



ISSN 2809-672X (Online)

**YURIS: Journal of Court and Justice**

<https://journal.ifpublisher.com/index.php/icj>

Vol. 4 Issue 4 (2025)

[doi.org/10.56943/icj.v4i4.846](https://doi.org/10.56943/icj.v4i4.846)

## **Legal Protection for Victims of Murder Committed by Children: A Perspective of the Indonesian Child Protection Law**

**Yoga Pramudyas Putra<sup>1\*</sup>, Prof. Dr. Sadjijono<sup>2</sup>**

<sup>1</sup>[yogapramudvas872@gmail.com](mailto:yogapramudvas872@gmail.com) <sup>2</sup>[sadjijono@ubhara.ac.id](mailto:sadjijono@ubhara.ac.id)

Universitas Bhayangkara Surabaya

\*Corresponding Author: Yoga Pramudyas Putra

Email: [yogapramudvas872@gmail.com](mailto:yogapramudvas872@gmail.com)

### **ABSTRACT**

*Murder is a legal crime with the most serious criminal threat as regulated in the Criminal Code (KUHP) Article 338 KUHP and Article 340 KUHP for premeditated murder. Data from the Ministry of Women's Empowerment and Child Protection shows that 4% of children are perpetrators of criminal acts in murder cases. The Constitution of the Republic of Indonesia has outlined that every person has the right to legal recognition, provisions and protection. Legal protection given to children as perpetrators and victims as injured parties must be carried out in order to create legal certainty, the usefulness of the law and legal justice. The research method used is the normative juridical legal research type. This thesis analysis results that legal protection is provided to child perpetrators and victims through the victim's family during the investigation process until the court decision. This is done to protect the rights of victims and children as perpetrators of murder fairly. Responsibility for children as perpetrators of murder is given by the court in accordance with the Child Protection Law with a maximum sentence of 1/2 (one half) of the maximum sentence punishable against an adult.*

**Keywords:** *Child Protection Law, Children as Murderers, Legal Protection, Victims*

## INTRODUCTION

Indonesia, an archipelagic country in Southeast Asia, consists of 17,504 islands across 37 provinces and has a population of approximately 275 million people. According to the Central Statistics Agency (Badan Pusat Statistik, BPS), the working-age population in Indonesia begins at 15 years old, with around 4,527,504 individuals in this age group.<sup>1</sup> This indicates that many have entered a stage of life characterized by increased responsibility and participation in the labor force. At this age, individuals are still in adolescence, a critical transitional period that requires strong support from the surrounding environment, including parents, family, schools, and peers.<sup>2</sup>

In addition to environmental factors, rapid technological advancement also significantly influences adolescents' transition to maturity. The accessibility of digital platforms and exposure to diverse social influences may hinder optimal behavioral development, leaving adolescents more vulnerable to external pressures in their social environments.<sup>3</sup>

Data from the Ministry of Women's Empowerment and Child Protection (Kementerian Pemberdayaan Perempuan dan Perlindungan Anak) reveal that criminal acts committed by children aged 13 to 17 include 4% of cases categorized as homicide.<sup>4</sup> Article 338 of the Indonesian Criminal Code (KUHP) states that "any person who intentionally takes another person's life shall be subject to imprisonment for a maximum of fifteen years." Furthermore, Article 340 of the KUHP stipulates that "any person who intentionally and with premeditation takes another person's life shall be subject to the death penalty, life imprisonment, or imprisonment for a specific term of up to twenty years."<sup>5</sup>

Mahfiana argues that efforts to address behavioral deviations or legal violations committed by minors are carried out through criminal law policies within the framework of juvenile justice.<sup>6</sup> Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that "children are entitled to special protection, particularly legal protection, within the judicial system." Protection, care,

---

<sup>1</sup> Tim Penyusun, *Statistik Indonesia Statistical Yearbook of Indonesia* (Jakarta: Badan Pusat Statistik Indonesia, 2023).

<sup>2</sup> Idah Faridah and Kunarso Kunarso, "The Judge Considerations In Making Decision Against Narcotics In Children," *Journal of Court and Justice* 1, no. 4 (December 1, 2022): 22–33, <https://journal.jfpublisher.com/index.php/jcj/article/view/208>.

<sup>3</sup> Abdul Goni and Dr. Jonaedi Efendi, "Criminal Liability For Online Sexual Exploitation Of Children (Osec) Crimes In Indonesia," *Journal of Court and Justice* 3, no. 2 (June 28, 2024): 102–109, <https://journal.jfpublisher.com/index.php/jcj/article/view/558>.

<sup>4</sup> Menteri Pemberdayaan Perempuan dan Perlindungan Anak (PPPA), "SIMFONI-PPA," *Kemen PPPA*, last modified 2024, accessed February 6, 2024, <https://kekerasan.kemenpppa.go.id/ringkasan>.

<sup>5</sup> Republik Indonesia, *Kitab Undang-Undang Hukum Pidana*, 2021.

<sup>6</sup> Layyin Mahfiana, "Perlindungan Hukum Terhadap Tersangka Anak Sebagai Upaya Untuk Melindungi Hak Asasi Anak: Studi Wilayah Kepolisian Resot Kabupaten Ponorogo," *Kodifikasi* 5, no. 1 (2011): 1–33.

maintenance, and guidance are rights granted to every child, even when they are in conflict with the law. Legal protection is essential to safeguard the rights of children facing legal proceedings so that the psychological and social consequences of criminal acts do not harm their future development.<sup>7</sup>

However, the legal protection granted to children who commit homicide and the subsequent judicial decisions under the Juvenile Criminal Justice System and the Child Protection Law often create a perceived imbalance of justice for the victims and their families. The death of a victim is an irreparable loss, and the family's demand for justice often conflicts with the legal treatment afforded to the child offender. The victim's family is particularly vulnerable within the criminal justice system because the representation of the victim's rights is delegated to law enforcement authorities, potentially marginalizing the emotional and moral dimensions of justice sought by the bereaved.

