

Research Article

# Legal Protection for Child Victims of Pedophilia Crimes from a Criminal Law Perspective

Budi Prayitno<sup>1\*</sup>, M. Syahrul Borman<sup>2</sup>, and Duduik Djaja Sidarta<sup>2</sup>

<sup>1,2,3</sup> Faculty of Law, Universitas Dr. Soetomo, Indonesia: [budi\\_prayitno1002@yahoo.co.id](mailto:budi_prayitno1002@yahoo.co.id)

\* Corresponding Author: Budi Prayitno

**Abstract:** Children constitute a vulnerable group requiring protection from sexual crimes, including pedophilia. This research aims to examine criminal law provisions protecting child victims of pedophilia crimes in Indonesia and identify obstacles in their implementation. Using a normative juridical method with statutory and conceptual approaches, the findings demonstrate that legal protection is comprehensively regulated through the Criminal Code (KUHP), the Child Protection Law (Law Number 35 of 2014), Law Number 17 of 2016, and the Electronic Information and Transactions Law (ITE). These regulations provide a strong legal basis both in terms of principal criminal sanctions and additional sanctions such as chemical castration, electronic monitoring device installation, and perpetrator identity disclosure. The regulations also emphasize victims' rights to medical and psychological rehabilitation as well as identity protection. However, implementation faces several obstacles, including low case reporting rates due to stigma and taboo culture, evidentiary difficulties arising from victim trauma, weak inter-agency coordination, limited resources, and the emergence of digital pedophilia modi. Efforts to address these obstacles include strengthening law enforcement capacity, providing child-friendly justice systems, comprehensive rehabilitation services, public legal education, and synergy between government and non-government institutions in child protection.

**Keywords:** Child Protection; Criminal Law; Legal Protection; Pedophilia; Sexual Crime

## 1. Introduction

Children are a group vulnerable to various forms of crime, including sexual crimes (Priyambudi et al., 2023). One of the most concerning forms of sexual crime is pedophilia, namely sexual abuse of children by adults. This crime not only violates the law but also damages children's futures as the nation's next generation. In the context of Indonesian criminal law, protection for child victims of sexual crimes has been regulated in various laws and regulations, such as Law Number 35 of 2014 concerning Child Protection and Law Number 17 of 2016, which constitutes the second amendment to Law Number 23 of 2002 concerning Child Protection (Ismail et al., 2024). However, despite existing regulations, cases of sexual violence against children, including pedophilia, still frequently occur, and their handling is not yet optimal (Yusyanti, 2020).

Received: July 21, 2025;

Revised: September 17, 2025;

Accepted: November 15, 2025;

Published: January 13, 2026;

Curr. Ver.: January 13, 2026.



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One of the main problems in handling pedophilia cases is the lack of effectiveness in applying existing criminal law. Although perpetrators can be charged under articles in the Criminal Code (KUHP) as well as special laws such as the Child Protection Law, in reality, many perpetrators receive light sentences or even escape legal consequences due to various reasons, such as lack of evidence or convoluted legal processes (Yusyanti, 2020). Additionally, child victims often do not receive adequate protection during the legal process. They frequently experience deep trauma from their experiences, and lengthy legal processes combined with a lack of psychological assistance can worsen their condition. This indicates that our criminal law system has not fully sided with victims, especially children who become victims of sexual crimes.

Legal protection for child victims of pedophilia should not only focus on punishing perpetrators but must also include recovery efforts for victims. A restorative justice approach can serve as an alternative in handling such cases, where the focus is not only on punishment but also on victim recovery and perpetrator reintegration into society after serving their sentence (Aprilianda, 2017). However, applying restorative justice approaches in sexual crime cases against children still faces various challenges, such as a lack of understanding from law enforcement officials, society, and even victims and their families regarding this concept. Moreover, the absence of clear guidelines for applying restorative justice in sexual crime cases against children poses its own obstacles. This research aims to analyze legal protection for child victims of pedophilia crimes from a criminal law perspective.

