


Legal Protection of Children as Perpetrators or Victims of Criminal Acts Whose Identities Are Revealed in Court Decisions

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Abstract

This research aims to determine the legal provisions regarding judge's decisions that reveal the child's identity. Understand the legal implications of disclosing the identity of child perpetrators or victims of criminal acts in court decisions regarding children's rights. The approach method applied in this research is a normative method, which includes research into the literature studied. Using a statutory approach regarding the protection of children's identities in the criminal justice system, while an empirical approach is used to study the implementation of these regulations in judicial practice, especially in decision number 14/Pid.Sus- Anak/2021/PN Srg. The legal materials used consist of primary legal materials and secondary legal materials. The results of this research are that protecting children in conflict with the law is the state's obligation to protect every right they have. This obligation is aimed at the best interests of the child and prevents the child from being mistreated by any party. One of these rights is that it is not permissible to publish a child's identity in conflict with the law, whether in print/electronic media. A court decision that reveals a child's identity can be considered a criminal offense because it violates legal provisions regarding the confidentiality of a child's identity which must be protected. One of the main principles of child protection is the best interests of the child. In this case, the judge is also obliged to keep the identity of the child as the perpetrator of the crime secret during the trial process. In conflict with the law, children's identities must be kept confidential, both in print and electronic media. Children are the nation's generation and figures who greatly influence the continuity of the nation's life, where they have rights that must be protected, respected and fulfilled. The confidentiality of the identity of children in conflict with the law is one of the rights given to them to protect their reputation.

Keywords: Children; Protection; Identity.

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INTRODUCTION

According to the Child Criminal Justice System Act, Children involved in legal disputes include those who are facing the law, those who witness crimes, and those who are victims of crimes. The term "child" also refers to a minor who breaks the law or engages in criminal activity. According to Article 1 paragraph (3) of the Law on the Juvenile Criminal Justice System, Children are individuals under the age of 12 and those under the age of 18 who are suspected of committing criminal activities. The importance of providing legal protection to children involved in the judicial process, both during the process and after. This mainly refers to the child's right to keep his identity secret, as the child's identity is revealed in print and electronic media.¹ Disclosure of children's identities can be done by anyone, including law enforcement officials who have the responsibility to protect children's privacy;

¹ General Asassembly Relution, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* ("The Beijing Rules"), Beijing, 1985.

However, it seems that they made this disclosure in public. Article 54 of the Law on the Juvenile Criminal Justice System mainly requires judges to handle children's cases in a closed process. Everything related to a child, especially his identity, is not a public affair. However, the noble purpose of this provision was eroded because the process of reading the verdict was carried out openly in public, with the judge reading out all the verdicts and the identity of the children.

The child's name is listed in the Judge's decision disseminated by the Supreme Court on the website of the Directory of Decisions of the Supreme Court of the Republic of Indonesia. about special criminal cases of Children can be considered as an effort to reveal the identity of Children to the general public. One example is decree Number 14/Pid.Sus-Anak/2021/PN Srg, where Child I and Child II with full names and identities, including date of birth and full address. This means that the writing of the Child's identity in the decision is considered an attempt to reveal the Child's identity, which should be protected and should not be known to others, in order to protect the Child's identity and prevent it from being negatively affected by society, efforts must be made to help him grow and develop well and be accepted in society. The protection of law enforcement organizers, especially judges and their institution the Supreme Court, can be more effective.²

METHODS OF THE RESEARCH

This study uses normative-empirical legal research methods on the protection of children's identities in the criminal justice system studied through a normative approach, while an empirical approach is used to see how the rules are applied in judicial practice, especially in Decision Number 14/Pid.Sus-Anak/2021/PN Srg. In this study, a number of data were used, including:³ a) Primary Data: Court Decision Number 14/Pid.Sus-Anak/2021/PN Srg and the results of interviews with judges, prosecutors, and advocates who handle children's cases; b) Secondary Data: Laws and regulations, law books, scientific journals, and articles related to the protection of children's identities in the criminal justice system.

