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## CHILD PROTECTION IN THE PERSPECTIVE OF MULTICULTURALISM: BRIDGING TRADITIONAL VALUES AND MODERN LEGAL POLICY

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### ABSTRACT

This study aims to analyze how child protection principles can be reconciled with traditional values through a multiculturalism approach. In Indonesia, which is rich in ethnic, cultural, and religious diversity, child protection often faces significant challenges due to the differences between positive law and local cultural practices. Some traditional values, such as child marriage and corporal punishment as a form of discipline, often conflict with the child rights principles outlined in national and international law. This approach suggests the need for reconciliation between existing social norms in society and proactive legal policies that protect children. Through inter-cultural dialogue, reinterpretation of child-friendly religious values, and education based on universal human rights, child protection policies can become more contextual and effective. This study reveals that to create an ideal child protection system, cooperation between positive law and traditional values is required. The research is expected to contribute to the development of inclusive, just, and sustainable child protection policies that ensure children's rights in a safe, fair, and dignified environment.

**Keywords:** Child Protection, Multiculturalism, Traditional Values, Modern Law, Child Rights.

### ABSTRAK

Penelitian ini bertujuan untuk menganalisis bagaimana prinsip-prinsip perlindungan anak dapat dijembatani dengan nilai-nilai tradisional melalui pendekatan multikulturalisme. Di Indonesia, yang memiliki keberagaman etnis, budaya, dan agama yang sangat kaya, perlindungan anak sering kali menghadapi tantangan besar terkait perbedaan antara hukum positif dan praktik-praktik budaya lokal. Beberapa nilai tradisional, seperti pernikahan anak dan kekerasan sebagai bentuk disiplin, seringkali bertentangan dengan prinsip-prinsip hak anak yang diatur dalam hukum nasional dan internasional. Pendekatan ini menyarankan perlunya rekonsiliasi antara norma sosial yang ada dalam masyarakat dengan kebijakan hukum yang proaktif melindungi anak. Melalui dialog antarbudaya, reinterpretasi nilai keagamaan yang ramah anak, serta edukasi masyarakat berbasis nilai-nilai hak asasi manusia yang universal, kebijakan perlindungan anak dapat dibuat lebih kontekstual dan efektif. Penelitian ini mengungkapkan bahwa untuk menciptakan sistem perlindungan anak yang ideal, diperlukan kerjasama antara hukum positif dan nilai-nilai tradisional yang ada di masyarakat. Penelitian ini diharapkan dapat memberikan kontribusi terhadap pengembangan kebijakan perlindungan anak yang lebih inklusif, berkeadilan, dan berkelanjutan, yang dapat menjamin hak-hak anak dalam lingkungan yang aman, adil, dan bermartabat.

**Kata Kunci:** Perlindungan Anak, Multikulturalisme, Nilai Tradisional, Hukum Modern, Hak Anak.

## INTRODUCTION

Biologically, a child can be understood as an individual born as a result of the relationship between a man (father) and a woman (mother). Thus, in simple terms, a child is someone who has both parents. However, this kind of general definition does not fully represent the essence of the meaning of the child in the context of legal protection. Basically, children are individuals who are vulnerable to improper actions, such as violence or discriminatory treatment, which are generally carried out by adults.<sup>1</sup>

Differences in children's age limits in various regulations can have consequences for the process of handling cases related to child protection. This has the potential to give rise to differences in interpretation in resolving cases involving children as victims of law violations. However, this problem has actually begun to unravel since the issuance of Law No. 23 of 2002 concerning Child Protection, which specifically regulates the rights and protection of children in Indonesia. Over time and social dynamics, the regulation then underwent several changes, namely through Law No. 35 of 2014, and most recently through Law No. 17 of 2016 which stipulated Government Regulation in Lieu of Law No. 1 of 2016 as a Law. It should be noted that the change is partial and does not necessarily repeal the previous law, but only revises some provisions to adapt to the development of child protection needs more comprehensively.

Law enforcement against perpetrators of sexual violence must be carried out firmly and consistently by the authorities. In addition, the top priority must also be given to efforts to protect children who are victims of sexual violence. This form of support is manifested, among others, through the readiness of the Witness and Victim Protection Institute (LPSK) of the Republic of Indonesia in providing protection for victims' children, as stipulated in Article 5 and Article 6 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims. The high rate of violence against children that has recently occurred, both in physical, psychological, and sexual forms, shows the weak legal and human rights protections that should be given to children, so that they are often repeated victims. Cases of criminality that befell minors, such as rape and molestation, even in some cases ending in murder by the perpetrator, are still often found.