This study seeks to examine two central issues concerning juvenile criminal responsibility within Indonesia's legal framework. First, it explores the concept and principles of legal protection afforded to victims of homicide committed by minors, as stipulated in the Child Protection Law. Second, it investigates the legal accountability of children who perpetrate homicide, particularly in relation to the balance between upholding justice for victims and ensuring the rehabilitation and protection of juvenile offenders. Together, these inquiries aim to provide a comprehensive understanding of how Indonesia's child protection and criminal justice systems address cases in which children become perpetrators of serious crimes that result in the loss of life.

## **LITERATURE REVIEW**

### **Child**

From sociological, psychological, and juridical perspectives, a child is defined as any individual under the age of eighteen who has not yet entered into marriage and is not capable of living independently in social or communal settings. This definition highlights the child's developmental dependency and the need for protection, guidance, and nurturing to achieve maturity in a safe and supportive environment.<sup>89</sup>

---

<sup>7</sup> Republik Indonesia, *Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Anak*, 2012.

<sup>8</sup> Republik Indonesia, *Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*, 2002.

<sup>9</sup> Sartini Sartini, Baso Madiung, and Zulkifli Makkawaru, "Perlindungan Hukum Terhadap Anak Sebagai Korban Kekerasan Seksual," *Indonesian Journal of Legality of Law* 4, no. 1 (December 24, 2021): 18–25, <https://journal.unibos.ac.id/ijlf/article/view/1196>.

## Victim

A victim refers to an individual or group who suffers physical and psychological harm, including loss or damage in physical, emotional, mental, and/or economic forms, as a result of another person's unlawful act. In the context of criminal justice, the victim's suffering represents a central element in understanding both the consequences of the crime and the state's responsibility to restore justice and dignity.<sup>10</sup>

## Concept of Legal Protection

The concept of legal protection within the Indonesian legal system is closely linked to the recognition of human rights. The existence of human rights is reflected in the realization of justice, equality before the law, and the freedom to exercise one's rights without unlawful interference. Article 28D of the 1945 Constitution of the Republic of Indonesia stipulates that "every person shall have the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law." This principle implies that both perpetrators and victims of criminal acts are entitled to equal protection under the law. Hence, the rule of law in Indonesia emphasizes the balance between protecting the rights of offenders and ensuring justice for victims.<sup>11</sup>

## Theory of Legal Protection

The theory of legal protection asserts that the government bears the responsibility to safeguard human rights that have been violated by others. Such protection is realized through three fundamental dimensions of law: legal certainty, legal utility, and legal justice. Legal certainty ensures predictable enforcement, legal utility ensures that the law benefits society, and legal justice ensures fairness in applying legal principles to all parties involved. These elements collectively constitute the moral and institutional basis of a state governed by law.<sup>12</sup>

## Victimology

Victimology is a branch of criminology that examines all aspects related to crime and victims, including the causes that lead individuals to become victims, the consequences of victimization, and the various social, psychological, and legal issues surrounding victims as part of the broader social reality. The discipline not only seeks to understand the relationship between victims and offenders but also

<sup>10</sup> Silvony Kakoe, Masruchin Ruba'i, and Abdul Madjid, "Perlindungan Hukum Korban Penipuan Transaksi Jual Beli Online Melalui Ganti Rugi Sebagai Pidana Tambahan," *JURNAL LEGALITAS* 13, no. 02 (October 29, 2020): 115–128, <https://ejurnal.ung.ac.id/index.php/JL/article/view/7612>.

<sup>11</sup> Josep Robert Khuana, "Pengaturan Dan Perlindungan Hukum Tenaga Kerja Migran Lintas Negara Dalam Perspektif Hukum Internasional," *Kertha Semaya : Journal Ilmu Hukum* 8, no. 8 (August 7, 2020): 1275, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/62447>.

<sup>12</sup> Ibid.

contributes to the development of more humane and equitable criminal justice policies.<sup>13</sup>

### Principles of Child Protection

The principles of child protection in Indonesia are grounded in four fundamental doctrines that serve as the foundation for all actions concerning children. These include: (1) the principle of non-discrimination, which ensures that every child is treated equally without being excluded, marginalized, or discriminated against, either directly or indirectly; (2) the principle of the best interests of the child, which emphasizes that all decisions and actions relating to children must prioritize their welfare and future development; (3) the principle of the right to life, survival, and development, which underscores that every child is entitled to the fulfillment of essential needs to grow and develop properly, thereby attaining an adequate standard of living in physical, mental, psychological, spiritual, and social dimensions; and (4) the principle of respect for the views of the child, which affirms the child's right to express opinions on all matters affecting them and requires that those views be duly considered in decisions concerning their lives and well-being.<sup>14</sup>

### The Child Protection Law

Law of the Republic of Indonesia Number 35 of 2014, amending Law Number 23 of 2002 on Child Protection, Article 1 paragraph (2), defines *child protection* as “all activities aimed at guaranteeing and protecting children and their rights to live, grow, develop, and participate optimally in accordance with human dignity, as well as to protect them from violence and discrimination.” This provision underscores that child protection is not limited to preventive measures but also encompasses rehabilitation and reintegration within the broader social and legal framework.<sup>15</sup>

### The Juvenile Justice System

Article 64 paragraph (2) of Law Number 23 of 2002 concerning Child Protection provides for *special protection* for children in conflict with the law. Such protection includes: (1) humane treatment consistent with the child's dignity and rights; (2) the appointment of child-specialist officers from the earliest stage; (3) the provision of child-friendly facilities and infrastructure; (4) the imposition of sanctions in the best interests of the child; (5) continuous monitoring and

---

<sup>13</sup> Lies Sulistiani, “Problematika Hak Restitusi Korban Pada Tindak Pidana Yang Diatur KUHP Dan Di Luar KUHP,” *Jurnal Bina Mulia Hukum* 7, no. 1 (September 12, 2022): 81–101, <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/948>.

