



CONFRONTING GENDER-BASED VIOLENCE: THE STATE'S ACCOUNTABILITY IN SAFEGUARDING WOMEN AND CHILDREN'S HUMAN RIGHTS

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Abstract

This research aims to analyse the conditions and obstacles faced by both groups in the context of human rights violations, as well as provide practical suggestions to improve their protection. The research method used is normative legal methodology, which involves the examination and analysis of legal standards in the literature. A conceptual approach was taken through an exploration of ideologies and teachings that generate legal terminology. Primary and secondary legal materials were collected through inventory, classification, and systematics, with a deduction method for analysis. The results emphasise the need for a comprehensive strategy that considers legal, social, cultural and psychological aspects. The research also suggests the need for cooperation between the government, civil society and relevant institutions to create an environment conducive to the protection of women's and children's rights. The implication of this research is the need for a comprehensive approach in legal policy formulation, which not only focuses on legal aspects but also considers social, cultural, and psychological factors. The research emphasises the importance of increasing public awareness and understanding of human rights, as well as the need to strengthen legal and policy institutions. There is a need to improve the competence of law enforcement and the judiciary, as well as to involve various stakeholders in formulating policies that are more in line with gender issues and the needs of children.

Keywords: Discrimination, Human Rights Perspective, Protection, Role of the State

Abstrak

Penelitian ini bertujuan untuk menganalisis kondisi dan hambatan yang dihadapi kedua kelompok tersebut dalam konteks pelanggaran hak asasi manusia, serta memberikan saran praktis untuk meningkatkan perlindungan mereka. Metode penelitian yang digunakan adalah metodologi hukum normatif, yang melibatkan pemeriksaan dan analisis standar hukum dalam literatur. Pendekatan konseptual dilakukan melalui eksplorasi ideologi dan ajaran yang menghasilkan terminologi hukum. Bahan hukum primer dan sekunder dikumpulkan melalui inventarisasi, klasifikasi, dan sistematika, dengan metode deduksi untuk analisis. Hasil penelitian menekankan perlunya strategi komprehensif yang mempertimbangkan aspek hukum, sosial, budaya, dan psikologis. Penelitian ini juga menyarankan perlunya kerja sama antar pemerintah, masyarakat sipil, dan lembaga terkait untuk menciptakan lingkungan yang kondusif bagi perlindungan hak-hak perempuan dan anak-anak. Implikasi dari penelitian ini adalah perlunya pendekatan yang menyeluruh dalam formulasi kebijakan hukum, yang tidak hanya berfokus pada aspek hukum tetapi juga mempertimbangkan faktor sosial, budaya, dan psikologis. Penelitian ini menekankan pentingnya meningkatkan kesadaran publik dan pemahaman tentang hak asasi manusia, serta perlunya memperkuat lembaga hukum dan kebijakan. Terdapat kebutuhan untuk meningkatkan kompetensi penegak hukum dan yudikatif, serta melibatkan berbagai pemangku kepentingan dalam merumuskan kebijakan yang lebih sesuai dengan isu gender dan kebutuhan anak-anak.

Kata Kunci: Diskriminasi, Peran Negara, Perlindungan, Perspektif Hak Asasi Manusia

INTRODUCTION

A country is highly dependent on its history and the environment (ideology, politics, economy, socio-culture, defence, and security) in which it exists (Semadi, 2019; Zed, 2018). The country grows with a clear vision and mission with the main goal of solving the problems of its people. The issue of human rights violations, particularly those concerning women and children, is a crucial matter that needs to be addressed. Perspectives and beliefs significantly impact the development of an individual's understanding of the law, particularly concerning the actual application of the law and the achievement of justice for women and children. The development of a common knowledge and awareness of human rights, particularly the rights of women and children, is essential for the successful prevention of and response to human rights violations. This includes strengthening educational and socialization initiatives, as well as the



capacity of the judicial system to implement human rights laws and regulations, particularly those relating to the protection of women and children (Asshiddiqie, 2022; Panjaitan & Purba, 2018; Suseni & Untara, 2020). The denial of fundamental freedoms and human rights, which are innate qualities bestowed upon human beings by the divine power of God, may seem paradoxical. However, it is unfortunately not uncommon for individuals or institutions to disregard these essential rights. This highlights the importance of upholding and protecting these inherent rights, as they form the basis of a just and equitable society (Soeryabrata, 2020; Yulianti & Mangku, 2020). This has led to the denial of human dignity. The recognition and protection of human rights, without exception, is therefore the duty of the State, of the Government and of every organisation. This statement echoes the opening words of the 1945 Constitution, which underpins all the provisions of the document, especially the ones concerning the equality and status of the people and the State.