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<sup>1</sup> M Nasir Djamil, "Anak Bukan Untuk Dihukum, Jakarta," *Sinar Graf. Cetakan, Maret*, 2013.

Ironically, one of the forms of sexual violence against children actually occurred in the immediate environment, namely within the scope of a small community.<sup>2</sup>

Responding to the enactment of the Child Protection Law, Hadi Supeno stated that this regulation should be positioned as a *lex specialis* in the hierarchy of laws and regulations. This means that all other legal provisions governing the definition of a child must be aligned with this Law, including policies related to the fulfillment of children's rights. Therefore, law enforcement officials who handle cases involving children—both as victims and perpetrators of criminal acts—are required to prioritize the principles of child protection as stated in the Law.<sup>3</sup>

This principle is in line with the principle of *lex specialis derogat legi generali*, which is the principle that special legal provisions override general provisions when they are in the same regulatory realm. In addition, the maximum age of children in the Child Protection Law also refers to international provisions that have been ratified by Indonesia, namely the *Convention on the Rights of the Child* through Presidential Decree No. 36 of 1990. The Act not only adopts the age limit, but also internalizes the main principles of the convention, including the principle of non-discrimination, the principle of the best interests of the child, the principle of the right to survival and development, and the principle of participation that guarantees respect for the views of the child.

Children have the same rights as adults and are entitled to legal recognition and protection, given their vulnerability due to physical and mental immaturity. UNICEF emphasizes the importance of having special regulations governing children's rights, as children begin their lives in a state of full dependence on adults. Children's welfare greatly determines the future of a society, because experiences and the environment in the early days of life will have a great influence on individual development and the formation of social order in the future. Therefore, in the process of political decision-making, the opinions and interests of children must be taken into account, including in assessing the potential negative impact of social change on them.<sup>4</sup>

Although children need adult guidance to grow up to be independent individuals, they are neither the private property of adults nor the state. To ensure the protection of

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<sup>2</sup> I Nyoman Adi Susila et al., “Urgensi Perlindungan Anak Dari Kejahatan Seksual Dalam Perspektif Hukum Adat Di Kabupaten Buleleng,” *Kertha Wicaksana* 18, no. 1 (2024): 46–68.

<sup>3</sup> Hadi Supeno, *Kriminalisasi Anak* (Gramedia Pustaka Utama, 2013).

<sup>4</sup> Fadli Andi Natsif, “Problematisasi Perkawinan Anak (Perspektif Hukum Islam Dan Hukum Positif),” *AL-Qadān* 5, no. 2 (2018): 175–86.

children's rights, various legal instruments have been developed both at the international and national levels. In the international arena, the United Nations Convention on the Rights of the Child (UNCRC) is the main document that comprehensively guarantees and promotes the rights of the child. The Convention has been ratified by many countries around the world and defines a child as any individual under the age of 18 with inherent rights. The UNCRC covers the fundamental rights of the child which include the right to survival, protection from violence and exploitation, self-capacity development, as well as the right to participate in social and cultural life.<sup>5</sup>

However, the application of child protection principles often faces challenges in the context of multicultural societies, especially in developing countries such as Indonesia. In societies rich in ethnic, cultural, and religious diversity, traditional values and customary practices often differ significantly from national or international legal standards. For example, some local cultural practices related to gender roles, education, and child marriage, are still considered legitimate or even valued in certain communities, even if they are contrary to universally applicable principles of children's rights.<sup>6</sup>

This creates a paradox and tension between the preservation of local cultural values and the state's efforts to mainstream child protection based on modern law. For example, in the case of child marriage in some regions of Indonesia, local customs or norms are often used to legitimize the practice, while national law has established a minimum age for marriage based on the principles of children's rights and reproductive health. In such situations, a purely legalistic approach is not enough. A multiculturalism approach is needed that accommodates local values while still encouraging social transformation towards practices that better protect children.<sup>7</sup>

Multiculturalism in this case is not just an acknowledgment of diversity, but also demands a reconciliation between traditional norms and modern legal policies. Multiculturalism is also a relevant framework to explain how the state and civil society can build constructive cross-cultural dialogue in order to formulate contextual, inclusive, and

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<sup>5</sup> Tazkia Tunnafsia Siregar, Ika Rachmawati Sukarno Putri, and Laura Sharendova Gunawan, "Peran Hak Asasi Manusia Dan Hukum Adat Dalam Mencegah Pernikahan Dini Di Indonesia," *INNOVATIVE: Journal Of Social Science Research* 3, no. 5 (2023): 11050–64.