<sup>14</sup> Saraswati Rika, *Hukum Perlindungan Anak Di Indonesia* (Bandung: PT Citra Aditya Bakti, 2015).

<sup>15</sup> Republik Indonesia, *Undang-Undang (UU) Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*, 2014.

documentation of the child's development; (6) guarantees to maintain family or parental relationships; and (7) protection from media exposure to prevent stigmatization or labeling.<sup>16</sup>

## RESEARCH METHODOLOGY

This study employs a normative juridical (doctrinal) research method that focuses on examining the legal norms and principles governing the protection of victims of murder committed by minors within the framework of Indonesian law. The normative juridical approach is appropriate because this research emphasizes the interpretation and analysis of written laws, doctrines, and legal theories rather than empirical field data.<sup>17</sup> Through this approach, the study aims to provide a comprehensive understanding of how the Child Protection Law (Law No. 35 of 2014) and the Juvenile Criminal Justice System Law (Law No. 11 of 2012) regulate the protection of children as both victims and perpetrators, as well as how these regulations ensure justice for the victims' families.

The research utilizes several complementary approaches to strengthen the normative juridical analysis. The statutory approach is employed to examine relevant legal provisions related to child protection, criminal responsibility, and victims' rights as stipulated in national laws and regulations. The conceptual approach is used to analyze the underlying philosophical and theoretical foundations of legal protection, criminal liability, and justice for minors and victims of violent crimes. Furthermore, the case approach is applied by reviewing relevant court decisions that illustrate how judges interpret and enforce the law in cases involving minors as perpetrators of murder. These approaches together provide a holistic understanding of the legal mechanisms that protect both the victims and the child offenders within Indonesia's criminal justice system.<sup>18</sup>

The data used in this study consist primarily of legal materials. Primary legal materials include statutory regulations, government regulations, and judicial decisions that directly govern the protection of children and victims in criminal proceedings. Secondary legal materials comprise scholarly writings, textbooks, journal articles, and expert opinions that discuss doctrines and concepts of criminal law, child protection, and victimology. In addition, tertiary legal materials such as

<sup>16</sup> R Wiyono, *Sistem Peradilan Pidana Anak Di Indonesia* (Jakarta: Sinar Grafika, 2016).

<sup>17</sup> Oksidelfa Yanto et al., "Legal Protection of the Rights of the Child Victims in Indonesian Juvenile Criminal Justice System," *JURNAL YUSTIKA: MEDIA HUKUM DAN KEADILAN* 23, no. 01 (September 10, 2020): 24–35, <https://journal.ubaya.ac.id/index.php/yustika/article/view/2818>.

<sup>18</sup> Regen Manik, Taufik Siregar, and Rizkan Zulyadi, "Pertanggungjawaban Tindak Pidana Pembunuhan Yang Dilakukan Oleh Anak Di Polsek Mardinding," *Journal of Education, Humaniora and Social Sciences (JEHSS)* 5, no. 1 (August 5, 2022): 495–508, <https://mahesainstitute.web.id/ojs2/index.php/jehss/article/view/1245>.

legal dictionaries, encyclopedias, and indexes are used to clarify terminologies and provide conceptual support for interpreting legal texts.<sup>19</sup>

The data collection technique used in this research is library research, which involves collecting, identifying, and analyzing legal sources related to the research topic. Various legal documents, statutory regulations, and academic commentaries were reviewed to obtain a systematic understanding of the subject matter. This process includes a critical examination of how existing laws and judicial practices address the rights of victims and the responsibilities of minors in murder cases.

The collected data are analyzed through qualitative juridical analysis, which focuses on interpreting the meaning and implications of legal norms and their relationship to principles of justice and human rights. The analysis seeks to draw logical and consistent conclusions from legal materials by connecting statutory provisions, judicial reasoning, and theoretical perspectives. This analytical process enables the formulation of conclusions and recommendations that reflect the alignment between legal norms and the objectives of justice, especially in protecting both victims and children in conflict with the law.

## RESULT AND DISCUSSION

### Concept of Legal Protection for Victims of Homicide

In Indonesia's criminal justice system, criminal acts are adjudicated through a process that ensures offenders receive penalties proportional to their actions. The criminal justice system comprises several interrelated institutions: the police serve as investigators; public prosecutors file charges and represent the state in prosecution; judges examine cases, deliver judgments, and impose sentences; correctional institutions execute judicial decisions; and defense attorneys safeguard the rights of suspects and defendants. However, the Indonesian Code of Criminal Procedure (*Kitab Undang-Undang Hukum Acara Pidana* or KUHP) primarily regulates the rights of suspects or defendants, while the rights of victims are neither explicitly stated nor comprehensively protected within the same framework.<sup>20</sup>

The neglect of victims' rights in criminal proceedings largely stems from a flawed perception of crime itself, which fails to consider its multidimensional nature.<sup>21</sup> This misconception manifests in two main ways: (1) crimes are not fully perceived and understood in their broader social and psychological contexts, and

<sup>19</sup> Muhammad Riduan and Syaiful Asmi Hasibuan, "Legal Protection Of Children As Perpetrators Of Criminal Acts In The Indonesian Juvenile Justice System," *LAWYER: Jurnal Hukum* 1, no. 2 (November 1, 2023): 80–89, <https://asianpublisher.id/journal/index.php/lawyer/article/view/450>.

<sup>20</sup> Aby Maulana, Pathorang Halim, and Tubagus Heru Dharma Wijaya, "Kebijakan Penyelesaian Perkara Pidana Di Luar Pengadilan Dengan Model Pemaafan Korban (Victim Pardon Model) Dalam Pembaruan Hukum Pidana Nasional (Perspektif Hukum Pidana Dan Hukum Islam)," *Al-Qisth Law Review* 7, no. 1 (August 7, 2023): 132, <https://jurnal.umj.ac.id/index.php/al-qisth/article/view/16489>.

<sup>21</sup> Ibid.