In accordance with the terms of Article 28D (1) of the 1945 Constitution of the Republic of Indonesia, which states that "Every person has the right to the recognition, guarantees, protection and security of a just law and equal treatment before the law". Furthermore, Article 28I (2) of the 1945 Constitution states that "Everyone has the right to be free from discriminatory treatment on any grounds and has the right to protection against discriminatory treatment". This indicates, everyone has a duty to recognise and respect human rights without discrimination or unfair treatment. Unfair behaviour and discrimination are violations of human rights, whether vertical or horizontal (Collins, 2020; Sangiuliano, 2022). What's more, abuses of power are not uncommon, perpetrated by officials and state agents meant to protect and act as law enforcers (A. R. Nasution, 2018; Pungus, 2021). Furthermore, the protection of human rights is an absolute necessity. The legislature prepared and implemented Law No. 39 of 1999 on Human Rights to realize the recognition of the protection of human rights as promised in the 1945 Constitution of the Republic of Indonesia. The philosophy behind the enactment of Law No. 39 of 1999 can be seen in the consideration or balancing chapter that is formulated:

"(a) that human beings, as creations of God Almighty, who have the duty to administer and maintain the universe with dedication and full responsibility for the welfare of humanity, are endowed by their Creator with human rights to ensure the existence of their dignity and the harmony of their environment;

(b) that human rights are fundamental rights inherent in human beings, universal and perpetual, and must therefore be protected, respected and defended, and may not be ignored, diminished or denied by anyone;

(c) that in addition to human rights, in the life of society, nation and state, there are fundamental duties of one human being to another and to society as a whole."

In the Indonesian context, protecting human rights, particularly for women and children, is imperative. Societal perceptions that subordinate women and contradict their inherent nature often lead to judgments that fail to consider comprehensive and intricate circumstances. This is aggravated by the vulnerability of children who cannot safeguard themselves against activities that compromise their mental, physical, and social welfare. This phenomenon signifies a shortfall in implementing human rights principles encompassing every section of society without prejudice. The comprehension of universal and lasting human rights, validated by Law No. 39/1999, must involve safeguarding the most at-risk groups, such as women and children. This condition adheres to the principles set forth in the 1945 Constitution, specifically Article 28D(1) and Article 28I(2), ensuring fair and just treatment for everyone without discrimination. Discriminatory practices and unfair treatment violate human rights. They must be addressed through legal regulation and broader education and socialization to promote the importance of human rights.



According to the latest data released by the National Commission on Violence against Women (Komnas Perempuan), there was a slight decrease in the number of reported cases in 2022, from 459,094 to 457,895. This decrease was recorded based on data collected from service agencies and the Religious Courts Agency (Badilag). However, paradoxically, the number of cases reported directly to Komnas Perempuan increased from 4,322 to 4,371. Komnas Perempuan receives an average of 17 cases per day. Out of the total complaints, 339,782 cases were related to gender-based violence (GBV), with only 3,442 of them reported directly to Komnas Perempuan. Violence in the personal sphere still dominates, with 99% or 336,804 cases. Complaints to Komnas Perempuan for cases in the personal sphere reached 61% or 2,098 cases. There were 2,978 cases of GBV in the public sphere, of which 1,276 were reported to Komnas Perempuan. Notably, only complaints received by Komnas Perempuan recorded cases of violence in the state sphere. There was a significant increase in reported cases of 68 in 2022, almost double the 38 cases reported in the previous year. This highlights the continued need for the protection of women and children in Indonesia (Komnas Perempuan, 2023).

The main objective of this study is to examine in depth the conditions and obstacles faced by women and children in relation to human rights violations. The research seeks to provide practical and constructive suggestions to enhance the protection of human rights, always with a focus on the welfare of women and children. This objective is achieved by scrutinising the multifarious factors that shape the formulation of more efficacious and comprehensive legal measures and routines. The aim is to analyse the influence of social and cultural norms on the implementation and efficacy of current legislation and policies. The study has identified research gaps relating to an inadequate comprehension of social and cultural norms that affect the execution of human rights in legal and policy domains, specifically in relation to safeguarding women and children. This research aims to fill these gaps through an examination of the disparity between current laws and their practical applications in the field, and the resulting effects on the protection of human rights for women and children. Thus, this study concentrates not solely on the formal legal aspects but also on the social, cultural, and psychological factors that affect the efficiency of laws and policies in actuality. Adopting this approach is anticipated to present novel perspectives and encompassing solutions for enhancing the safeguard on human rights for these marginalised communities.

This study is a significant addition to comprehending the protection of human rights, especially for women and children in Indonesia. Our exhaustive examination of the circumstances and hindrances encountered by these demographics provides a fresh and comprehensive outlook on implementing relevant laws and regulations. Our research also aims to fill a current gap in the literature regarding the impact of social and cultural standards concerning the enforcement of human rights. This study analyses the legal parameters and cultural and social influences on the efficacy of human rights protection. The research delivers policy recommendations based on empirical and theoretical studies to aid policymakers in creating and implementing more efficient and comprehensive legislation and policies. The study guides legal professionals and judiciary bodies to handle better cases concerning human rights violations, particularly those affecting women and children. Furthermore, the research outcomes can serve as advocacy material for civil society groups and governmental agencies striving to promote the rights of these marginalized communities.

LITERATURE REVIEW

The recognition and protection of human rights for women are crucial in ensuring gender equality and justice in societies worldwide. The Universal Declaration of Human Rights 1948 (UDHR) serves as a fundamental framework for acknowledging and safeguarding the



rights of all individuals, including women. The UDHR, adopted by the United Nations General Assembly in 1948, emphasizes the equal and inalienable rights of all members of the human family as the foundation of freedom, justice, and peace in the world (Hunt, 2019). It encompasses civil, political, economic, social, and cultural rights, providing a comprehensive basis for the protection of women's rights within a human rights framework. The importance of recognizing women's rights as human rights has been underscored by feminist scholars and activists, who have contributed significantly to legal theory and international law (Charlesworth et al., 1991). Feminist jurisprudence has played a vital role in highlighting the unique challenges faced by women and advocating for their rights within legal systems. Additionally, feminist approaches have contributed to reshaping the discourse on human rights, emphasizing the need to address gender-specific forms of discrimination and violence (Charlesworth et al., 1991).