<sup>6</sup> Rahman Mantu, "Multikultural Dan Kesetaraan Gender Equality in Multicultural Society," *SPECTRUM: Journal of Gender and Children Studies* 2, no. 2 (2022): 105–13, <http://journal.iain-manado.ac.id/index.php/SPECTRUM>.

<sup>7</sup> Muhammad Ikhsanudin and Dan Siti Nurjanah, "Dampak Pernikahan Dini Terhadap Pendidikan Anak Dalam Keluarga," *Jurnal Pendidikan Islam*, no. 1 (2018): 38–44.

equitable child protection policies. In this context, child protection cannot be separated from the cultural dimensions and social identity of the society in which the child is raised.<sup>8</sup>

Therefore, this research is significant because it aims to analyze how child protection principles can be bridged with traditional values through a multiculturalism approach. This study also seeks to answer normative and practical challenges that arise in the implementation of child protection policies in a multicultural society, especially in Indonesia. This research not only contributes theoretically to the development of legal discourses and multiculturalism, but also has applicative value for policymakers, children's rights activists, and community leaders in developing holistic and contextual child protection strategies.

## RESEARCH METHOD

The method applied in the analysis of this article is a literature study that focuses on the literature, including books and legal documents relevant to the main issue. This approach, as explained by Peter Mahmud Marzuki,<sup>9</sup> is known as the statute approach in legal research. In this context, the main problem regarding child marriage is analyzed through reference to primary sources of law, namely laws and regulations and provisions in Islamic law or fiqh. In addition, secondary legal sources are also used, which include legal literature such as textbooks and other legal documents. This approach is commonly referred to as a normative legal research method, which is an approach that relies on an internal perspective with legal norms as the object of study. The legal norms analyzed in this study include provisions in Islamic law (fiqh), the Marriage Law, and the Child Protection Law.<sup>10</sup>

## FINDINGS AND DISCUSSION

In essence, children are a mandate as well as a gift from Allah SWT that must be taken care of and maintained as well as possible, because in children are inherent dignity, dignity, and various rights as human beings that must be respected and protected. Children's rights are an integral part of human rights as recognized in the 1945 Constitution of the Republic of Indonesia, the United Nations Convention on the Rights of the Child, and further regulated in Law Number 39 of 1999 concerning Human Rights. In the context of

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<sup>8</sup> Bhikhu Parekh, "Rethinking Multiculturalism: Cultural Diversity and Political Theory," *Ethnicities* 1, no. 1 (2001): 109–15.

<sup>9</sup> Peter Mahmud Marzuki, "Penelitian Hukum," *Jakarta: Kencana Prenada Media* 55 (2005).

<sup>10</sup> I Gusti Ketut Ariawan, "Metode Penelitian Hukum Normatif," *Kertha Widya Jurnal Hukum* 1, no. 1 (2013): 21–30, <https://doi.org/https://doi.org/10.37637/kw.v1i1.419>.

the life of the nation and state, children are seen as pillars of the future and the next generation who will continue the struggle and ideals of the nation. Therefore, every child has the right to live, grow and develop optimally, to actively participate in social life, and to be protected from all forms of violence, discrimination, and violations of civil rights and fundamental freedoms.<sup>11</sup>

Referring to the provisions of Article 1 paragraph (1) of Law Number 23 of 2002 as amended by Law Number 35 of 2014, a child is defined as an individual under the age of 18. This age restriction reflects the basic principle that individuals in that age range are in a phase that requires special protection from the state. Although at that age the child is able to make his own decisions based on his intellect, feelings, and will, he is still greatly influenced by the conditions and pressures of the surrounding environment, making him vulnerable to various risks. On the other hand, individuals who have reached the age of 18 are considered to have the psychological and mental maturity to deal with external influences, as well as being able to account for their actions legally. Therefore, the age of 18 is the final limit for legal protection of children, because at this point a person already has legal standing to take legal action and can be sanctioned if he violates the provisions of the applicable law.<sup>12</sup>

The protection of children's rights is a very important aspect and is guaranteed through various legal instruments, both at the international and national levels. This effort not only aims to protect the current young generation, but also contributes to the protection of future generations. The way children are treated today will shape their behavior and parenting patterns in the future, which ultimately affects the quality of a country's human resources. Therefore, the impact is immediate and long-term. Thus, various steps must be taken to ensure that the young generation can grow and develop in a safe, healthy environment, and obtain their basic rights comprehensively.