RESULTS AND DISCUSSION

A. Legal Arrangements for Judge's Decision Revealing Children's Identity

Children's human rights must be kept confidential and should not be disclosed in print or electronic media, there must be strong protection for those who disseminate children's identities to the public, especially law enforcement officials who should better understand and protect these rights, because the Supreme Court decision uploaded to the website of the Directory of Decisions of the Supreme Court of the Republic of Indonesia is publicly available, Disclosure of children's identities can be considered an act of disclosing the child's identity to the public. One example is decree number 14/Pid.Sus-Anak/2021/PN Srg, where the names of the children, namely child 1 is 17 years 6 months old and child 2 is 16 years and 6 months, as well as their full identity, including their date of birth and residential address. So that the writing of children's names is considered to spread the breadth of children's identities that should be protected and must be maintained.⁴ Based on Article 19

² Lili Rasjidi and I.B. Wiyasa Putra, *Hukum Sebagai Sesuatu Sistem*, (Bandung: Remaja Rosdakarya, 1993), p. 123.

³ Soekanto, Soerjono, *Pengantar Penelitian Hukum*. (Jakarta: UI Press, 2014), p. 31

⁴ M. Hufron Faki, Subekti. "Perlindungan Hukum Atas Identitas Anak Oleh Aparat Penegak Hukum", *Recidive: Jurnal Hukum Pidana dan Penanggulangan Kejahatan*. 2 (2021): 109-116. <https://doi.org/10.20961/recidive.v10i2.58873>

paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is regulated that the identities of the witness's children, the perpetrator's children, and the victim's children must be kept confidential when reported or reported through print and electronic media. Maintaining the confidentiality of children's identities is very important, because it gives them the opportunity to grow and develop without obstacles, so that they can achieve their goals, and the form of legal protection is by not disseminating the identity of children.⁵ Children's identities are very important to protect because they relate to children's privacy rights and are very sensitive. Data such as name, age, address, and gender are called identities. Article 19 paragraph (1) of Law number 11 of 2012 concerning the Juvenile Criminal Justice System is also affirmed. This paragraph explains that the identity of children must be protected in print or electronic news.

Children will be greatly harmed if their identities are made public as this will violate their privacy and can impact their growth. These people may experience discriminatory treatment and trauma because of their history of being victims of criminal justice that is recognized by the public.⁶ The legislation on the Juvenile Criminal Justice System protects the dignity and dignity of children, so that the perpetrators of criminal acts are considered to be under 18 years old and children who are in contact with the law must be able to obtain legal protection in the judicial system.

Children in Conflict with the Law and/or children in legal conflict have the right to have their identity disclosed.⁷ One of the principles that must be applied to protect children's human rights is to maintain children's mental and physical health when their personal information as perpetrators, witnesses, or victims is published.⁸ Based on Article 97 and Article 19 paragraph (1) of Law number 11 of 2012 concerning the Child Criminal Justice System, perpetrators who disseminate or share children's identities, either in the form of photos or names, can be prosecuted. with a maximum penalty of five years in prison and a maximum fine of five hundred million rupiah. If someone reveals or provides information about the identity of a problematic child, they will also be sentenced to prison and a fine,⁹ Legal processes and decisions involving a child's identity can have an impact on a child's life and development. Children may experience confusion, stress, or difficulty adjusting to changes in their family structure.¹⁰

B. Legal Implications of Disclosure of the Identity of the Child of the Perpetrator or Victim of a Crime in a Court Decision on Children's Rights

Various regulations in Indonesia regulate the right to protection of children's identity. Remembering that children's rights are human rights and the state is responsible for protecting children. The state's responsibility to protect children's rights can be seen from the basis of the constitution, which is the basis of all laws in Indonesia. So there is no reason

⁵ Alfian Mahendra, Beniharmoni Harefa, "Perlindungan Hukum Terhadap Identitas Anak Sebagai Pelaku Tindak Pidana Dalam Proses Peradilan Pidana", *Jurnal Kertha Semaya* 8, no. 10 (2020): 1629-1649.

⁶ Rinastiti Dwi Anggraeni, Fadilla Putri Alsabilla, Jeferson Kameo, "Perlindungan Data Pribadi Anak Yang Berhadapa Dengan Hukum Di Dunia Siber", *Jurnal USM Law Review*, 7, no. 3 (2024): 1635-1654. <https://doi.org/10.26623/julr.v7i3.10559>

⁷ <https://lk2fhui.law.ui.ac.id/portfolio/pelanggaran-hak-anak-publikasi-identitas-anak-yang-berkonflik-dengan-hukum-oleh-pers/>

⁸ Diana Natalie, Amoury Adi Sudiro, "Perlindungan Informasi Data Diri Anak Yang Terpublikasi Karena Ketidakpatuhan Pedoman Penulisan Putusan MA di PN Tenggarong", *JURNAL SYNTAX IMPERATIF: Jurnal Ilmu Sosial dan Pendidikan*, 5, no. 1 (2024), 106-116.