The significance of recognizing women's rights as human rights is further evident in the context of international instruments and protocols specifically focused on women's rights. For example, the African Protocol on Women's Rights represents a milestone in advancing the rights of women in Africa, emphasizing the importance of addressing gender-based discrimination and promoting gender equality (Banda, 2006). Similarly, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has been ratified by numerous state parties, reflecting a global commitment to addressing gender inequality and discrimination (Mudgway, 2021).

Furthermore, the intersectionality of women's rights with other aspects of human rights, such as economic rights and social justice, is a critical consideration. Women's communal land rights, for instance, are an essential dimension of women's rights, reflecting the complex interplay between state, civil society, and private actors in shaping the governance of communal land and resources (Claeys et al., 2022). Addressing economic human rights violations experienced by women, particularly those with children, is essential for ensuring the economic empowerment and well-being of women within society (Twill & Fisher, 2010). The recognition of women's rights as human rights also extends to the experiences of marginalized groups, such as women migrants and indigenous women. Understanding and addressing the specific challenges faced by these groups within the framework of international human rights law is essential for promoting inclusivity and equity (Satterthwaite, 2004).

The recognition of children's rights is very important in the context of human rights. This stems from the idea that they are the future of the nation and represent the ideals of the nation. Every child has the fundamental right to survive, grow, develop, participate, and be protected from violence and discrimination. These rights include civil liberties and freedoms, and it is the responsibility of society as a whole to ensure that these rights are upheld. Children should be treated as individuals with inherent worth and respect and have equal access to opportunities that enable them to reach their full potential. Creating a supportive and nurturing environment for children and prioritising their well-being is essential. In this regard, Article 28B(2) states: "Every child has the right to survival, growth and development and the right to protection from violence and discrimination." This is following Article 52 - Article 66 of the Human Rights Law. Article 52 states:

"(1) Every child has the right to protection by parents, family, society and the state.

(2) Children's rights are human rights and for their benefit they are recognised and protected by law even from the womb."

Child protection must be implemented as early as possible from the fetus in the womb. Furthermore, to realize the protection and welfare of women and children, institutional support and existing laws and regulations must be optimal in accordance with human dignity. It must be recognized that in practice, the protection of women and children in cultural missed still has differences with men. Problems and questions may often arise about how Indonesia, which is



rich in culture and different characters, can implement the protection of women and children. This is where intersections and differences in interpretation often occur. Although Article 6 of the Human Rights Law states:

"(1) In the context of upholding human rights, differences and needs within customary law communities must be considered and protected by the law, society and the government.

(2) The cultural identity of indigenous peoples, including their rights to customary land, shall be protected in line with the times."

During the pandemic, there has been an increased urgency for the protection, education, counselling, and assistance of women and children. The prolonged period of social restrictions has heightened their vulnerability to domestic violence (Hellen Sinombor, 2020). Therefore, it is imperative that various parties respond with a more intensive and structured approach to protect the most vulnerable groups. In this case, the Ministry of Women's Empowerment and Child Protection is ready to provide care for the family so that women's and children's rights can be fulfilled and realize sustainable welfare. Several things need to be considered by the state in implementing approaches to carry out its obligations and responsibilities in an effort to protect community development, namely (Cahyono, 2000):

- 1) Socio-Charity is a form of community development approach based on the assumption that because people are poor, suffering and unable to help themselves, they need to be helped, donated and pitied.
- 2) Socio-Economic is a form of community development approach based on the assumption that of the various problems faced by the community, if their income is increased or if their economic needs are met, then other problems will automatically be solved.
- 3) Socio Reformist, the purpose of this approach is simply to restore the situation to its original state, because it is usually carried out incidentally without follow-up, for example when there are natural disasters, famine and others.
- 4) Socio Transformative, which is an approach based on the idea that community development and building is basically an effort to change attitudes, behaviour, views and culture, which leads to self help and self reliance in recognising problems, planning problem solving, implementing and evaluating them.

As a member of the United Nations, Indonesia is morally and legally obligated to defend and execute the Universal Declaration of Human Rights (UDHR), inscribed in the country's constitution and associated laws. Given the significance of defending women and children, the state needs to play a central role in preserving their human rights. This study seeks to investigate effective techniques for protecting the rights of women and children without discrimination, as well as the government's and state's obligations in this regard. The research will investigate how women and children can effectively exercise their rights without facing discrimination, as well as the government's and state's roles in promoting optimal protection of their rights and obligations.