The Constitution of the Republic of Indonesia, namely the 1945 Constitution, regulates the existence of children in Article 34 which states that "the poor and abandoned children are cared for by the state". This provision affirms that children are legal subjects who receive state attention and protection within the framework of national law. Children must be guaranteed their right to be nurtured, fostered, and directed to achieve a decent level

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<sup>11</sup> Muh S Risal Risandi and Muhammad Sabir Maidin, "Perlindungan Hukum Terhadap Anak Jalanan Akibat Perceraian Orang Tua Di Kabupaten Pangkep; Studi Komparatif Hukum Positif Dan Hukum Islam," *Shoutuna* 2, no. 1 (2021): 293–308.

<sup>12</sup> Saadatul Maghfira, "Kedudukan Anak Menurut Hukum Positif Di Indonesia," *Jurnal Ilmiah Syari'ah* 15, no. 2 (2016): 218–20.

of welfare. In this context, the responsibility for children is not only on the shoulders of the state, but also the obligation of all elements of society. Failure to meet a child's basic needs can have a serious impact on aspects of their physical growth as well as their intellectual, emotional, and social development. This condition not only causes physical vulnerability, but also causes psychological and behavioral disorders, such as autistic tendencies, delinquency, difficulties in socializing, and even involvement in criminal acts. As a result, not a few children end up choosing to live life on the streets as a form of escape and search for a living space that they consider more liberating.<sup>13</sup>

As explained earlier, the government has established a comprehensive legal framework, both nationally and internationally, to guarantee children's rights. This policy aims to prevent various forms of abuse, including those related to exploitation, violence, and neglect of children. However, reality shows that cases of physical, psychological, and sexual violence against children are still common, despite the progress in social and economic welfare that has been achieved. This act of violence can take place in various environments, such as at home, school, or public spaces, and perpetrators can come from parents, family members, peers, and other people around the child.

It is important to realize that the experience of violence or neglect of children negatively affects various aspects of their lives. These impacts include developmental barriers, learning difficulties that lead to decreased academic achievement, self-esteem disorders, depression, and a tendency to self-destructive behavior and high-risk activities. In addition, violence against children also has significant social and economic impacts, including the loss of individual potential and decreased productivity that ultimately harms society at large.

As a country of law (*rechtstaat*), Indonesia has a fundamental goal to ensure the welfare of all its citizens, including the protection of children's rights which are an integral part of human rights. The recognition and guarantee of human rights is not only an integral aspect of the national legal system, but also reflects the main purpose of the existence of the rule of law itself. In this context, child protection is interpreted as an effort to place children's rights within the framework of the social structure of society, in order to ensure the fulfillment of the interests of children facing social problems. This protection includes

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<sup>13</sup> Avelinus Lefaan, Fitrine Christiane Abidjulu, and Rima Nusantriani Banurea, "Pendidikan Seksual Komprehensif Pada Masa Pandemi COVID-19 Di SMA Gabungan Jayapura," *Jurnal Abdi Masyarakat Indonesia* 2, no. 2 (March 9, 2022): 595–600, <https://doi.org/10.54082/jamsi.266>.

support for children who do not have the skills to understand and carry out their social roles in their entirety.