⁹ <https://bpsdm-dev.kemenkumham.go.id/informasi-publik/publikasi/pojok-penyuluhan-hukum/identitas-abh-wajib-dirahasiakan-2>

¹⁰ Zidny Azwatin, "Analisis Perlindungan Hukum Atas Identitas Anak Pelaku Atau Korban Tindak Pidana Yang Diungkap Dalam Putusan Pengadilan Ditinjau Dari Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak", 2024, p. 61-62

to say that the state does not protect the rights of children, especially the right to protect the identity of children who deal with violations of the law. Law Number 23 of 2002 concerning Child Protection, Articles 4 - 18, guarantees children's rights. Law number 39 of 1999 on human rights, Articles 52-66, also guarantees the rights of children. The rule indirectly states that the rights of children must be protected throughout their lives, even if the child is involved in legal matters.¹¹ In addition to disrupting children's development, the dissemination of the identity of children of criminal offenders also causes excessive social stigma against children.¹² Every child facing the law who is undergoing a process in the juvenile criminal justice system has the right to equal and fair treatment.

Receiving family visits, getting reading books, complaining, getting spiritual and physical care, getting education and instruction, and getting proper health and food are all needs.¹³ The Unitary State of the Republic of Indonesia guarantees the welfare of every citizen, including the protection of human rights and children's rights.¹⁴ Children who are subject to legal proceedings have the right to maintain the privacy of their identities. As technology develops, people can easily get information about children facing legal issues on the internet. The identity of children who undergo legal proceedings is protected by law. In Article 19 of the Law on the Child Criminal Justice System, paragraphs (1) and (2) state as follows: 1) Print and electronic media may not mention the identity of the witness's child, victim, or victim's child; 2) The identity referred to in paragraph (1) may include the name of the child, the name of the victim, the name of the witness's child, the name of the parent, address, face, and other information that may reveal the identity of the child, victim, or child witness.¹⁵ It is hoped that criminal law policies will help enforce the Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System, as stated in Articles 19 and 97, where Article 19 stipulates that it is not allowed or necessary to keep the identity of the child confidential, one of which is the name of the victim's child. The name of the victim's child is part of the child's identity that should not be disclosed to the public,¹⁶ This is done to protect children from various threats, including psychological, physical, and social, as well as to avoid bad views from society that can interfere with their growth,¹⁷ Not all data can be accessed or disseminated, this includes the personal data of a person who has the right to protect it because it concerns his security and privacy.¹⁸ Judges who make the identity of a child disseminated in the media directory of the Supreme Court's decision violates Article 3 letter I of Law Number 11 of 2012 concerning the Child Criminal Justice System, which requires that the identity of the child not be disclosed. The identity of the

¹¹ Dufilitama Astesa Cekli Setya Pratiwi, "Publikasi Identitas Anak Berhadapan Dengan Hukum Pada Situs Direktori Putusan Mahkamah Agung", 2021.

¹² Fuad Nur, "Perlindungan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Dalam Penanganan Perkara Anak", *INNOVATIVE: Journal Of Social Science Research*, 4, no. 1 (2024): 124-138..

¹³ Imam Haryanto, et al, "Konsep Perlindungan Hukum Bagi Anak Turut Serta Dalam Melakukan Tindak Pidana Berdasarkan Hukum Positif Indonesia", *Media Hukum Indonesia* 2, no. 3 (2024), p. 182-183. <https://doi.org/10.5281/zenodo.11623459>

¹⁴ Nikmah Rosidah. *Sistem Peradilan Pidana Anak*, (Bandar Lampung: Aura Publishing. 2019). P. 116

¹⁵ Nada Maulida Fitria, Rio Armanda Agustian, Sintong Arion Hutape, "Perlindungan Hukum terhadap Identitas Anak sebagai Pelaku Tindak Pidana Pembunuhan Berencana pada Pers (Studi Putusan PN Mentok Nomor 2/Pid.Sus-Anak/2023/Pn Mtk)", *BULLET: Jurnal Multidisiplin Ilmu*, 3, no. 5 (2024): 675-782.

