Progressive Law Review
Volume 8 No. 2 November 2026
University of Bandar Lampung
(e-ISSN) 2716-2141, progrresivelawreview.ubl.ac.id

HARMONIZING CHILD PROTECTION REGULATIONS WITH CRC IN ADDRESSING CHILD ABDUCTION AND TRAFFICKING CASES EFFECTIVELY

Received: September 30, 2026 Accepted: October 29, 2026 Online Published: November 13, 2026

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Abstract: : *Child protection from abduction and trafficking is an urgent issue that requires harmonization between Indonesia's national legal framework and the United Nations Convention on the Rights of the Child (CRC). This study aims to analyze the conformity of Law Number 35 of 2014 on Child Protection and Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons with the principles of the CRC, as well as to examine the urgency of harmonizing these laws to strengthen legal protection for child victims of trafficking in persons. This study employs a normative legal research method using statutory and conceptual approaches. The findings indicate that, substantively, both laws adopt the CRC principles; however, significant structural and implementation-related inconsistencies remain. These inconsistencies include overlapping institutional authorities, a lack of effective mechanisms for early victim identification, inadequate digital-based protection, and limited understanding among law enforcement officials of the best interests of the child principle. Comprehensive legal harmonization is therefore necessary not only at the normative level but also across institutional, procedural, and legal-cultural dimensions to ensure effective, restorative, and dignified protection of children in accordance with the constitutional mandate and Indonesia's international commitments.*

Keywords: *Legal Harmonization; Child Protection; Human Trafficking; Convention on the Rights of the Child (CRC); National Law*

I. INTRODUCTION

Protection of children is a fundamental issue in the development of law and human rights ("hr") in indonesia. children, as the next generation of the nation, have inherent rights from birth to receive protection from all forms of violence, exploitation, discrimination, and other inhumane treatment. On a global level, efforts to ensure child protection have been comprehensively regulated in the united nations convention on the rights of the child ("crc"), which was adopted in 1989. The crc sets universal standards regarding children's rights, including the right to survival, development, protection from violence and exploitation, and participation in social life. Indonesia, as one of the countries that has ratified the crc

through presidential decree No. 36 of 1990, has an obligation to align all its policies and legislation with the principles contained in the convention. However, in practice, various cases of child rights violations such as kidnapping, exploitation, and child trafficking still occur frequently, showing a gap between the ideal of the law and its implementation in the field.[1]

Child kidnapping and trafficking show the complexity of intertwined legal, social, and economic problems. According to data from the Ministry of Women's Empowerment and Child Protection and reports from the Indonesian National Police, the number of child trafficking cases keeps rising each year, with increasingly diverse methods, ranging from sexual exploitation, forced labor, to illegal cross-border adoption (Ministry of Women Empowerment and Child Protection). This situation highlights the weakness of the legal protection system for children and the suboptimal implementation of regulations in line with the spirit of the CRC. Article 35 of the CRC explicitly states that countries must take national, bilateral, and multilateral actions to prevent the abduction, sale, or trafficking of children in any form.[2]

The factors driving kidnapping and child trafficking in Indonesia are closely linked to the socio-economic vulnerabilities surrounding the families and communities of the victims. Structural poverty, low parental education levels, limited access to civil administration services like birth certificates, and weak parenting patterns increase the chances of children being recruited by perpetrators using promises of jobs, education, or a better life. Children from migrant families, street children, and those living in border areas and Indonesia's outer islands face higher risks due to minimal social oversight and weak government presence in the form of grassroots child protection services. This kind of structural vulnerability aligns with the principle of non-discrimination and the right to survival emphasized in the CRC, which requires states not only to create laws that are repressive toward offenders but also to build preventive systems based on social welfare. Unfortunately, the current Child Protection Law and the Human Trafficking Law are still dominated by a penal approach focused on post-crime enforcement, while early detection mechanisms and community-based interventions for vulnerable children are not adequately regulated. This gap between the repressive approach and the need for a preventive approach further highlights the urgency of harmonizing national regulations with the spirit of comprehensive child protection as envisioned in the CRC.

[1] R. Gusmarani dan M. H. P. Ginting, Model Harmonisasi Untuk Pencegahan Perdagangan Anak (2025).