Child protection efforts are directed at creating a conducive and humane situation to ensure the balanced implementation of children's rights and obligations. This protection covers all aspects of children's development as a whole, both physical, psychological, and social, with the aim of ensuring that their growth takes place reasonably and optimally. The implementation of child protection is a manifestation of the principle of social justice in society and therefore must be carried out comprehensively in various sectors of the life of the nation and state. Child protection activities also have juridical implications, both in the context of positive (written) and unwritten (customary) law. Therefore, legal certainty is an absolute requirement so that the implementation of child protection runs effectively and avoids potential abuse or violations that are detrimental to the interests of children.<sup>14</sup>

Legal protection of children can be interpreted as a series of efforts to guarantee and protect fundamental rights and freedoms of children, including various interests related to the welfare of children as a whole. Therefore, the issue of legal protection for children covers a very wide and multidimensional scope. In practice, child protection can be classified into two main categories: first, protection of a juridical nature, which includes aspects of public law as well as civil law; and second, non-juridical protection, which includes social, health, and educational aspects. These two forms of protection synergize to create conditions that allow children to grow and develop optimally in a safe, healthy environment, and support the fulfillment of their rights.<sup>15</sup>

Child protection is a strategic and urgent step that must be implemented immediately, because it concerns the development of the foundation of a nation's civilization in the future. Children are the most valuable asset, so if they continue to be victims of violence in various forms, then when they grow up they have great potential to become perpetrators of crimes that burden the social system of a country. On the other hand, if they grow up in a loving environment and receive proper treatment from an early age, then the negative impact of pathological and psychosocial pressure can be minimized, thus encouraging them to grow into individuals with positive character. Basically, child protection is oriented towards the recognition of children as individuals who deserve special respect and attention. Therefore,

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<sup>14</sup> Arif Gosita, "Masalah Perlindungan Anak," (*No Title*), 1985.

<sup>15</sup> Liza Agnesta Krisna, *Hukum Perlindungan Anak: Panduan Memahami Anak Yang Berkonflik Dengan Hukum* (Deepublish, 2018).



the solution to the problem of child protection is not enough only through a juridical approach, but also needs to be strengthened with a multidisciplinary approach that includes economic, social, and cultural aspects.<sup>16</sup>

### **Between traditional values and modern law**

Customary law can be interpreted as a set of rules that originate from human habits in social life. Since humans first lived on earth and formed families, social interaction has developed into community life and finally state. In the process of interacting with others, humans naturally form certain patterns that become guidelines in their social relationships. When these patterns are followed and widely applied by the community, they develop into the social customs or habits that govern the behavior of the members of the group.

Customs themselves reflect the norms of behavior that are accepted in a certain community. Over time, this habit becomes a must that must be carried out by members of the social group. When a customary custom begins to be enforced with sanctions for its violation, the custom is transformed into customary law. Therefore, the fundamental difference between customary and customary law lies in the existence of sanctions. If a custom is not accompanied by sanctions, then it is still categorized as a mere custom. However, if the violation of the custom is followed by the imposition of sanctions, then the custom has changed to customary law. Law, as part of a system of norms, is essentially the result of cultural processes. Therefore, every society that has a culture will automatically form a certain legal system. On the contrary, the existence of a legal system in a society shows that it also has elements of underlying culture.<sup>17</sup>

As with positive law, customary law has three main elements that underlie its force of enforceability. First, sociological enforceability, which shows that the legal norms are truly recognized and complied with by members of society. Second, juridical enforceability, which means that the law has a valid coercive force to be applied to the community, because its formation is carried out by the authority or authorized institution. Third, philosophical applicability, which refers to the foundation of the common goals to be achieved by the

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<sup>16</sup> Rika Saraswati, *Hukum Perlindungan Anak Di Indonesia* (PT. Citra Aditya Bakti, 2015).

<sup>17</sup> Mahmud Marzuki Peter, "Pengantar Ilmu Hukum," *Kencana, Jakarta*, 2008.

community, which is usually contained in the consideration or "weighing" section of a product of laws and regulations.<sup>18</sup>

In the consideration of Law Number 23 of 2002 concerning Child Protection, it is stated that children are a mandate as well as a gift from God Almighty, who inherently has the dignity and dignity of being a fully human being.<sup>19</sup> The legal system in Indonesia provides guarantees for children's rights as part of human rights. Therefore, it is important to first understand the definition of a child, including the age restrictions that distinguish between children, minors, and adults. Age is the main indicator in determining this status. Based on Article 1 number 5 of Law Number 39 of 1999 concerning Human Rights, a child is defined as any individual under the age of 18 years and unmarried, including children in the womb if it is in his or her interests. The corresponding provisions are also regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which in Article 1 number 1 states that a child is someone who is not yet 18 years old, including those who are still in the womb.