(2) crime prevention policies are often not based on an integrated concept aligned with criminal etiology. Consequently, victims are frequently treated merely as *objects* or *witnesses* in criminal cases, rather than as *subjects* entitled to legal protection. In reality, victim protection should constitute an essential component of the criminal justice process, ensuring that justice is not only punitive toward offenders but also restorative toward those harmed.<sup>22</sup>

In homicide cases, the victim, having lost their life, can no longer directly receive protection. However, their parents or family members, recognized as the victim's legal heirs, retain the right to protection arising from the offense. Legal protection for victims' families may include oversight of the ongoing investigation and trial process, as well as the right to file a civil claim for compensation for the loss of life. Such protection embodies the state's duty to uphold the victims' fundamental human rights, ensuring their families receive both security and a sense of justice as moral reparation for their suffering.<sup>2324</sup>

### **Rights of Homicide Victims and the Parents of Victims**

The rights granted to the families of homicide victims are guaranteed by the state to facilitate the criminal investigation and judicial process against the offender. As legal heirs, the victim's family is entitled to several forms of legal protection, including:

1. The right to receive compensation for the suffering caused by the victim's death;
2. The right to obtain legal protection and assistance to ensure a fair and balanced judicial decision for both the victim's family and the convicted offender;
3. The right to access information regarding the progress of the investigation as a means of monitoring and supervising each procedural development;
4. The right to receive medical access and services related to the investigation and clarification of the homicide case;
5. The right to obtain information concerning the condition and legal status of the convicted offender; and
6. The right to exercise legal remedies to monitor and review each stage of the legal proceedings related to the homicide case.

<sup>22</sup> Kameswari Dyah Tungga Dewi and Bambang Santoso, "Analisis Pertimbangan Dikabulkannya Restitusi Oleh Hakim Terhadap Korban Mati (Studi Putusan Nomor: 63/PID.B/2022/PN.SMN)," *Verstek* 11, no. 1 (February 28, 2023): 040, <https://jurnal.uns.ac.id/verstek/article/view/70965>.

<sup>23</sup> *Ibid.*

<sup>24</sup> Zahra Putri Indah Sholihah, "Batasan Hak Perlindungan Bagi Pelapor, Saksi, Dan/Atau Korban Atas Kasus Tindak Pidana Korupsi," *Verstek* 11, no. 1 (February 28, 2023): 116, <https://jurnal.uns.ac.id/verstek/article/view/70752>.

These rights collectively reflect the state's obligation to provide comprehensive legal protection not only to victims but also to their surviving family members. They embody the principle that justice extends beyond the courtroom to encompass emotional, moral, and social recovery for the bereaved.

### **Mechanism of Legal Protection for Homicide Victims and Their Parents**

The revision of Law Number 35 of 2014 on Child Protection, which amended Law Number 23 of 2002, was driven by the recognition that the earlier legislation was ineffective in safeguarding and fulfilling children's rights. This ineffectiveness stemmed from overlapping legal definitions of "child" across different laws and the increasing prevalence of violence and criminal acts involving minors, both as victims and as offenders. According to Irwanto (2018), child protection is guided by four fundamental principles:<sup>25</sup>

1. The state must intervene in child protection matters, as children cannot advocate for themselves;
2. Every decision concerning a child must adhere to the principle of the child's best interests;
3. Child protection must begin early and be carried out continuously; and
4. Protection of children requires contributions from various sectors of society.

This final principle underscores that children constitute a vulnerable group, and any mishandling of protection efforts can endanger their survival and development. Conversely, appropriate and effective protective measures can significantly enhance a child's opportunity to grow and mature in a stable mental and social environment.

Furthermore, Government Regulation Number 3 of 2002 concerning Compensation, Restitution, and Rehabilitation for Victims of Gross Human Rights Violations provides a legal basis for granting financial compensation. However, restitution remains difficult to implement in cases involving minors as offenders. This difficulty arises from multiple considerations, such as the varying degrees of criminal urgency and the complexity of cases that result in the victim's death. While restitution, defined as monetary compensation to assist victims, represents a form of restorative justice, it is often insufficient or unacceptable to the families of deceased victims. Consequently, criminal proceedings typically continue to ensure that justice is achieved through formal legal mechanisms, reflecting both legal accountability and moral recognition of the victim's loss.

---

<sup>25</sup> Muhammad Joni, *Aspek Hukum Perlindungan Anak Dalam Perspektif Konvensi Hak Anak* (Bandung: Citra Aditya Bak, 1999).

### Principles of Law in Fulfilling the Rights of Victims and Parents of Victims

The Indonesian criminal justice system determines the parties involved in it, including the police as investigators, the public prosecutor as the party who files charges and prosecutes the case, judges as those who examine, adjudicate, and render judgments, and the correctional institutions as executors of court decisions. Meanwhile, legal counsel plays a crucial role in defending the rights of the accused. However, in many cases, the final court decisions result in sentences perceived as too lenient for the offenders, leading to the neglect of the interests and rights of the victims.

The fulfillment of victims' legal rights is regulated under the Indonesian Criminal Procedure Code (KUHP), which includes:<sup>26</sup>

1. The right to exercise oversight over investigators and public prosecutors;
2. The right of crime victims concerning their position as witnesses;
3. The right to demand compensation for losses resulting from a criminal act;
4. The right of the victim's family to grant or refuse permission for an autopsy; and
5. The right to determine whether or not the police may perform an autopsy, as it is closely related to religious, customary, and moral or ethical considerations.

These principles ensure that victims and their families retain a participatory role within the justice process, reflecting the human rights-based approach that prioritizes both procedural fairness and emotional sensitivity to the affected families.

### Legal Protection for Children Under the Child Protection Act

Child protection is implemented as an effort to safeguard the freedoms, fundamental rights, and overall welfare of children. According to the Child Protection Act (Law No. 35 of 2014), legal protection for children encompasses several procedural stages, namely:<sup>27</sup>

1. Investigation and Detention Stage

The investigation process involving Children in Conflict with the Law (*Anak yang Berhadapan dengan Hukum / ABH*) must be carried out by a child investigator who possesses relevant experience, interest, dedication, and an in-depth understanding of child-related issues. Moreover, investigators are required to undergo specialized training in

<sup>26</sup> Republik Indonesia, *Undang-Undang Nomor 8 Tahun 1981 Tentang Kitab Undang-Undang Hukum Acara Pidana*, 1981.