METHOD

The study is conducted using the normative legal methodology, which involves examining and analysing the legal standards set out in the legal literature (Marzuki, 2017). The statutory methodology involves examining all the relevant laws and regulations relating to the legal issue in question (Marzuki, 2017). The conceptual approach is pursued through the exploration of various ideologies and teachings, producing legal terminologies of legal concepts and principles pertinent to the issues at hand. Primary legal materials include Law No. 39/1999 on Human Rights, Law No. 40/2008 on the Elimination of Racial and Ethnic Discrimination, and Law No. 23/2002 on Child Protection in conjunction with Law No. 35/2014 in conjunction with Law No. 17/2016. Secondary legal materials include literature related to state



administrators and sound governance principles. The collection of legal materials is carried out through inventory, classification, and systematization. The deduction method is used in the analysis, with systematic and authentic interpretation. Systematic interpretation is the interpretation by looking at the arrangement of articles related to each other in the law itself or with other articles of other laws to obtain a more stable understanding. An authentic interpretation, on the other hand, is an unambiguous interpretation of the meaning of the words that are specified in the legislation itself.

RESULTS AND DISCUSSION

The discussion of the state's role in protecting women and children from a human rights perspective is fundamentally a discussion about human life (Indrawasih & Pradipta, 2021; Warjiyati, 2018). A state of law that fails to recognize and implement human rights cannot be considered a true state of law (Adha, 2022; Aswandi & Roisah, 2019; Erwinsyahbana & Syahbana, 2018). This aligns with Immanuel Kant's view that the primary purpose of the state is to safeguard human rights. According to Kant (1887), the state should establish and maintain laws that guarantee the legal position of individuals in society. This guarantee encompasses the freedom of the state, implying that there should be no coercion from authorities forcing citizens to comply with laws that have not been approved. Additionally, it also means that every citizen has the same legal standing and should not be subjected to arbitrary treatment by authorities. In light of this perspective, it becomes clear that the state plays a crucial role in ensuring the protection of women and children's human rights. By establishing laws and policies that prevent discrimination and promote equality, the state can create a just and harmonious society where the rights of all citizens, including women and children, are respected and upheld (Huda, 2015).

Based on these opinions, it is clear that the state's primary purpose is to organize its people's welfare. Therefore, we can identify the division of state duties into three main categories. First, the state must protect its people within a given territory. This includes protection from external and internal threats, as well as protection from disease and traffic hazards. As such, the state is responsible for ensuring its citizens' safety. Secondly, the state also plays a role in supporting or directly providing a range of services in the social, economic, and cultural spheres of people's lives. These include education, health, housing, and economic support, all essential to creating prosperity for people. Third, the state must act as an impartial arbiter between conflicting societal parties. The state should also provide a judicial system that ensures fundamental fairness in people's social relations, thus creating a harmonious environment for all citizens (Magnis-Suseno, 2016).

In this context, the state, as a legal institution, must provide special protection for women and children. In order to realize the primary function of the law, Susanto (1999) suggests several essential aspects. First, legal protection has a role in protecting the community from the threat of danger and harmful actions by fellow individuals or community groups, including actions by those in power, such as the government and the state. This protection covers individuals' physical, mental health, values, and fundamental rights. Second, legal justice aims to uphold and protect justice for all people. From a negative perspective, unjust laws violate the values and rights believed to be maintained and protected by everyone. Third, legal development is used as a tool to determine the direction, goals, and implementation of development in a just manner. This means that the law is used as a development and control tool to ensure that development takes place equitably. Considering I.S. Susanto's views, it is clear that the state has an essential role in ensuring legal protection and justice for women and children. Through consistent and fair efforts, the state can create a safe and prosperous environment for all members of society.



In line with the state's role as a legal institution, vulnerable people such as women and children must be able to assert their rights. This can be seen in feminist legal theory, which emerged in 1970. This theory is an idea that seeks to create breakthroughs in the laws that apply to women and discrimination (Savitri & Gunarsa, 2008). According to feminists, history has been primarily written and documented from a male perspective, neglecting the contributions and roles of women in shaping and recording historical events. The language, logic and legal frameworks that reflect the character and values of the male point of view are influenced through concepts of human existence, gender possibilities and societal construction. These ideas have perpetuated a patriarchal system that has limited the agency and representation of women in various aspects of society. One often debated reason or factor for gender inequality is that women are a subordinate and marginalized group. Frye (1983) notes that this situation reduces women's choices to very few, representing punishment, blame, or suffering for the female group. This means that women are constantly faced with a dilemma in which they are forced to predict which options will cause them the least harm. In this context, states and legal institutions need to ensure protection and justice for women and children. This includes considering women's perspectives and needs when developing laws and implementing equitable and inclusive policies to address gender discrimination and inequality (Chamallas, 2012).

The critical point here is that women's choices are often influenced by the opportunities and the culture in which they interact. This makes it difficult for women to access their rights when society and the authorities position women as victims of crime. The concept of gender is the result of human thought and is not a natural but a social construction. Therefore gender discrimination is formed through a social construction patterned in community life (Hendrarso, 2000). There is ample evidence that women are almost always discriminated against from birth and throughout their lives. For example, almost all societies place a higher value on men than on women. This is not very different from the position of children. Indonesian children are the nation's future generation, and many are still not free to enjoy their world. Children who should be able to enjoy playing, learning, and interacting with their peers are, instead, children who are losing a bright future. The community has a strong conviction that children bring joy and hope to the nation as they replace the older generation. The community also acknowledges the significant and distinctive role that children play in ensuring the continued existence of the nation and state in the future. Children are believed to have unique characteristics and qualities that are instrumental to their strategic role in shaping the nation's future.