Meanwhile, the Civil Code (KUHPerdata) provides a slightly different definition. According to Article 330 of the Civil Code, a person is categorized as an immature if he has not reached the age of 21 and is not married. This shows that in the civil context, individuals under the age of 21 and unmarried are still classified as children. On the other hand, the Criminal Code (KUHP) has its own provisions in determining the age limit for children. Article 45 of the Criminal Code states that in the criminal prosecution process, a person who commits a criminal act before the age of 16 is considered a child. Thus, there are variations in regulations regarding the age limit of children in various Indonesian legal instruments, which are adjusted to the context of their use.<sup>20</sup>

In various legal provisions in Indonesia, the regulation of the age limit for children still shows inconsistencies. This condition in legal theory is known as the vague legal norm. The term refers to a situation in which a norm already exists but does not have clarity of meaning, or even contains double meaning and ambiguity, thus causing ambiguity in its application. Such a situation has the potential to harm people who need justice, because legal uncertainty opens up space for the emergence of various different interpretations. Legal certainty is a fundamental principle that aims to ensure legal protection for every citizen

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<sup>18</sup> Dominikus Rato and Husen Alting, *Hukum Adat: (Suatu Pengantar Singkat Memahami Hukum Adat Di Indonesia)* (LakBang Pressindo, 2011).

<sup>19</sup> Djamil, "Anak Bukan Untuk Dihukum, Jakarta."

<sup>20</sup> Djamil.

against arbitrary acts of power. Therefore, the state has a constitutional responsibility to uphold legal certainty as a form of protection of the rights of its citizens. In this context, there appears to be a close relationship between the problem of legal certainty and the role of the state in ensuring the consistent applicability of norms.<sup>21</sup>

Law enforcement is defined as a process to ensure that legal norms are truly implemented and function in real life in various behaviors and legal interactions in the midst of community life and in the context of the state.<sup>22</sup> Another opinion also explains that law enforcement is an effort to balance the relationship of values that have been formulated in standard norms and manifested in concrete actions. This process is the final stage of the application of these values with the main goal of creating, maintaining, and maintaining order and peace in the order of social life.<sup>23</sup>

Law enforcement functions as a code of conduct that must be applied in community life to ensure that legal norms are implemented as they should. The success of law implementation cannot be separated from the active role of law enforcement officials themselves. In the context of preventing and handling cases of sexual violence against children, community participation is also an important element that supports the effectiveness of law enforcement strategies.

Social life and law are two entities that cannot be separated, as reflected in the legal principle of *ubi societas ibi ius* which means "where there is a society, there is a law". Therefore, the existence of the rule of law is needed to regulate the social order in order to achieve public order. Indonesia, as a country with a heterogeneous and culturally diverse society, places society as a central element in the law enforcement process. In carrying out their duties, law enforcement officials are required to understand the social structure of the community in their area of duty. In Indonesia, the social structure is often divided into upper-layer and lower-class groups of society, each of which has a different mindset and understanding of the law. Therefore, law enforcement officials need to provide legal education to the public, especially to groups that have limited access to legal information, so that they are able to understand and internalize the values and legal norms that apply in their environment.<sup>24</sup>

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<sup>21</sup> E Fernando M Manullang, *Legisme, Legalitas Dan Kepastian Hukum* (Prenada Media, 2017).

<sup>22</sup> Satjipto Rahardjo, "Masalah Penegakan Hukum," *Bandung: Sinar Baru*, 1983.

<sup>23</sup> Soerjono Soekanto, "Faktor-Faktor Yang Mempengaruhi Penegakan Hukum," 2011.

<sup>24</sup> Anastasia Hana Sitompul, "Kajian Hukum Tentang Tindak Kekerasan Seksual Terhadap Anak Di Indonesia," *Lex Crimen* 4, no. 1 (2015): 46–56.

Effective law enforcement cannot be separated from the active role of law enforcement officials. In efforts to prevent and handle cases of sexual violence against children, community involvement is a key factor, especially the participation of local communities such as traditional villages. Children are God's gift that must be protected and given the opportunity to grow and develop optimally, both from physical and mental aspects.

Ironically, most acts of sexual violence against children are actually committed by the closest people known to the victim. Data from the Indonesian National Police (POLRI) and the Integrated Service Center for Women's and Children's Empowerment (P2TP2A) show that perpetrators of violence against children generally come from the child's immediate environment. This condition emphasizes the importance of comprehensive legal protection so that children do not experience discriminatory treatment and their rights are guaranteed.