## **2. Literature Review**

### **Legal Protection Theory**

Legal protection essentially represents the state's responsibility in guaranteeing security, justice, and legal certainty for every individual. According to Satjipto Rahardjo, legal protection constitutes a concrete form of law's function that is not merely repressive but also preventive, namely, preventing violations and providing a sense of security to individuals from the outset. Legal protection encompasses two main aspects: preventive protection provided before rights violations occur, generally in the form of regulation and supervision by the state through fair regulations; and repressive protection provided after violations or harmful legal events occur, aiming to restore conditions to a fair situation through legal mechanisms such as courts or rights restoration.

In Indonesia's legal system, legal protection constitutes a constitutional mandate as stated in Article 28D paragraph (1) of the 1945 Constitution, declaring that every person has the right to recognition, guarantee, protection, and fair legal certainty as well as equal treatment before the law. John Rawls's theory also becomes an important foundation in understanding the essence of legal protection. In his book "A Theory of Justice," Rawls emphasizes that justice is not only about formal equality but also includes the obligation to protect those who are weakest in society. In this case, legal protection must ensure that vulnerable groups such as children, women, refugees, or prisoners obtain access to justice and humane legal treatment (Al-Karimah et al., 2024).

### **Child Protection in Criminal Law Perspective**

Children are vulnerable to various forms of crime, including sexual crimes such as pedophilia. In the context of Indonesian criminal law, child protection is regulated in various laws and regulations, including Law Number 35 of 2014 concerning Child Protection, which is an amendment to Law Number 23 of 2002. Article 59, paragraph (1), letter j of this law regulates special protection for child victims of sexual crimes. Additionally, Article 28B paragraph (2) of the 1945 Constitution explicitly guarantees child protection, stating that "Every child has the right to survival, growth, and development as well as protection from violence and discrimination." This provision constitutes the philosophical and juridical basis underlying child protection arrangements in all legislation in Indonesia, including in the criminal law field.

In practice, perpetrators of pedophilia crimes often use various *modi operandi* to carry out their actions, such as persuasion, gift-giving, or threats. Meanwhile, child victims often do not report incidents because they feel ashamed or afraid of potential disgrace (Walayuliansari & Ruben Achmad, 2010). This complicates law enforcement and victim protection processes. Additionally, a victimology approach is important in understanding the impact of sexual crimes on children. Law enforcement officials handling pedophilia cases need to feel the victimology aspect, namely the destruction of children's and the nation's futures due to such crimes. Therefore, legal protection for child victims of sexual crimes must encompass legal, psychological, and social aspects.

### **Forms of Protection for Child Victims of Pedophilia**

Protection for child victims of pedophilia not only focuses on legal aspects but also includes psychological and social aspects. Forms of protection for victims of pedophilia crimes include counseling, medical services or assistance, legal assistance in the form of advocacy, supervision of vulnerable areas, and prevention through community education (Fatmawati, 2021). Counseling is very useful for crime victims experiencing negative effects and prolonged trauma, such as pedophilia victims. Medical services or assistance can be used as evidence in legal processes. Legal assistance in the form of advocacy helps victims face complex legal processes. Supervision is conducted by monitoring and observing areas prone to pedophilia crimes. Prevention is conducted by providing education to the community about the dangers of pedophilia crimes against children and the nation's future.

### **3. Research Methods**

This research employs a normative research type, where the main objective is to examine or analyze primary and secondary legal materials by understanding law as a set of regulations or positive norms in the legislation system regulating human life (Zakaria et al., 2023). This normative legal research focuses on studies of legal systematics, legal principles, and vertical and horizontal synchronization between applicable legal regulations, particularly those related to the protection of child victims of pedophilia crimes from a criminal law perspective.

The research uses a statutory approach and a conceptual approach. The statutory approach is conducted by examining various laws and regulations governing legal protection for children, particularly child victims of sexual crimes such as pedophilia. Some regulations

that become the focus of this study include Law Number 35 of 2014 concerning Child Protection, Law Number 12 of 2022 concerning Sexual Violence Crimes, and provisions in the Criminal Code (KUHP). The conceptual approach is used to understand concepts and theories regarding legal protection, children's rights, and the criminalization of sexual crime perpetrators. Primary legal materials include the Child Protection Law, Sexual Violence Crimes Law, and the Criminal Code. Secondary legal materials comprise literature in the form of books, scientific journals, legal articles, and expert opinions. Legal material analysis is conducted descriptively-qualitatively with a normative approach.