¹⁶ Teuku Renardi Idfidian Muly, Ade Adhari, "Perlindungan Melalui Hukum Pidana Terhadap Kerahasiaan Identitas Diri Anak Korban", *UNES Law Review*, 6, no. 2 (2023): 6458-6463.

¹⁷ Clarysa Dwi Rahmawati, Wasis Suprayitno, Kukuh Dwi Kurniawan, "Tinjauan Yuridis Sosiologis Perlindungan Identitas Anak Korban Kejahatan Seksual (Studi Putusan Nomor 408/Pid.Sus/2021/PN Mlg, Studi Putusan Nomor 673/Pid.Sus/2019/PN Mlg, dan Studi Putusan Nomor 572/ Pid.Sus/2021/PN Mlg)" *Indonesia Law Reform Journal* 2, no. 2 (2022): 254-273. <https://doi.org/10.22219/ilrej.v2i2.22076>

¹⁸ Ferdy Arya Nulhakim, "Aspek Keterbukaan Informasi Public Dalam Kaitannya Dengan Perlindungan Data Pribadi Yang Terpublikasikan Pada Direktori Salinan Putusan Mahkamah Agung dalam Perkara yang Diatur dalam KMA Nomor 1-144/KMA/SK/I/2011", tahun 2022, p. 313, 319

child in this case should not have been mentioned in the verdict disseminated to the media directory of the supreme court's decision. As a result, victims who feel aggrieved because the child's identity is made public can submit a request for compensation.¹⁹ The judge is also required not to mention the identity of the child as the perpetrator of the crime during the trial period, except when the reading of the verdict is carried out in a hearing open to the public, where the child cannot be present.²⁰

According to article 19 and article 61 paragraph (2), any information that can reveal the identity of a child who deals with the law must be kept secret by the mass media. Article 19 stipulates that the mass media may only use the names of the child, the victim's child, or the witness's child without a photo. Therefore, any information that can reveal the characteristics of children who deal with the law must not be disseminated. In addition, it is necessary to use "without a degree" when writing in the mass media. According to article 19 and article 61 paragraph (2) of the Law on the Juvenile Criminal Justice System, the offense of disseminating children's identity information either through print or electronic media is considered an offense. Article 97 of the Juvenile Criminal Justice System Law stipulates that "Every person who violates the obligations as referred to in article 19 paragraph (1) shall be sentenced to imprisonment for a maximum of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiah)".²¹

CONCLUSION

Publicizing a child's identity, in the context of criminal justice, violates privacy, and has the potential to cause trauma and discrimination and affect child development. Therefore, the identity of the child should not be disclosed, including in court decisions uploaded online. This is a way of protecting children who are dealing with the law. If the identity of the child is disclosed in a published decision, it can be considered a criminal offense. The basic principle is "the best interests of the child," and the main goal is to prevent the child's personal information from being published. In accordance with Law Number 11 of 2012, children's identity secrets include information such as the child's name, parent's name, address, face, and other information that can reveal the child's identity. If a person violates this obligation, they can be sentenced to imprisonment for not more than five years and a fine of not more than IDR 500,000,000.00. The judge in the case is also required to maintain the privacy information of the child as a criminal offender during the trial period. This occurs during the hearing closed to the public, except when the reading of the verdict is made, which can be attended by the child.

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¹⁹ Putu Angel Putri Danasari, Setiyono, "Analisis Publikasi Putusan Hukum yang Memuat Identitas Anak yang Berhadapan dengan Hukum", 2024, p. 87-90

²⁰ Rini Walmuliana Putri, "Perlindungan Hukum Terhadap Identitas Anak Sebagai Pelaku Tindak Pidana Di Media Sosial dalam Perspektif Hukum Pidana Indonesia", *Parhesia* 2, no. 1 (2023): 93-99

²¹ Ni Putu Ari Setyaningsih, Ni Made Anggia Pramesthi Fajar, "Perlindungan Terhadap Informasi Pribadi Anak Berkonflik dengan Hukum dalam Ruang Digital", *Jurnal Yustitia* 17, no. 1 (2023): 23-30.

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