In order to optimize the implementation of child protection from sexual violence, various strategies are needed that are preventive and curative and involve the active role of the community. Community participation is regulated in Article 6 of the Regulation of the Minister of Women's Empowerment and Child Protection (Permen PPPA) Number 2 of 2017, which states that the community can contribute in various environments, including in the scope of households, public spaces, service institutions, training institutions, educational institutions, religious institutions, and other relevant institutions in supporting the protection and fulfillment of children's rights.

Sexual crime is a form of criminal act that has received serious attention in the context of child protection, considering that children are a very vulnerable group, easily targeted by threats, and do not yet have the ability to protect themselves from potential lurking dangers. The protection of children from various forms of violence is expressly regulated in Article 15 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which states that every child has the right to be protected from: a) abuse in political activities; b) involvement in armed conflict; c) involvement in social unrest; d) involvement in events that contain elements of violence; e) involvement in war; and f) sexual crimes.

This provision affirms the position of children as legal subjects who require special treatment, both as victims and, in certain cases, as perpetrators of crimes. The phenomenon that occurs on social media shows that children are not only victims of sexual violence, but in some cases are also involved as perpetrators. Sexual crimes against children in society are regulated through various legal provisions that apply locally and nationally. This crime

includes various forms of violations of religious and moral norms, such as obscenity, rape, sexual torture, sexual harassment, sexual slavery, sexual exploitation, and forced pregnancy. These actions, which are clearly contrary to religious values and morality, provoke a strong reaction from the public. Therefore, the existence of a strict law to sanction perpetrators of sexual crimes is very important to ensure protection and justice for victims.

Indonesia has ratified the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990, which affirms the country's commitment to protecting children's rights. In addition, Law No. 23 of 2002 on Child Protection, which was later updated to Law No. 35 of 2014, became the basis of national law in child protection. The law emphasizes the principles of non-discrimination, the best interests of the child, the right to live, grow, and develop, and respect for the opinion of the child.

However, the implementation of these laws often faces challenges on the ground, especially when dealing with cultural practices that are contrary to these principles. For example, the practice of child marriage that still occurs in some regions shows that there is a discrepancy between national law and traditional values embraced by the local community. Traditional values that live in Indonesian society have an important role in shaping social norms and behaviors, including in terms of parenting and child protection. However, not all traditional values are in line with the principles of child protection as set out in modern law. Some cultural practices, such as child marriage, violence as a form of discipline, and gender discrimination, can harm children's well-being and rights.

According to research by Ana Suheri, education in the family plays a big role in providing protection and character formation of children. However, in some cases, traditional values embraced by families are actually a barrier in providing optimal protection for children. Therefore, it is important to take a culturally sensitive approach in child protection efforts.<sup>25</sup>

Multiculturalism offers a framework that allows for the recognition and appreciation of cultural diversity, while still upholding the universal principles of human rights, including the rights of the child. This approach emphasizes the importance of intercultural dialogue and community participation in formulating contextual and inclusive policies. Child protection in a multicultural society like Indonesia requires a culturally sensitive approach, while adhering to the universal principles of children's rights. The traditional values that live

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<sup>25</sup> Jurnal Sociopolitico and Ana Suheri, "Kajian Sosiologi Hukum Terhadap Efektivitas Perlindungan Anak Melalui Pendidikan Dalam Keluarga," *Jurnal Sociopolitica* 6, no. 2 (2024): 166–71.

in society must be respected, but they need to be adapted to modern legal policies that aim to protect children's rights. The multiculturalism approach offers a framework that allows for recognition of cultural diversity, while still upholding the principles of child protection. Through dialogue, education, and contextual policy development, it is hoped that child protection in Indonesia can be improved effectively and inclusively.

Indonesia as a multicultural and religious country faces its own challenges in the implementation of child protection policies. Traditional values and religious teachings are still very strongly attached to the social life of the community. On the other hand, the state has established a progressive positive legal system through the ratification of the Convention on the Rights of the Child (CRC) and the ratification of Law No. 35 of 2014 on Child Protection. These tensions between these two poles often create dilemmas in child protection policies and practices, especially on issues such as child marriage, violence in education, and parenting patterns.<sup>26</sup>

Traditional values often place children in hierarchical and patriarchal social structures. In some indigenous and religious communities, children's rights are closely associated with obligations to parents and their communities. For example, child marriage in some cultures is seen as an effort to maintain family honor or solve economic problems.<sup>27</sup> In fact, from a positive legal perspective, child marriage is a violation of children's rights to education, health, and protection from exploitation (Law No. 16 of 2019 jo. Law No. 1 of 1974).