<sup>27</sup> Republik Indonesia, *Undang-Undang (UU) Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*.

juvenile justice procedures and must seek advice from social supervisors and/or experts in relevant fields.

In criminal cases involving children, investigators are generally encouraged to pursue diversion, a mechanism offering an alternative resolution outside the formal justice system to facilitate the child's moral rehabilitation and reintegration into society. Nevertheless, diversion cannot be applied in cases involving serious crimes, such as murder, due to the severity of the offense and its societal impact.

Furthermore, the detention of children is permissible only under certain conditions: (1) The child has reached the age of fourteen years; and (2) The alleged offense carries a potential imprisonment of seven years or more.

Detention must also adhere to specific time limits and locations to ensure the child's safety and prevent adverse effects on physical, mental, and social development.

## 2. Prosecution Stage

The appointment of prosecutors handling juvenile cases must meet the following qualifications:

- a. Having prior experience as a public prosecutor;
- b. Demonstrating genuine interest, commitment, and understanding of child-related matters; and
- c. Completing specialized technical training in juvenile justice.

These criteria ensure that prosecutors act with sensitivity and competence in dealing with young offenders.

## 3. Trial Stage

In the trial phase, the presiding judge may order the detention of the child for a maximum of ten (10) days, extendable for another fifteen (15) days. Should the specified period expire without a court decision being rendered, the child must be released by operation of law. This provision reflects the principle that the best interests of the child (*the best interests of the child principle*) must guide all judicial procedures involving minors, emphasizing restorative rather than punitive justice.

## The Principles or Essence of Legal Responsibility

Legal responsibility refers to the imposition of sanctions on an individual who has committed an act prohibited by criminal law or one that contravenes existing legal norms. It serves as a mechanism to ensure that every unlawful act is met with appropriate legal consequences, maintaining justice and social order. The concept of legal accountability in criminal law is contingent upon three fundamental conditions:

1. The offender must possess the capacity to be held legally responsible;
2. The existence of an unlawful act (*actus reus*); and

3. The absence of legal grounds that nullify criminal liability or justify the act (*justification or excuse*).

These criteria reflect the foundational principles of *mens rea* and *actus reus* in criminal jurisprudence, which together determine the legitimacy of imposing punishment upon an individual.

### **Legal Responsibility of Children**

Bringing a child before the court should always be considered a measure of last resort, in accordance with the restorative justice approach that prioritizes rehabilitation over punishment. Alternative dispute resolution mechanisms remain possible when carefully evaluated in light of the child's circumstances and the gravity of the offense. Although children who commit crimes are entitled to state protection, their actions must still be scrutinized through the lens of criminal accountability to assess both intent and social consequences.

Article 79(1) of Law No. 11 of 2012 on the Juvenile Criminal Justice System stipulates that custodial sentences may be imposed on children who commit serious crimes or offenses involving violence. However, imprisonment for child offenders shall not exceed one-half of the maximum sentence prescribed for adults convicted of the same offense. This provision embodies the principle of proportionality and acknowledges the developmental and psychological differences between juvenile and adult offenders.

### **Rights of Children as Perpetrators of Murder**

According to Article 3 of Law No. 11 of 2012, every child involved in criminal proceedings is entitled to the following rights:<sup>28</sup>

1. To be treated humanely and in accordance with their age and developmental needs;
2. To be separated from adult detainees;
3. To participate in recreational and educational activities;
4. To be free from torture, punishment, or any cruel, inhuman, or degrading treatment;
5. Not to be sentenced to death or life imprisonment; and
6. Not to be arrested, detained, or imprisoned except as a measure of last resort and for the shortest possible period.

These rights are consistent with international human rights standards, particularly the United Nations Convention on the Rights of the Child (UNCRC), which Indonesia ratified through Presidential Decree No. 36 of 1990. The legal framework aims to balance the need for justice with the rehabilitative interests of

---

<sup>28</sup> Republik Indonesia, *Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Anak*.

child offenders, ensuring that the judicial process upholds human dignity and child welfare.

### Differences in Legal Responsibility Between Juvenile and Adult Offenders in Murder Cases

In determining the appropriate course of action in any criminal case occurring within society, law enforcement officials are obliged to first ascertain the age of the perpetrator in order to ensure that justice is administered fairly and in accordance with the offender's level of legal responsibility. The determination of age is a crucial element because the application of criminal liability differs significantly between adult and juvenile offenders, both in terms of legal treatment and the objectives of punishment. This distinction reflects the underlying principle that children, due to their psychological and emotional development, should be subject to corrective and rehabilitative measures rather than punitive sanctions. The differences in the legal responsibility for homicide committed by adults and children can be summarized as follows:

**Tabel 1.** Differences in Criminal Liability for Murder Committed by Minors and Adults

Stage	Minors (Children)	Adults
<b>Arrest</b>	<ol style="list-style-type: none"> <li>1. Granted the presumption of innocence as the child is not yet fully capable of understanding legal matters.</li> <li>2. The arrest process is limited to a maximum period of 1 × 24 hours.</li> </ol>	<ol style="list-style-type: none"> <li>1. The arrest process is limited to a maximum period of 2 × 24 hours.</li> </ol>
<b>Investigation</b>	<ol style="list-style-type: none"> <li>1. Accompanied by parents or guardians during the investigation.</li> <li>2. Provided with legal assistance from the state.</li> <li>3. The investigation period is limited to a maximum of seven (7) days.</li> </ol>	<ol style="list-style-type: none"> <li>1. May be accompanied by legal counsel and/or may choose not to use one.</li> <li>2. The investigation period is limited to a maximum of twenty (20) days.</li> </ol>
<b>Detention</b>	<ol style="list-style-type: none"> <li>1. Detention may be extended for investigation for a maximum of eight (8) days.</li> <li>2. Placed in a special child service facility under supervision of investigators.</li> <li>3. Separated from adult detainees.</li> </ol>	<ol style="list-style-type: none"> <li>1. Detention may be extended for investigation for a maximum of forty (40) days.</li> <li>2. Placed in an adult detention facility.</li> </ol>
<b>Prosecution</b>	<ol style="list-style-type: none"> <li>1. Case files must be submitted to the court within thirty (30) days after receipt by the prosecutor.</li> <li>2. Entitled to legal assistance from a public prosecutor specialized in juvenile cases.</li> </ol>	<ol style="list-style-type: none"> <li>1. Case files must be submitted to the court within sixty (60) days after receipt by the prosecutor.</li> </ol>
<b>Trial</b>	<ol style="list-style-type: none"> <li>1. Detention during trial proceedings shall not exceed ten (10) days.</li> <li>2. Detention may be extended for a maximum of fifteen (15) days.</li> <li>3. Trials are held in a separate courtroom from adult trials.</li> </ol>	<ol style="list-style-type: none"> <li>1. The defendant receives legal assistance only if they possess and appoint legal counsel.</li> <li>2. Adult trials are conducted in ordinary courtrooms.</li> </ol>

Stage	Minors (Children)	Adults
	4. Provided with legal assistance throughout the trial process.	
<b>Sentencing</b>	1. The sentence imposed shall not exceed one-half (½) of the maximum imprisonment applicable to adults convicted of murder.	1. Under Article 338 of the Indonesian Criminal Code (KUHP), murder is punishable by a maximum imprisonment of fifteen (15) years. 2. Under Article 340 of the KUHP, premeditated murder is punishable by the death penalty, life imprisonment, or imprisonment for a maximum of twenty (20) years.

**Source:** Author's Analysis

Furthermore, there are several types of motives underlying the commission of homicide. The nature of the motive often determines the specific legal provision under which the offense is classified, thereby influencing the severity of the criminal sanctions imposed on the perpetrator. In cases where the offender is a minor, the determination of motive must still conform to the principles and procedures established within the juvenile justice system. The distinction between the motives of homicide committed by adults and those committed by minors can be outlined as follows:

**Tabel 2.** Differences in the Motives of Criminal Acts of Murder

Aspect	Murder	Premeditated Murder	Attempted Murder	Participation in Murder
<b>Definition</b>	An act committed by any person intentionally taking another person's life.	An act of intentionally taking another person's life accompanied by prior planning and deliberation, referred to as premeditated murder.	An act intended to take another person's life, but the attempt is not completed. Causes of failure may include: (1) The victim's awareness; (2) The perpetrator feeling the act cannot be completed; (3) The victim survives; (4) The perpetrator withdraws or delays the act before completion.	An act of assisting, participating in, or encouraging another person to commit murder, whether planned or spontaneous.
<b>Legal Provision (Article)</b>	Article 338 of the Indonesian Criminal Code (KUHP): "Whoever intentionally takes the life of another person shall be guilty of murder and shall be punished by	Article 340 of the Indonesian Criminal Code (KUHP): "Whoever intentionally and with premeditation takes the life of another person shall be punished by the death penalty, life imprisonment, or	Articles 338 and 53 of the Indonesian Criminal Code (KUHP): "Whoever attempts to commit a criminal act shall, if the act has begun to be executed, be punished with	Articles 338 and 55 of the Indonesian Criminal Code (KUHP). Article 340 in conjunction with Articles 55 and 56 of the KUHP. Article 55: (1) Those who commit, order, or participate in the

Aspect	Murder	Premeditated Murder	Attempted Murder	Participation in Murder
	imprisonment for a maximum of fifteen (15) years.”	imprisonment for a maximum of twenty (20) years.”	imprisonment reduced by one-third of the principal sentence.”	act. (2) Those who intentionally induce, promise, or provide opportunity, means, or information for the commission of the act. Article 56: (1) Those who intentionally assist the commission of the crime. (2) Those who, by providing assistance, facilitate the commission of the act.
<b>Criminal Liability</b>	<ol style="list-style-type: none"> <li>1. Punishable by imprisonment for a maximum of fifteen (15) years (Adults).</li> <li>2. Punishable by a maximum of one-half (½) of the sentence applicable to adults (Children).</li> </ol>	<ol style="list-style-type: none"> <li>1. Punishable by imprisonment for life or a maximum of twenty (20) years (Adults).</li> <li>2. Punishable by a maximum of one-half (½) of the sentence applicable to adults (Children).</li> </ol>	For Adult Offenders: (1) The principal penalty is reduced by one-third (⅓). (2) If sentenced to life or death, the punishment shall be replaced with imprisonment for a maximum of fifteen (15) years. - For Juvenile Offenders: (2) Punishable by a maximum of one-half (½) of the sentence applicable to adults.	For Adult Offenders: (1) The maximum principal penalty is reduced by one-third (⅓). (2) If sentenced to life imprisonment or death, the punishment is reduced proportionally. For Juvenile Offenders: (2) Punishable by a maximum of one-half (½) of the sentence applicable to adults.
<b>Elements / Requirements</b>	<ol style="list-style-type: none"> <li>1. The existence of an act.</li> <li>2. The occurrence of death.</li> <li>3. A causal relationship between the act and the death.</li> </ol>	<ol style="list-style-type: none"> <li>1. <b>Subjective Elements:</b> Intent, Premeditation.</li> <li>2. <b>Objective Elements:</b> An act resulting in the death of another person.</li> </ol>	<ol style="list-style-type: none"> <li>1. The presence of intent or purpose.</li> <li>2. The commencement of the act toward completion.</li> <li>3. The act not yet completed due to factors beyond the perpetrator's control.</li> </ol>	<ol style="list-style-type: none"> <li>1. The involvement of an individual who aids, orders, or encourages another person to commit murder.</li> <li>2. The involvement may occur directly or indirectly, and the person may act as an accomplice rather than the main perpetrator.</li> </ol>