#### **4. Results and Discussion**

##### **Criminal Law provisions for the Protection of Child Victims of Pedophilia in Indonesia**

Children are an inseparable part of the nation's and state's continuity. As the next generation, children have basic rights that must be guaranteed, protected, and fulfilled by the state, society, and family. One of children's fundamental rights is the right to protection from all forms of violence, including sexual violence. Pedophilia crimes can be defined as a form of sexual violence against children committed by adults who have sexual attraction to children under a certain age, usually under 13 years old. This violence can take the form of physical acts (such as intercourse, molestation, or other indecent acts) or non-physical acts such as online sexual exploitation or forcing children to pose in child pornography content (Bahri et al., 2023).

In the context of criminal law, pedophilia perpetrators are classified as perpetrators of sexual violence crimes against children. This crime can be charged under several criminal provisions, including KUHP Articles 287, 290, and 292, as well as in the Child Protection Law, the Electronic Information and Transactions Law (ITE), and the Pornography Law. Under Indonesian law, a child is defined as anyone under 18 years of age, as affirmed in Article 1, number 1 of Law Number 35 of 2014 concerning Child Protection. The Criminal Code (KUHP), although still using a classical approach, has specifically regulated criminal acts related to violence and molestation against children. Articles such as 287, 290, 292, and 295 KUHP become the legal basis for prosecuting perpetrators of sexual crimes against children (Patty et al., 2023).

Law Number 35 of 2014 concerning Child Protection constitutes an amendment to Law Number 23 of 2002, which affirms that child protection includes efforts to prevent violence, provide recovery for victims, and punish perpetrators with strict sanctions. This law strengthens the principle of the best interest of the child in every legal process involving children, whether as victims or witnesses. Law Number 17 of 2016 constitutes an important milestone in providing criminal protection to child victims of sexual violence. This law enables additional criminal sanctions in the form of chemical castration, electronic chip installation, and perpetrator identity disclosure as further prevention and protection efforts for children. Additionally, Indonesia's legal system also recognizes the importance of law enforcement institutions and child protection institutions such as the Indonesian Child Protection Commission (KPAI), the Witness and Victim Protection Agency (LPSK), and the roles of psychologists and social workers in accompanying children during legal processes (Ismail et al., 2024).

### **Obstacles in Applying Criminal Law Provisions**

One of the most fundamental challenges is that the child perspective has not been internalized in the law enforcement system. Child perspective should be the main principle in every stage of criminal justice processes, from investigation, prosecution, trial, to verdict execution. However, in reality, the criminal law approach in Indonesia is still more oriented toward perpetrators rather than victims. In various cases of sexual violence against children, child victims often experience legal treatment that actually worsens their psychological condition. For example, overly formal examination processes, intimidating investigation room atmospheres, use of difficult legal language, and lack of professional companion personnel become serious obstacles in ensuring children receive fair and safe treatment during legal processes (Novita et al., n.d.).

Taboo culture and the stigmatization of child victims of sexual crimes have become one of the biggest obstacles in law enforcement and comprehensive protection efforts. Indonesian society, which largely still upholds conservative values in matters of sexuality, tends to consider sexual violence topics as something embarrassing and inappropriate to discuss openly. Stigma against child victims of sexual crimes is also very strong, especially when the victim's identity is revealed. Children who become victims not only experience physical and psychological suffering but also face social pressure in the form of ridicule, exclusion, and negative labeling from their environment. In many cases, instead of receiving sympathy and protection, victims are blamed for what happened to them (Polnaya et al., 2024).

Weak inter-agency coordination also hampers case handling. Institutions that should work synergistically in protecting children, such as police, prosecutors, courts, LPSK, KPAI, DP3A, and P2TP2A, often run independently with their own systems and approaches. The absence of integrated communication systems and databases also hampers case handling flows. Additionally, limited resources and supporting facilities become major obstacles. Many regions, especially in rural or remote areas, do not yet have adequate facilities such as safe houses (shelters), psychological counseling services, child forensic medical examinations, and legal assistance. With the rapid development of information and communication technology, sexual crimes against children have also shifted their modus operandi to the digital realm, becoming a serious new challenge requiring special expertise and sophisticated tool support not yet fully available in all police regions (Priyambudi et al., 2023).