In view of the strategic importance of children and their unique qualities that ensure the existence of the nation and the State, it is essential and obligatory to protect them in order to ensure their optimum physical, mental and social growth and development and to promote their noble character. Children need the help of others to protect themselves because of their vulnerable situations and conditions. Fulfilling children's rights is important because they cannot yet take care of their welfare. The disadvantaged situation of women and children makes them vulnerable and marginalized, with a significant risk of psychological, physical and social developmental disorders. Internal and external conditions can influence the vulnerability of women and children. In order to realize the role of the State in protecting and saving women and children concerning their human rights as citizens, a shared vision, mission, and perception is needed from all state administrators and the community. Suppose the State instills goodness through complete protection and a sense of responsibility to realize the community's welfare, especially women and children. In that case, the State has fulfilled its obligations following the 1945 Constitution and the Constitution. In this context, the State needs to take proactive measures to protect women's and children's rights and address the inequality and discrimination they experience. Through cooperation between the government, the community, and various



organizations, efforts to protect and empower women and children can be made effective and sustainable.

Protection Against Women

Most Indonesians recognise that current cultural and social values have marginalised and discriminated against the role of women, particularly in relation to gender issues (Abidin et al., 2018; Kasim, 2022; Sitompul, 2021). This issue can be seen from different perspectives, especially from religious and cultural perspectives that emphasise the many differences between women and men (Apriliandra & Krisnani, 2021; Muhammad, 2021; Setiawati & Nurhayati, 2020). Overcoming discrimination between women and men requires gender equality, or the view that women and men have equal opportunities and access in all areas (Effendi & Ratnasari, 2018; Ismail et al., 2020). This equality is linked to the rights and responsibilities of a particular position. Dellyana (2004) posits that position or status involves a specific set of rights and obligations that an individual possesses when engaging with others, while role refers to the behavior that is exhibited in accordance with the rights and obligations of a particular position. Therefore, it is crucial for both society and the Indonesian government to collaborate in order to shift cultural perspectives and values that promote discrimination against women. By achieving gender equality, women and men will have equal opportunities in various aspects of life, including education, employment, and participation in decision-making within society. It requires changes in the education system, government policies and public awareness of the importance of gender equality. In this way, women and men can jointly contribute to Indonesia's development and progress, while upholding the equal rights and responsibilities of all individuals regardless of gender.

The 1945 Constitution of Indonesia upholds the principle of equality and justice for all citizens, as stated in Article 27(1), Article 28H(2), and Article 28J(1). These provisions ensure that every citizen has the same status before the law and the government, and has the right to equal opportunities and benefits. Moreover, everyone is obligated to respect the human rights of others in the life of society, nation, and state. This legal framework reinforces the importance of protecting human rights and promoting equality, and serves as a guide for the government and society in creating a just and equitable society. In the context of women, equality under the law and government affects their role in society. Women are no longer confined to their roles as wives and homemakers. As equal members of society, women can participate in various fields, such as the economy, politics, culture, health, and social affairs (Telaumbanua & Nugraheni, 2018; Widiyaningrum, 2020). The societal view of women as inferior is now beginning to change. Women now have the opportunity to do jobs that were previously considered only for men. However, it is essential to note that this change in attitudes has also led to women being involved in crimes such as murder, human trafficking, or drug trafficking, which were previously thought to be committed only by men. Therefore, society and government must continue to promote gender equality and equity in various aspects of life. In this way, women can improve their position and role in society and contribute optimally to the development and progress of the nation.

The struggle to eliminate discrimination and fight for gender equality is not easy. Gender equality means that the state must take action to provide equal opportunities and rights for men and women, as expressed by Gultom (2012). The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) recognizes the biological differences between women and men, differences in gender-based treatment that disadvantage women, and differences in conditions and positions resulting from discrimination against women. The Convention stipulates several obligations of the state to achieve gender equality, including:

- a. Eliminate discrimination against women in general
- b. Empower women in achieving gender equality



- c. Revising and drafting laws and regulations that place women equally before the law, especially their rights as citizens and in employment.

To achieve gender equality, women must dare to take the first step by being active in various activities, such as PKK groups, youth organizations, or activities related to spirituality. Furthermore, active women must have the courage to become pioneers in providing understanding and awareness to other women through socialization, training, discussions, seminars, or other activities aimed at providing information and making people aware, especially women, using language that is easy to understand. The issues communicated must not involve race, ethnicity, or religion and must be fought for through the means set out in the regulations. Indonesia has ratified CEDAW through Law No. 7 of 1984. Women's empowerment must fulfill one of the state's obligations through several activities, including promoting women's participation and partnerships between women and men in all fields. Thus, these steps are essential to achieve gender equality and eliminating discrimination against women in Indonesia (Gultom, 2012).

Child Protection

Child protection is required so that children can exercise their rights and responsibilities securely and comfortably. According to Article 1, paragraph 2 of Law No. 23 of 2002, child protection encompasses actions that ensure and defend children's rights so that they can live, grow, develop, and engage optimally following human dignity and are protected from violence and discrimination. The basis for the implementation of child protection includes (Gultom, 2012).

“(a) Philosophical Basis: Pancasila is the basis for activities in various areas of family life, society, state, and nation, and is the philosophical basis for implementing child protection.