Source: Author's Analysis

### Factors Causing Children to Become Perpetrators of Murder

Findings from several studies indicate that the failure of parents to serve as role models is a major factor contributing to juvenile delinquency. Schools, which should function as a second home, have also proven insufficient in controlling deviant behavior among adolescents. Furthermore, peer influence is one of the strongest triggers that lead children to lose self-control, as they tend to engage in new experiences together with their peers. Such actions are often driven by a desire

for recognition and acceptance within a group. A child may feel superior when able to dominate or control others who are perceived as weaker<sup>29</sup>

Another factor that may cause children to commit criminal acts, including murder, is being a victim of bullying. Children who experience bullying often harbor resentment and a desire for revenge against their aggressors. Due to emotional immaturity, they tend to express such revenge through negative or violent behaviors, which may lead to criminal acts.

Peer influence is not limited to friendships but also extends to intimate relationships. Romantic relationships among adolescents are often characterized by instability, emotional dependence, attraction, and the desire for admiration from the opposite sex, yet lacking a sense of responsibility. These immature romantic experiences can trigger social conflicts. A child may try to demonstrate bravery or dominance in front of their partner without considering whether such actions violate moral or social norms. Feelings of disappointment or heartbreak in romantic relationships may lead the child to seek revenge against their partner or the partner's new companion. Verbal or emotional hurt may further intensify feelings of anger and vengeance.

In addition to family, school, and peer factors, economic conditions also play a role in influencing children's involvement in criminal acts. Many cases involve children from lower socioeconomic backgrounds, yet children from financially stable families may also engage in criminal behavior. This demonstrates that psychological factors are crucial in determining behavioral outcomes. Internal factors such as mental and emotional stability play a vital role in shaping a child's ability to interact with their environment. When psychological and emotional development progresses well, children can adapt to their surroundings; conversely, when emotional or mental wounds exist, children may fail to cope with their environment and circumstances, leading to maladaptive behavior.

### **Mechanism of Law Enforcement for Criminal Acts of Murder Committed by Children under the Child Protection Act**

The mechanism of investigation involving child offenders conducted by the police includes: (1) arrest; and (2) detention. The prosecutorial process in handling juvenile criminal cases includes: (1) receiving and reviewing the case files; (2) conducting pre-prosecution in cases where additional investigation is required by providing instructions for improvement; (3) extending or executing detention, and/or transferring the case files to the court within a maximum of 30 days; (4) drafting the indictment; (5) carrying out prosecution; (6) notifying the court regarding the date and time of trial along with the relevant court documents; (7)

---

<sup>29</sup> Siti Qorrothu Aini, "Kenakalan Remaja Awal Di Lingkungan Sekolah Ditinjau Dari Ketidakhadiran Orang Tua Karena Merantau," *Jurnal Litbang: Media Informasi Penelitian, Pengembangan dan IPTEK* 11, no. 2 (December 26, 2015): 143–150, <http://ejurnal-litbang.patikab.go.id/index.php/jl/article/view/70>.

terminating the case in the interest of law (if necessary); and (8) executing the judge's determination.

The judicial handling mechanism includes: (1) detention for the purpose of trial examination, where the judge may order detention for a maximum of 10 days; (2) the detention period may be extended by the Chief of the District Court for up to 15 days; and (3) the imposition of punishment by the judge is based on Article 79 paragraph (1) of Law No. 11 of 2012, which stipulates that imprisonment may be imposed on children who commit serious crimes or crimes involving violence. The sentence for a juvenile offender shall not exceed one-half (½) of the maximum imprisonment applicable to adult offenders.

## CONCLUSION

Legal protection represents the embodiment of the law's function in achieving its primary objectives, namely legal certainty, utility, and justice. The protection of victims is implemented throughout the criminal justice process, beginning from the stage of investigation until the final adjudication, including the granting of compensation for the loss of life suffered by the victim. Meanwhile, legal protection for children who commit murder, as stipulated in the Juvenile Criminal Justice System Law, is provided from the moment of arrest and investigation until the court's final decision, all within the legally prescribed time limits. Criminal liability is imposed upon children proven to have committed acts of murder. Although various preventive measures are designed to ensure that minors are not subjected to the formal judicial process, such measures cannot be applied in cases involving serious crimes such as murder. Pursuant to Article 32 paragraph (2) of the Juvenile Criminal Justice System Law, detention of a child may be carried out if the child is at least fourteen years of age and is suspected of committing an offense punishable by imprisonment of seven years or more. Sentencing for minors found guilty of serious crimes, particularly murder, is limited to a maximum of one-half of the imprisonment term applicable to adult offenders.

## RECOMMENDATIONS

The role of parents and the child's surrounding environment is essential in providing supervision and guidance for children in all aspects of their daily activities. Strengthening cooperation between parents and the community is necessary to ensure early education, preventive oversight, and moral development, which together serve as an early deterrent against juvenile delinquency. Law enforcement authorities are also expected to implement effective and transparent legal procedures when handling cases involving minors. Furthermore, to reduce the incidence of murder committed by children, regular monitoring and preventive measures should be conducted in areas prone to criminal behavior. Future researchers interested in similar discussions are encouraged to examine additional

causal factors influencing juvenile murder cases and to provide a more comprehensive analysis of the formulated legal issues within their research discussions.