### **Efforts to Improve Legal Protection for Child Victims**

Legal protection for child victims of pedophilia is a shared responsibility among the government, law enforcement officials, non-governmental organizations, and the wider community. First, improving law enforcement capacity in handling pedophilia cases is very important, including special training on handling child victims, trauma-sensitive interview techniques, and a deep understanding of laws governing child protection. Legal assistance in the form of advocacy and accompaniment for pedophilia crime victims can be conducted by the government as well as non-governmental institutions such as Non-Governmental Organizations (NGOs). This accompaniment is important so that children do not feel cornered, frightened, and treated unfairly during legal processes (Fatmawati, 2021).

Second, strengthening the juvenile criminal justice system needs to be done to ensure legal processes run with consideration for the best interests of children, including providing

child-friendly facilities at police stations and courts, and involving child psychologists in examination processes. Third, providing rehabilitation services for pedophilia victims is very important to help children's physical and psychological recovery, including counseling, psychological therapy, and social support. Fourth, increasing public awareness about the dangers of pedophilia and the importance of child protection can be done through educational campaigns and legal counseling. The government and related institutions can work together with community leaders, educators, and mass media to spread correct information and encourage case reporting (Yusyanti, 2020).

Fifth, strengthening cooperation between government and non-government institutions in handling pedophilia cases can improve child protection effectiveness, including coordination between police, prosecutors, courts, child protection institutions, and civil society organizations in providing comprehensive services to victims. To respond to digital pedophilia challenges, the government needs to strengthen cyber unit capacity in police and prosecutors' offices, provide special training related to cyber forensics, and establish international cooperation with institutions such as Interpol, Europol, and global digital platform providers. Digital education for children and parents is also very important to build digital literacy, increase awareness of online pedophilia threats, and form early detection systems within families (Aprilianda, 2017).

## 5. Conclusion

Based on the analysis conducted, two main conclusions can be drawn. First, criminal law provisions regarding the protection of child victims of pedophilia in Indonesia have been regulated in KUHP, the Child Protection Law, Law Number 17 of 2016, and the Sexual Violence Crimes Law. These regulations provide a strong legal basis both in terms of principal criminal sanctions and additional sanctions such as chemical castration, electronic monitoring device installation, and perpetrator identity disclosure. Additionally, the regulations emphasize victims' rights to medical and psychological rehabilitation as well as identity protection. However, although legal instruments are quite comprehensive, field implementation still faces weaknesses, especially in aspects of victim recovery and long-term protection.

Second, obstacles in applying criminal law provisions for the protection of child victims of pedophilia include low case reporting due to stigma and taboo culture factors, evidentiary difficulties due to victim trauma, weak coordination among law enforcement agencies, limited resources, and increasing digital pedophilia modes. Efforts that can be made to address these include strengthening law enforcement capacity, providing child-friendly justice systems, comprehensive rehabilitation services, legal education for the community, and synergy between government and non-government institutions in child protection.

This research recommends several matters. First, for the Government and policymakers, there is a need to strengthen more technical implementing regulations, especially in aspects of victim recovery and digital pedophilia prevention, as well as increase budget allocation and special facilities for handling child victims, including rehabilitation centers and psychological accompaniment. Second, for law enforcement officials, capacity improvement in handling pedophilia cases is needed through special training on child-friendly interviews, trauma-sensitive evidentiary techniques, and application of the best interest of the child principle. Third, for child protection institutions and the community, strengthening

socialization, legal education, and counseling is needed to reduce social stigma against victims and encourage communities to report cases bravely.

**Author Contributions:** Conceptualization, B.P. and M.S.B.; Methodology, B.P.; Validation, M.S.B. and D.D.S.; Formal Analysis, B.P.; Investigation, B.P.; Writing – Original Draft, B.P.; Writing – Review & Editing, M.S.B. and D.D.S.; Supervision, M.S.B. and D.D.S.

**Funding:** This research received no external funding.

**Data Availability Statement:** All data generated or analyzed during this study are included in this published article.

**Acknowledgments:** The authors would like to express sincere gratitude to the Faculty of Law, Universitas Dr. Soetomo, for support in completing this research.

**Conflicts of Interest:** The authors declare no conflict of interest.

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