(b) Ethical basis: The implementation of child protection must follow relevant professional ethics to prevent deviant behavior in exercising authority, power, and strength in child protection.

(c) Legal basis: The implementation of child protection must be based on the 1945 Constitution and various other applicable laws and regulations. This legal basis must be integrated, i.e., an integrated application that concerns laws and regulations from various interrelated areas of law.”

By applying these three principles of implementation, the protection of children can be effectively realised and the rights and duties of children can be safeguarded so that they can reach their full potential and be protected from violence and discrimination.

Understanding children's values is very important because perceptions of children's values influence parenting and society. Children's values can be viewed from different perspectives, such as economic values, gender, and religious views. The socio-cultural environment of the community influences each of these values and may shift or change over time. Children are a personal responsibility between people and between people and God. This is in line with Article 13 of Law No. 23/2002 on the Protection of Children, which affirms children's right to protection against various forms of maltreatment and discrimination. If a child's parents, guardians, or caregivers are involved in such treatment, they are punished severely. In addition to the rights that must be granted to children, children must also uphold the norms established by previous generations. Article 19 of the Child Protection Law lists children's duties such as respecting parents, loving family, community, friends, homeland, nation, and state, worshipping according to the teachings of their religion, and practicing noble ethics and morals. By understanding the value of children and implementing existing regulations, society can create a conducive environment for children to grow and develop optimally and be protected from various forms of discrimination and maltreatment.



In the perspective of the country and the state, children are viewed as a precious asset, a priceless treasure, and a long-term investment. Therefore, children's well-being positively impacts parents, families, communities, nations, and countries. Coordination of cooperation in child protection activities is necessary to maintain the balance of child protection activities (Prakoso, 2016). Coordination of cooperation is the responsibility of the government and the State, the responsibility of parents and families, and the responsibility of the community. This is already stated in articles 21, 22, 23, 24, 26, and 25 of the Child Protection Act. This measure aims to strengthen the ratification that the Indonesian State has made concerning children's rights. According to experts on human rights, children's rights are also human rights; consequently, the State has the same obligation to respect, defend, and fulfill these rights as it does for other social groups. In accordance with the Convention on the Rights of the Child's ten principles, Indonesia was advised to make more efforts to safeguard children, as indicated by the establishment of the Ministry of Women's Empowerment and Child Protection. Many stakeholders, including parents/families, communities, governments, and the State as a regulator, implementer of children's rights, and responsibility bearer, are involved in children's issues.

Sjukrie (1998) stated that nations that have joined the Convention on the Rights of the Child are required to adopt its legal principles through a process known as "legal harmonization." This process includes analyzing and evaluating current law and legislation that is still in the planning or drafting phases. In addition, the state should examine the institutions that help implement the Convention on the Rights of the Child, devise quick methods to ensure that the provisions of the Convention are consistent with Indonesian law, and examine parts of the law that are still on the books but need to be amended or implemented. Lastly, the state must make it a high priority to enact legislation that facilitate the implementation of the Convention on the Rights of the Child and bring it into conformity with Indonesian law (Supeno, 2013).

In line with Indonesia's commitment, child protection has been a priority since the nation's establishment. This is obvious in the preamble of the 1945 Constitution, which declares the objective of conserving the whole Indonesian population and promoting the nation's general welfare and intellectual life, which implicitly targets children. Article 31(2) and (4) of the 1945 Constitution accords priority to children's education. This pledge was enhanced by the adoption of the Convention on the Rights of the Child by Presidential Decree No. 36 on August 25, 1990. The basic principles of the Convention on the Rights of the Child include the principle of non-discrimination, which states that all children's rights must be applied equally; the principle of the child's best interests, which states that the child's interests, and not those of the adult, must be at the center of future decisions concerning the child; and the principle of equal protection under the law. Respect for children's perspectives, which recognizes them as autonomous individuals with distinct experiences, desires, imaginations, obsessions, and inspirations from those of adults (Supeno, 2013).

Based on the four general principles mentioned above, the view and thinking about child protection is an issue that places children in the first and foremost position. The meaning of being first is always prioritized, and foremost means it cannot be replaced by anything else. Protecting children should not stop with the existence of legal products that impose the heaviest sanctions on parties that have caused harm or deteriorated the mental well-being of children in their lives. To ensure that children become not only family treasures but also valuable members of society and the nation, we must allocate time and avail ourselves to help and meet the needs of our children. This is because children need someone to bring hope and encourage them to make positive changes in their lives, which will be beneficial to others.

We still remember the commemoration of Children's Day held every July 23rd, especially on July 23, 2022, which was centered at Bogor Botanical Garden, attended by 34



provinces in Indonesia with the theme "Protected Children, Advanced Indonesia" with three supporting taglines: "Caring for Post-Pandemic COVID-19", "Resilient Children Post-Pandemic COVID-19", and "Resilient Children, Sustainable Indonesia." We saw how happy the children were to meet President Joko Widodo. The attention given to them by his presence is eagerly anticipated by Indonesian children, to shake hands and even chat, a simple desire that will leave a lasting impression for a lifetime. This momentum can provoke and encourage participation from all components to provide more assurance of fulfilling children's rights and protecting them from violence and discrimination. The National Children's Forum (FAN) also attended, expressing the voice of Indonesian children in 2022 (Kementerian PPPA, 2022):