## REFERENCES

- Aini, Siti Qorrotu. "Kenakalan Remaja Awal Di Lingkungan Sekolah Ditinjau Dari Ketidakhadiran Orang Tua Karena Merantau." *Jurnal Litbang: Media Informasi Penelitian, Pengembangan dan IPTEK* 11, no. 2 (December 26, 2015): 143–150. <http://ejurnal-litbang.patikab.go.id/index.php/jl/article/view/70>.
- Dewi, Kameswari Dyah Tungga, and Bambang Santoso. "Analisis Pertimbangan Dikabulkannya Restitusi Oleh Hakim Terhadap Korban Mati (Studi Putusan Nomor: 63/PID.B/2022/PN.SMN)." *Verstek* 11, no. 1 (February 28, 2023): 040. <https://jurnal.uns.ac.id/verstek/article/view/70965>.
- Faridah, Idah, and Kunarso Kunarso. "THE JUDGE CONSIDERATIONS IN MAKING DECISION AGAINST NARCOTICS IN CHILDREN." *Journal of Court and Justice* 1, no. 4 (December 1, 2022): 22–33. <https://journal.jfpublisher.com/index.php/jcj/article/view/208>.
- Goni, Abdul, and Dr. Jonaedi Efendi. "CRIMINAL LIABILITY FOR ONLINE SEXUAL EXPLOITATION OF CHILDREN (OSEC) CRIMES IN INDONESIA." *Journal of Court and Justice* 3, no. 2 (June 28, 2024): 102–109. <https://journal.jfpublisher.com/index.php/jcj/article/view/558>.
- Joni, Muhammad. *Aspek Hukum Perlindungan Anak Dalam Perspektif Konvensi Hak Anak*. Bandung: Citra Aditya Bak, 1999.
- Kakoe, Silvony, Masruchin Ruba'i, and Abdul Madjid. "Perlindungan Hukum Korban Penipuan Transaksi Jual Beli Online Melalui Ganti Rugi Sebagai Pidana Tambahan." *JURNAL LEGALITAS* 13, no. 02 (October 29, 2020): 115–128. <https://ejurnal.ung.ac.id/index.php/JL/article/view/7612>.
- Mahfiana, Layyin. "Perlindungan Hukum Terhadap Tersangka Anak Sebagai Upaya Untuk Melindungi Hak Asasi Anak: Studi Wilayah Kepolisian Resot Kabupaten Ponorogo." *Kodifikasia* 5, no. 1 (2011): 1–33.
- Manik, Regen, Taufik Siregar, and Rizkan Zulyadi. "Pertanggungjawaban Tindak Pidana Pembunuhan Yang Dilakukan Oleh Anak Di Polsek Mardinding." *Journal of Education, Humaniora and Social Sciences (JEHSS)* 5, no. 1 (August 5, 2022): 495–508. <https://mahesainstitute.web.id/ojs2/index.php/jehss/article/view/1245>.
- Maulana, Aby, Pathorang Halim, and Tubagus Heru Dharma Wijaya. "Kebijakan Penyelesaian Perkara Pidana Di Luar Pengadilan Dengan Model Pemaafan Korban (Victim Pardon Model) Dalam Pembaruan Hukum Pidana Nasional (Perspektif Hukum Pidana Dan Hukum Islam)." *Al-Qisth Law Review* 7, no. 1 (August 7, 2023): 132. <https://jurnal.umj.ac.id/index.php/al-qisth/article/view/16489>.
- Menteri Pemberdayaan Perempuan dan Perlindungan Anak (PPPA). "SIMFONI-PPA." *Kemen PPPA*. Last modified 2024. Accessed February 6, 2024. <https://kekerasan.kemenpppa.go.id/ringkasan>.
- Muhammad Riduan, and Syaiful Asmi Hasibuan. "Legal Protection Of Children As Perpetrators Of Criminal Acts In The Indonesian Juvenile Justice System."

- LAWYER: *Jurnal Hukum* 1, no. 2 (November 1, 2023): 80–89. <https://asianpublisher.id/journal/index.php/lawyer/article/view/450>.
- Republik Indonesia. *Kitab Undang-Undang Hukum Pidana*, 2021.
- . *Undang-Undang (UU) Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*, 2014.
- . *Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Anak*, 2012.
- . *Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak*, 2002.
- . *Undang-Undang Nomor 8 Tahun 1981 Tentang Kitab Undang-Undang Hukum Acara Pidana*, 1981.
- Rika, Saraswati. *Hukum Perlindungan Anak Di Indonesia*. Bandung: PT Citra Aditya Bakti, 2015.
- Robert Khuana, Josep. “Pengaturan Dan Perlindungan Hukum Tenaga Kerja Migran Lintas Negara Dalam Perspektif Hukum Internasional.” *Kertha Semaya : Journal Ilmu Hukum* 8, no. 8 (August 7, 2020): 1275. <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/62447>.
- Sartini, Sartini, Baso Madiung, and Zulkifli Makkawaru. “Perlindungan Hukum Terhadap Anak Sebagai Korban Kekerasan Seksual.” *Indonesian Journal of Legality of Law* 4, no. 1 (December 24, 2021): 18–25. <https://journal.unibos.ac.id/ijlf/article/view/1196>.
- Sholihah, Zahra Putri Indah. “Batasan Hak Perlindungan Bagi Pelapor, Saksi, Dan/Atau Korban Atas Kasus Tindak Pidana Korupsi.” *Verstek* 11, no. 1 (February 28, 2023): 116. <https://jurnal.uns.ac.id/verstek/article/view/70752>.
- Sulistiani, Lies. “Problematisasi Hak Restitusi Korban Pada Tindak Pidana Yang Diatur KUHP Dan Di Luar KUHP.” *Jurnal Bina Mulia Hukum* 7, no. 1 (September 12, 2022): 81–101. <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/948>.
- Tim Penyusun. *Statistik Indonesia Statistical Yearbook of Indonesia*. Jakarta: Badan Pusat Statistik Indonesia, 2023.
- Wiyono, R. *Sistem Peradilan Pidana Anak Di Indonesia*. Jakarta: Sinar Grafika, 2016.
- Yanto, Oksidelfa, Yoyon M. Darusman, Susanto Susanto, and Aria Dimas Harapan. “Legal Protection of the Rights of the Child Victims in Indonesian Juvenile Criminal Justice System.” *JURNAL YUSTIKA: MEDIA HUKUM DAN KEADILAN* 23, no. 01 (September 10, 2020): 24–35. <https://journal.ubaya.ac.id/index.php/yustika/article/view/2818>.