



## Violence Against Women and Children as a Violation of Human Rights

Dyah Wijaningsih; Elfia Farida

Faculty of Law, Universitas Diponegoro, Tembalang, Semarang City, Central Java, Indonesia

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### **Abstract**

As the number of reported occurrences of violence against women and children continues to climb, the state is under increasing pressure to strengthen the legal protections afforded to women and children against acts of violence and to designate such behaviour as a violation of human rights. This research is being done to examine the grave violation of human rights that occurs when violence is committed against women and children. A juridical-normative research method is what was applied to this study's investigation. According to the findings, violence against women and children is directly responsible for denying or excluding women's ability to enjoy their human rights and freedoms. This denial or exclusion might occur either directly or indirectly. The United Nations published this Declaration to convey the worry it feels regarding the incapacity of the international community to provide an acceptable level of protection for women.

**Keywords:** *Legal Protection; Human Rights Violations; Violence against Children; Violence against Women; Violations of Human Rights*

### **Introduction**

Children are a mandate from God Almighty that must be guarded and treated as well as possible; Children are the next generation of families, nations, and civilisations; Children are an investment in the afterlife; The number of children in Indonesia is a third of Indonesia's population, which is approximately 80 million children. The number of children in Indonesia accounts for about a third of Indonesia's population (Indah & Zuhdi, 2022; Santoso, 2017).

According to the Convention on the Rights of the Child from 1989, an individual is considered to be a child if they are under the age of 18 years, except in situations where the law that governs children establishes an earlier age of maturity (Kovacek-Stanic, 2010). Law no. 39 of 1999 regulate that the Universal Declaration of Human Rights Everyone on the planet who is under the age of 18 and who has not yet been married, including unborn children, if it is in their best interest to do so if they are human (Somaliagustina & Sari, 2018). In addition, according to Article 1 of Law No. 23 of 2002 Concerning Child Protection, a child is anyone who has not yet reached the age of 18, including children who are still developing inside their mothers' wombs. This definition applies to children regardless of whether or not their parents are married. Nevertheless, what is even more crucial is that every kid has the right to

survive, grow, and develop, as well as the right to be protected from violence and discrimination, as stated expressly in Article 28 B of the Constitution of the Republic of Indonesia, which was ratified in 1945 (Achir, 2022).

As stated in Law No. 39 of 1999 Concerning Human Rights, the fulfilment of human rights includes the protection of children's rights, which is also a way of fulfilling human rights (Syahnimar, 2020): A group of rights that are inherent in humans as creatures of God and that must be respected, upheld, and protected by the state, law, government, and everyone else for the sake of honouring and protecting human dignity and value; therefore, children's rights are rights human rights for children; Children's rights are an integral part of Human Rights; Children's rights are part of Human Rights that must be guaranteed, protected, and fulfilled by parents, families, communities, the state, and the government; Children's rights are part The implementation of child protection is founded not only on Pancasila but also on the Constitution of the Republic of Indonesia 1945 and the fundamental principles of the Convention on the Rights of the Child. These fundamental principles include non-discrimination; the child's best interests; the right to life, survival, and development; and respect for children's opinions (Bunga, 2021).

The gender gap in the labour force participation rate is still significant, as gender issues in development highlight that the female labour force participation rate is lower than that of men. This highlights that the gender gap in the labour force participation rate is still significant. In addition, there are still many instances of violence against women and the crime of trafficking in persons. This is based on the number of police reports that cases of criminal acts of trafficking in persons for the period of 2015-2019 showed that from January 1 to December 9, 2020, there were 6,502 cases, with domestic violence accounting for as many as 3,959 instances. It is also common for there to be a high number of cases of trafficking in persons, and according to the destination nations for trafficking in persons overseas in the years 2015-2019, the Middle East was the region with the biggest number of cases.

Why is it important that children be safeguarded from the different forms of violence associated with the crime of trafficking in persons? Children are a commandment from God Almighty; children are the next generation, family, nation, and civilisation; children are investments in the hereafter, and the number of children in Indonesia accounts for one-third of the country's total population is approximately 80 million people. The Constitution of the Republic of Indonesia from 1945, specifically Article 28 B, states that every child has the right to survive, grow and develop as well as the right to protection from violence and discrimination; Law no. 35 of 2014 concerning Amendments to Law No. 23 of 2002; and Law no. 11 of 2012 concerning the Juvenile Justice System (Satriana & Dewi, 2022). These three documents make up the legal basis for child protection in Indonesia. Non-discrimination of children, the child's best interests, the child's right to life and growth, and the kid's ability to participate in decision-making are the guiding concepts of child protection. In light of the abovementioned issues, this research aims to investigate whether or not acts of violence against children and women constitute breaches of human rights.