This is where normative dissonance occurs—the incompatibility between social norms and legal norms. The state, in many cases, faces cultural resistance that slows down the implementation of child protection laws. Dialogue between legal stakeholders and customary/religious leaders is very important in building mutual understanding. The principle of "maslahah" in Islam or "local wisdom" in the culture of the archipelago can be used as a common point in strengthening child protection. For example, the value of rahmatan lil 'alamin can be used to internalize the spirit of protection in Islamic parenting. Many practices that are considered "cultural" are actually alterable historical interpretations.

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<sup>26</sup> Mohd Rafi Riyawi and Jumni Nelli, "Reinterpretasi Hukum Keluarga Dalam Hukum Nasional (Studi Tentang Kompilasi Hukum Islam Di Indonesia)," *HUKUMAH: Jurnal Hukum Islam* 4, no. 2 (2021): 137–60.

<sup>27</sup> I Dewa Ayu Maythalia Joni and Endang R. Surjaningrum, "Psikoedukasi Pendidikan Seks Kepada Guru Dan Orang Tua Sebagai Upaya Pencegahan Kekerasan Seksual Pada Anak," *JURNAL DIVERSITA* 6, no. 1 (June 2, 2020): 20–27, <https://doi.org/10.31289/diversita.v6i1.3582>.

Deconstructing patriarchal culture in the family and contextually reinterpreting religious teachings can help build a religious interpretation that is more in favor of children's rights.<sup>28</sup>

Multiculturalism in Indonesia cannot be interpreted as passive tolerance of all forms of cultural practices, but needs to be encouraged in transformative multiculturalism—that is, multiculturalism that opens up space for negotiation and value transformation for the sake of social justice and the protection of vulnerable groups such as children.

Bridging traditional values and positive laws in child protection does not mean getting rid of traditions or religion, but rather reorienting values towards the principles of justice, dignity, and child welfare. Synergy is needed between the government, local communities, religious leaders, and civil society institutions in building child protection based on transformed local wisdom, progressive national laws, and humanist religious values. Thus, Indonesia has the potential to become a model country with a fair, inclusive, and sustainable multicultural-based child protection system.

## CONCLUSION

This study confirms that child protection in Indonesia cannot be separated from the complexity of the social and cultural structure of a multicultural and religious society. Although the state has established progressive positive legal policies that are in favor of the principles of children's rights through the Child Protection Law and the ratification of international instruments such as the Convention on the Rights of the Child, their implementation still faces challenges due to the strong influence of traditional and religious values in people's daily practices.

Traditional values that live in communities often contain norms that are contrary to modern legal principles, such as justification for the practice of child marriage, violence as a form of discipline, or restrictions on girls' access to education. This tension between cultural and legal norms shows that there is a normative gap that needs to be bridged systematically and inclusively.

The multiculturalism approach provides the right conceptual framework in bridging these differences. Through this approach, the state can build synergy between national law and local values by encouraging cultural transformation with a perspective of children's

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<sup>28</sup> Law Muhammad Arya Syandika et al., "Protection of Children and Women in the Perspective of Islamic Law and Indonesian Positive," *Istidal: Jurnal Studi Hukum Islam* 12, no. 1 (2025), <https://doi.org/https://doi.org/10.34001/ijshi.v12i1.81116>.

rights, without negates the collective identity of the community. Strategies such as intercultural dialogue, child-friendly reinterpretation of religious values, involvement of indigenous and religious leaders, and community education based on universal values of human rights, are crucial to creating policies that are contextual, socially acceptable, and effective in protecting children.

Thus, the ideal child protection in the Indonesian context must move towards a normative convergence between positive law and traditional values. It is not only a matter of law enforcement, but also of social reconstruction and the formation of a collective awareness that children are subjects of the law who have the right to grow and develop in a safe, fair, and dignified environment. Building a bridge between law and culture is not just an option, but a necessity in an effort to create a holistic and sustainable child protection system in the midst of a pluralistic society.



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