance from the government and to protect children's unique rights, which are human rights.

Human rights from a perspective, legitimate protection for youngsters in Indonesia, particularly the individuals who violate the law, requires ongoing efforts from all parties involved. One of the efforts made by the government is to approve and stipulate Law Number 39 of 1999. Therefore, children must be given equal opportunities to practice and be given responsibility to train and prepare themselves for the future. As directed in Article 12 of Regulation Number 39 of 1999, it underscores that the option to preparing is the country's great for each person, particularly youngsters in struggle with the law.

According to the author, the klitih case is a bad behavior. Therefore, cooperation is needed from various parties, starting from parents, schools and also the government to prevent and handle this case. Human rights are owned independently without regard to the influence of the state so that there isn't a strong motive for the state to limit these human rights. If these rights are given to the state, then, at that point, the state can restrict the freedoms inborn in people, particularly for youngsters in struggle with the law. Each part of a kid's life as an individual from the country requires extraordinary insurance and the satisfaction of privileges from the public authority, both those who must guarantee and provide it. Children are given as many opportunities as possible to grow and develop well without being burdened with anxiety or pressure.

This is related to the right to education for children as stated in Article 60 paragraph (1) of Law Number 39 of 1999 concerning Human Rights (HAM), which states that Every child is entitled to an education, instruction so that they can develop their personality in accordance with their interests, abilities, and intelligence level. This is in accordance with According to paragraph 2 of Article 26 of the Universal Declaration of Human Rights, education should aim to increase respect for fundamental rights and basic freedoms and develop the human personality as a whole.

In this case, the provision of education is not only related to the transfer of knowledge but also to the formation of individual morals and character. Education itself is very important to form self-confidence, love, and ethics are needed with the aim that children have the right direction, particularly kids who are in conflict with the law. By referring to the basic principles of fulfilling children's rights, such as non-discrimination, growth, development, life, the wellbeing of the kid, and active participation, the importance of children's rights to education must be emphasized. Moreover, basically education that emphasizes human quality will produce people who are mentally insightful, but also able to act altruistically and uphold basic human rights (HAM). As a legal state, the Unitary Condition of the Republic of Indonesia must ensure the welfare of each citizen, including the protection of children's human rights<sup>[11]</sup>.

In accordance with Article 25 Paragraph 2 of law no. 35 of 2014 Concerning Child Protection, which states that community organizations, academics, and child observers can help provide protection for children, especially in situations where government performance is very limited. Community involvement can be done in a number of ways, namely as follows:

- a. Playing a functioning job in the recovery and social reintegration process for youngsters.
- b. Keeping an eye on, supervising, and taking charge of the implementation of child protection measures.
- c. Providing space for children to participate and express their opinions
- d. Informing children about their rights and the laws and regulations that apply to them through education and socialization. And
- e. Providing facilities and infrastructure as well as a setting that encourages development and growth

There are several institutions in Yogyakarta that show that their purpose as access to help individuals who can't get fairness is exceptionally deficient, if not to say that their rights as children have been neglected. Therefore, Should the authorities provide full assistance in the type of guidelines that strictly regulate the provision of legal assistance to children as child perpetrators in conflict with the law<sup>[12]</sup>. The Legal Aid Institute (LBH) Tentrem D.I Yogyakarta is an institution that collaborates with the Department of Women's Empowerment and Child Protection, Population Control and Family Planning (DP3APPKB) to provide legal assistance to child perpetrators<sup>[13]</sup>, and the Child Protection Foundation (YLPA) Yogyakarta. As well as the national human rights commission (KOMNAS HAM). Here, child perpetrators in conflict with the law receive education and training, but also receive job training in the form of skills in certain fields so that their students can live independently as an effective preparation for their return to the community.

## Conclusion

Legal protection efforts for child perpetrators in conflict with the law in the perspective of Law Number 39 of 1999 concerning Human Rights, namely with an end goal to give lawful assurance certifications to kids while still prioritizing a belief in justice and balanced certainty in law, specifically the realization and protection of children's rights and giving priority to the wellbeing of kids which are realized and implemented properly based on applicable laws and regulations so that they function without ignoring the child's obligation to remain responsible for the actions they have committed. Human Rights Law Number 39 of 1999's Articles 71 and 72 prescribe procedures for effective legal implementation, politics, economics, culture, and social, defense and protection of the state and other fields to accelerate the fulfillment of human rights for children in conflict with the law. Human Rights Law Number 39 from 1999, Article 12: emphasizes that the right to training is the nation's ideal for every individual, especially children in conflict with the law. Furthermore, cooperation is needed from various parties, starting from parents, schools and also the government to prevent and overcome klitih cases in Yogyakarta. Article 60 section (1) of Regulation Number 39 of 1999 concerning human rights expresses that each youngster has the option to get schooling and helping to foster their character as indicated by their inclinations, gifts and level of knowledge. The purpose of legal protection efforts for child perpetrators is to implement respect for basic rights so that child psychology research as child perpetrators in conflict with the law is not disturbed, and they have legitimate legal beliefs, and are protected from unfair treatment and the absence of legal beliefs and justice. Therefore, protection of children is very important because children are the future assets of the country.

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