1. Requesting the government and society to optimize the dissemination of Child-Friendly Information, especially in underdeveloped, foremost, and outermost regions.
2. Requesting the government to optimize the involvement and realization of children's voices in all development planning activities.
3. The government and society synergize in campaigning "Stop Child Marriage" and emphasize the implementation and supervision of the revised law on child marriage, Law No. 16 of 2019.
4. The government and society play an active role in improving the quality of child-rearing patterns and rejecting all forms of violence within the family environment.
5. Requesting the government and society to optimize the supervision of the distribution of cigarette advertisements, promotions, and sponsorships, and provide specialized rehabilitation for child smokers.
6. Requesting the government to optimize the role of adolescent integrated service posts and provide parenting education for parents regarding nutrition and child development.
7. Requesting the government to optimize facilities and infrastructure for creative and recreational activities that are child-friendly outside of school.
8. Requesting the government and inviting society to increase attention to the issue of school dropouts, starting from the smallest community scope.
9. Requesting the government to involve the Embassy of the Republic of Indonesia in paying attention to the aspects of Nusantara cultural knowledge both abroad and domestically for children.
10. Requesting the government to strengthen regulations against violence and optimize the dissemination of education related to child violence to all levels of society.
11. Requesting the government to implement development equality and revitalize child-friendly facilities for children with special needs throughout Indonesia.

The statement from the Minister of Women's Empowerment and Child Protection at that time emphasized that the commemoration of National Children's Day is not just a celebration for fun but serves as a reminder that there is still a collective need to fight for the rights and protection of Indonesian children, in order to foster a prosperous and advanced nation. She also encouraged children to participate and voice their opinions actively (Kementerian PPPA, 2022). Providing opportunities for children to speak at events related to their interests and welfare means that their views and opinions must be considered in every decision-making process, undoubtedly affecting their life journey and personal development. According to the Minister of Women's Empowerment and Child Protection's statement, children should be allowed to express their opinions and speak up regarding their lives and development. This action also teaches children to take responsibility for what they will do and have done to achieve their rights. These actions are undoubtedly related to their future because this country belongs not only to adults but also to them as the nation's next generation.



The role of the State

Concerning the voices of Indonesian children conveyed by the National Children's Forum and the statements of President Joko Widodo and the Minister of Women's Empowerment and Child Protection, Indonesian children's aspirations and dreams for the future must be protected and their rights fulfilled. This is a child's fundamental right, as stated in Articles 52 to 66 of Law No. 39 of 1999. Therefore, the principle of legal protection in a state governed by law is evident when a set of human rights inherently possessed by humans, created by God, is firmly protected by the state. This is following Article 1, point 1 of Law No. 39 of 1999 on Human Rights, which asserts that "human rights are a set of rights inherent to humans as creatures of the Almighty God and are His gifts that must be respected, upheld, and protected by the state, law, government, and everyone to honor and protect the dignity of human beings." As a result, everyone in a country can demand justice if they do not receive it. This is reflected in regulations that guarantee rights if those rights are violated.

Thus, the protection of human rights must be respected as a manifestation of the state's commitment to providing protection and respect for the rights of individuals, both adults and children (without exception). The Indonesian nation, which understands that the Universal Declaration of Human Rights is a declaration of humanity containing universally respected values, must uphold those values (B. J. Nasution, 2013). This is enshrined in the 1945 Constitution, from Articles 28A to 28J. Particularly in Article 28D paragraph (1), which states "Every person has the right to recognition, guarantees, protection, and fair legal certainty and equal treatment before the law." Furthermore, Article 28I paragraph (2) states, "Every person has the right to be free from discriminatory treatment on any grounds and has the right to protection against such discriminatory treatment." Therefore, as a state governed by law, Indonesia must guarantee human rights. Women's and children's protection is one of the human rights that the state and government must defend in line with current legislation. In practice, however, women's and children's rights are frequently disregarded, resulting in unfairness, discrimination, and a lack of assurances and acknowledgement of their rights.

Article 3, paragraph 3 of the Human Rights Law controls human rights as follows: "Every person has the right to protection of human rights and fundamental human freedoms without discrimination." Similarly, Articles 45 to 51 address the rights of women, and Articles 52 to 66 govern the rights of children. The consistency of these articles demonstrates that the recognition and protection of human rights are manifestations of the Pancasila-based values of recognizing and protecting human dignity and the principles of the rule of law. Moreover, under a system based on the rule of law, it is the state's job to secure the welfare of its people and defend the interests of its society, particularly those of women and children, so that it can be governed equitably without surrendering the rights of any of them (women and children). Individual variables, gender, family, religion, the society/community they were born into, and culture all significantly impact the acts of the government. It must be noted that cultural influences in society frequently damage women and children since many cultural behaviors continue to be physically and emotionally harmful to women and children in the name of protecting and supporting compliance values. Society frequently tolerates and permits behaviors such as physical assault, insults, harsh language, or social isolation of women and children.