### ***Research Methods***

Library legal research, conducted by reading literature found in libraries or looking at secondary data, is the standard approach to conducting research in law. This research was carried out with normative juridical research to provide useful results in line with the title and issues explored in this study. Additionally, this research was carried out in order to provide beneficial results.

This research paper uses a descriptive-analytical research specification, which analyses the issue by providing an explanation and description of all the symptoms and facts obtained from case records relating to the protection of the rights of women and children from criminal acts of violence and trafficking in persons.

The data that was used is considered secondary data. Secondary data are information that a researcher gathers not directly from the source (the thing being researched) but rather from other places. Researchers have access to data compiled by other parties using various techniques, including commercial and non-commercial ones. Examples of such things include textbooks, journals, periodicals, newspapers, documents, laws, and legislation, among other things. The analysis of previous publications was how all of these data were obtained.

The data collection outcomes in the form of legal materials that have been gathered are used to inform an analysis that is performed using the qualitative analysis method. The research data is characterised in an analytical and descriptive manner during this process. To conduct a qualitative analysis, one must describe the research data in a thorough, high-quality, and effective manner. This must be done in organised, logical, effective, and significant sentences. This makes it simple to interpret and comprehend the findings of the analysis.

## ***Results and Discussion***

### **1. Concept of Legal Protection for Children and Women**

Every citizen should have access to legal protection. There is a need for law in society for several reasons, one of which is to help integrate and coordinate different interests that could otherwise compete with one another. The law safeguards a person's interests when it grants that person the authority to take relevant actions. This power distribution is accomplished quantitatively because its width and depth are specified before the process begins. A power of this kind is referred to as a right, but the term "right" cannot be used to all powers in society; rather, it can only be applied to certain capabilities, specifically those granted to an individual by law (Mandjo & Sarson, 2021).

According to Andi Hamzah (2005), legal protection can be understood as an effort that is carried out with certainty by every person or government and private institution that has the goal of securing, controlling, and fulfilling the welfare of people's lives in such a way that they are equivalent to existing human rights. This effort has the potential to be interpreted in several different ways. This must be connected to the primary purpose of the law, which is to safeguard the rights and interests of individuals and society as a whole. Legal protection, as defined by Simanjuntak, is the effort made by the government to guarantee legal certainty to protect its people. This is done to ensure that the rights of a citizen are not violated and that those who violate these rights will be subject to sanctions by the regulations in place (Sawen, 2017). Therefore, it is possible to say that legal protection contains the following components:

- Protection from the government for the community or the citizens of the community;
- A guarantee of legal certainty from the government;
- Regard for the rights of citizens; and
- Penalties for those who violate the rights of citizens.

The phrase "legal protection" can also refer to the protection afforded by laws and regulations.

According to Philipus Hardjon (1987), legal protection is the recognition of human rights owned by legal subjects based on general provisions or a collection of rules or rules that will be able to protect something else. In addition, legal protection is the protection of the dignity and worth of the legal subjects themselves.

Protection for women and children as victims of crime is becoming an increasingly prevalent topic of conversation in today's world on both the national and international levels. Many conferences are organised to discuss the different topics related to the prevention of the crime of human trafficking, which has been on the rise recently (Janie A. Chuang, 2014).

The position of children as the young generation who will continue the high ideals of the nation, future leaders of the nation, and a source of hope for the generation that came before them requires that they be given the greatest possible opportunity to grow and develop properly on all fronts, including spiritually, physically, and socially (Hidayat & Widjanarko, 2008). If they have reached their full potential regarding their physical, mental, and social development, it is time to make way for the next generation. People at all levels of society, in various positions and functions, who are fully aware of the significance of children for the future of the country and the nation, are responsible for making an effort and engaging in activities to protect children. The term "child protection" refers to all the efforts made to create conditions in which every child can carry out his rights and obligations for the development and growth of children in their natural, physical, mental, and social environments. Because the protection of children is the embodiment of justice in a society, the protection of children is actively sought in various fields of state and social life (Cendikia & Firmansyah, 2022; Syafiuddin et al., 2021). Activities aimed at protecting children can have repercussions in the courtroom regarding written and unwritten laws.