There are several factors that create obstacles for society, the state, and the government in providing protection to women and children from actions that harm them physically, psychologically, and socially. These include:

1. Society generally lacks understanding about the physical, psychological, and social impacts of harmful actions.



2. There are still differing opinions on the benchmarks for determining whether an action may have negative consequences on the lives of women and children.
3. Some people still hold onto the myth that the family is one of the most harmonious institutions, thus believing that no parent would willingly harm their spouse or children.
4. Until now, the state and government have not been fully committed to addressing issues related to women and children. The attention and commitment from various parties in handling problems that adversely affect women and children are not yet supported by adequate capabilities of the relevant institutions. This is evidenced by the ongoing exploitation of women and children for improper actions.

To address harmful actions or behaviors against women and children, society and all related institutions must change their mindset and approach, which includes:

1. The entire community should take responsibility for protecting and ensuring the welfare of women and children, who are often considered vulnerable. People must be willing to report any human rights violations against women and children when they become aware of them. Although many people have started speaking up about violence and discrimination through the SAPA 129 call center and WhatsApp 08111129129, the government must provide protection for reporters according to Law No. 31 of 2014 and amendments to Law No. 13 of 2006.
2. Actions that infringe upon the human rights of women and children must be prevented, and if they occur, perpetrators must be punished without exception, according to the laws on eliminating all forms of discrimination and child protection.
3. All citizens, especially those in residential areas or neighborhoods, should form groups focused on issues related to women's and children's protection. This can be achieved by raising awareness of concrete steps that community leaders and concerned individuals can take when they become aware of incidents that violate the rights of women and children.

In addition to these immediate measures, there are several strategies to prevent human rights violations against women and children before they occur:

1. The state should actively empower women in various activities to achieve gender equality and justice. During the pandemic, women have significantly contributed to the economy and society. To maintain their relevance in the face of advancing technology, women must develop irreplaceable skills. Children should also be protected from discrimination and mistreatment by adults (parents or family members) so that they can grow and develop normally and fulfill their rights and obligations.
2. The state must fulfill its obligations to provide protection for women and children as stated in the 1945 Constitution, Article 27(1). This article clearly states that there should be no distinction between adults (women and men) and children, as all citizens should receive protection. This is further emphasized by Article 28D(1) of the 1945 Constitution, which declares that every person, without distinction, is entitled to fair legal protection and certainty.
3. The state must guarantee legal protection for women and children, as their rights will be ensured and safeguarded through legal regulations. Human rights are inherent to every individual and reflect their dignity. Achieving justice, tolerance, and empowerment enables women to strengthen their dignity. Similarly, children should be allowed to live, grow, develop, and participate naturally according to human dignity. Children with disabilities should also receive rights appropriate to their conditions. This is crucial and should be approached with courage and sincerity.

Therefore, in order to protect children and women, and provide a sense of safety and freedom from all forms of violence and intimidation, the state, government, society, and all related components must work together to address these issues and reduce harmful actions



against them. From the time children are able to speak, parents should communicate with them frequently, discussing their future honestly, instilling strong faith, and providing good examples. As these children grow up and become women, they will be strong. This can be achieved through changes in attitudes, behaviors, perspectives, and existing culture, without erasing what already exists. As for the state and government, although there are many laws with various penalties, socialization efforts need to be intensified, and regular monitoring should be conducted within communities. To deter perpetrators, the state and government must enforce penalties according to the applicable laws. While the perpetrators serve their sentences in prison, instill in them a strong faith. This action can help offenders become aware of their wrongdoings and prevent them from committing further violations in the future.

CONCLUSION

This study aims to analyze the conditions and obstacles faced by women and children in the context of human rights violations in Indonesia. The findings indicate a considerable disparity between legal norms and reality, particularly in safeguarding the human rights of women and children. Furthermore, social, and cultural beliefs significantly affect the execution and efficacy of the current legal framework and policies. Adequate protection of human rights requires a comprehensive and all-encompassing strategy that considers not just the legal aspects but also the community's social, cultural, and psychological understanding. The research indicates that a holistic and inclusive approach will be most effective. To ensure better protection of women and children, there is a need for changes in attitudes, behaviors, and societal views. The government must actively formulate and execute policies that fortify the defense of human rights and ensure equitable and uniform enforcement of legal statutes. The study also accents the significance of human rights education and socialization as a potent instrument for enhancing public awareness. Furthermore, the investigation indicates that it is imperative to establish collaboration amongst the government, civil society, and pertinent institutions to foster a conducive atmosphere and safeguard the rights of women and children.

This study uncovers significant implications concerning safeguarding human rights, particularly for women and children in Indonesia. The primary inference is that an all-embracing and comprehensive approach must be taken in legal policy formulation, which does not solely concentrate on legal aspects but also accounts for societal, cultural, and psychological factors. The research underscores the imperative to enhance public consciousness and comprehension of human rights while emphasizing the significance of bolstering legal establishments and policies to safeguard vulnerable communities. However, this study is constrained by its narrow focus on the Indonesian context, which may only partially indicate conditions in other nations. Furthermore, this study primarily concentrates on legal and normative aspects, potentially overlooking practical implementation in the field. There is a pressing requirement to enhance the competence of law enforcement agencies and the judiciary to ensure equitable and unbiased law enforcement. It is imperative to involve diverse stakeholders, including civil society groups, in formulating policies more attuned to gender issues and the requirements of children. Increased collaboration between governmental and non-governmental institutions is crucial to safeguard human rights, particularly women and children. Furthermore, there is a need to assess and amend discriminatory laws and regulations that fail to protect the rights of women and children.

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