## **2. Violence Against Women and Children is a Violation of Human Rights**

The global community has agreed that violence against women is a breach of human rights and has taken steps to address this issue (Bunch, 1990; Merry, 2003). According to the first paragraph of Article 19 in the General Recommendation of the Committee on the Elimination of Discrimination against Women (1992), gender-based violence is a form of discrimination that poses a significant barrier to the ability of women to exercise their rights and freedoms on an equal footing with men (Merry, 2009).

The Declaration on the Elimination of Violence Against Women, ratified at the 85th United Nations General Assembly on December 20, 1993, affirmed that violence against women violates women's human rights and fundamental freedoms. This Declaration was ratified on the 20th anniversary of the ratification of the Declaration on the Elimination of Violence Against Women (Mutari, 2018).

The denial or restriction of women's ability to enjoy their human rights and freedoms directly results from violence against women. The United Nations has issued this Declaration to express its concern regarding the inability of the international community to provide adequate safety for women. This text makes it evident that violence against women is a symptom of historical inequity in the power relations between men and women, which in turn causes dominance and discrimination against women and roadblocks to women's advancement. It is not an easy task to attain the goal of establishing that discrimination and violence against women constitute a kind of violation of human rights. Historically, prejudice and violence against women have been the subject of much conversation for a significant time. Although the Universal Declaration of Human Rights was written in 1946, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was not approved by the United Nations until 1979, a full 33 years after the Universal Declaration of Human Rights was published (Meron, 1986).

Although there has been violence against women for as long as human civilisation has been, it was not until the latter half of the 20th century that this problem became a phenomenon that was put on the agenda of nations worldwide. Since 1989, the CEDAW Committee has suggested that all nations that have ratified the CEDAW Convention should address the topic of violence against women in their reports. The CEDAW Convention has made these recommendations. As part of their legal obligations, nations that ratify the CEDAW Convention are explicitly directed to heed the CEDAW Committee Recommendation No. 19, which states that these countries should abolish all forms of violence against women. Within the context of this suggestion, it is also stated that violence based on gender is a form of discrimination that poses a significant barrier to the ability of women to exercise their liberties and rights on an equal footing with men (Chinkin & Yoshida, 2020).

This conflict can be attributed to two different factors. At the Second Human Rights Conference, which took place in Vienna in 1993, the breach of human rights by perpetrating violence against women was recognised as such. The global solidarity of women who attended this conference and joined the "Women's Caucus," which pushed at this conference for the topic of violence against women to be included on the agenda for discussion (Weldon, 2006).

To begin, the concept of violence against women was mobilised to become a problem at the world level in 1985 during the Third World Conference on Women (III World Conference on Women). In the meantime, it came to light in the 1990s that during armed conflicts in various countries, such as Kuwait, the former Yugoslavia, and Rwanda, women were subjected to various forms of physical, sexual, and psychological violence on a mass scale. These countries include Kuwait, the former Yugoslavia, and Rwanda. An outline for a Declaration on the Complete Abolition of Violence Against Women (Rioux et al., 2011). After that, the United Nations institution, the Commission on the Position of Women, delivered the updated text to the United Nations General Assembly in New York. The United Nations General Assembly approved the text in December 1993 and it was subsequently renamed the Declaration on the Elimination of All Forms of Violence against Women.

Following up on this, the United Nations has appointed a Special Rapporteur on violence against women, whose job is to investigate the factors that lead to and are exacerbated by instances of violence against women all around the world. This achievement was subsequently followed up again at the IV United Nations World Conference on Women, which was held in Beijing in 1995. At this meeting, violence against women was identified as one of the 12 essential issues and a barrier to equality, development, and peace. As a result, the commitment of the international community to address all types of violence experienced by women everywhere is progressively being reiterated. This was an important step in the right direction.

## **Conclusion**

The need for every citizen to have access to legal protection has led to increased violence against women and children, a violation of human rights. There is a need for law in society for several reasons, one of which is to help integrate and coordinate different interests that could otherwise compete with one another. The law safeguards a person's interests when it grants that person the authority to take relevant actions. This power distribution is accomplished quantitatively because its width and depth are specified before the process begins. A power of this kind is referred to as a right, but the term "right" cannot be used to all powers in society; rather, it can only be applied to certain capabilities, specifically those granted to an individual by law. The denial or exclusion of women's ability to enjoy their human rights and freedoms directly results from violence against women and children. The United Nations has issued this Declaration to express its concern regarding the inability of the international community to provide adequate safety for women.

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