[2] Humas Biro Hukum, Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, informasi mengenai perlindungan anak dan perdagangan orang (2024), https://www.kemenppa.go.id/sejarah

Indonesia has set regulations regarding Child Protection, as stated in Law No. 35 of 2014 on Child Protection and Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking. However, in practice, these two laws are not fully aligned in terms of definitions, law enforcement methods, and the types of protection provided to child victims. In addition, under the national legal framework, the definition of "child" as regulated in Article 1 Paragraph (1) of the Child Protection Law states that a child is a person who is under 18 years old, including those still in the womb. This definition is already in line with the CRC, but in practice, there are still gaps between law enforcement officers (LEO) and the community, due to a lack of understanding about age limits. For example, there are still cases of children aged 16 to 17 being victims of child trafficking, and they don't receive special treatment as children because they are considered "socially" already adults. This shows there's a gap in understanding and a lack of adequate training for law enforcement officers on child protection principles according to the CRC.[3]

The urgency of harmonizing national law with the CRC aligns with the academic debates happening in international law about how a global human rights instrument should be incorporated into a country's domestic legal system. Hoffman and Stern identified that there are two main approaches to incorporating the CRC: direct incorporation, where CRC provisions can be directly applied and enforced by domestic courts, and indirect incorporation, where the CRC only has a general legal effect without creating rights that can be immediately claimed in court.[4] Indonesia, through the ratification of the CRC via Presidential Decree No. 36 of 1990, has basically taken the indirect incorporation route, meaning the principles of the CRC only gain legal binding power once they are formalized into national legislation, such as the Child Protection Law and the Human Trafficking Law. This kind of incorporation model, as pointed out by Kilkelly, requires an implementation approach that is not just incremental or normative, but also transformative, meaning it changes the institutional structures and the legal culture of officials to truly align with the spirit of child protection envisioned by the CRC.[5]

Without such transformation, harmonization will only stay at the textual level without having a real impact on child protection on the ground. This concern also underpins McCall-Smith's criticism, noting that many CRC member states tend to incorporate selectively or 'à la carte,' meaning they only adopt certain provisions considered easy to implement, while other provisions that demand more structural

[3] A. R. Fadila, "Perlindungan Hak Asasi Manusia Dalam Hukum Internasional," *Riset Rumpun Hukum* 7, no. 6 (2025): 4760–4771.

[4] S. Hoffman dan R. T. Stern, "Incorporation of the UN Convention on the Rights of the Child in National Law," *The International Journal of Children's Rights* 28, no. 1 (2020): 133–156.

[5] U. Kilkelly, "The UN Convention on the Rights of the Child: Incremental and Transformative Approaches to Legal Implementation," *The International Journal of Human Rights* 23, no. 3 (2019): 323–337.

changes—such as child abduction and trafficking prevention mechanisms outlined in Article 35 of the CRC—are often overlooked in practice.[6] This situation is becoming more worrying considering that the CRC itself, through the principle of protection from all forms of exploitation as stated in Articles 19 and 35, requires state parties to continuously adjust their preventive measures in line with evolving crime methods, including those that are IT-based. The low level of digital literacy among law enforcement officers, combined with the slow process of identifying victims recruited online, increases the risk of children being repeatedly victimized before the legal system can respond. Therefore, the digital dimension can no longer be seen as just an additional issue, but rather as one of the crucial points that must be considered in efforts to harmonize child protection regulations with the CRC, given that crimes against children in the digital realm are cross-jurisdictional and require a legal response that is adaptive and collaborative between countries.

Academically, this research contributes to the literature on the harmonization of international and national law, particularly in the field of child protection, which remains relatively limited in Indonesia. Practically, the findings of this research provide policymakers, law enforcement authorities, and child protection institutions with insights into effective approaches to protecting victims of child abduction and trafficking. This research demonstrates the importance of harmonizing national legislation with the principles of the CRC to strengthen legal enforcement and protection for children who become victims of abduction and trafficking. Such harmonization is expected to enable the state to establish a better, restorative, and more humane child protection system in accordance with the spirit of the CRC, as harmonization not only fulfills international obligations but also constitutes the state's moral and constitutional commitment to safeguarding the human rights of Indonesian children.

The practical benefits of this research also extend more specifically to several stakeholders. For policymakers at both the national and regional levels, the findings are expected to serve as a reference for formulating or revising implementing regulations that are more responsive to evolving patterns of crime, including digitally facilitated forms of exploitation. For law enforcement authorities, including the police, prosecutors, and judges, this research provides an analytical framework emphasizing the consistent application of the principle of the best interests of the child, without being influenced by social perceptions concerning a child's maturity beyond the age limits established by law.

[6] K. McCall-Smith, "To Incorporate the CRC or Not – Is This Really the Question?" *The International Journal of Human Rights* 23, no. 3 (2019): 425–441.

For child protection institutions, such as the Indonesian Child Protection Commission (KPAI), the Task Force for the Prevention and Handling of Trafficking in Persons (TPPO), and the Witness and Victim Protection Agency (LPSK), this research provides an initial mapping of areas of overlapping authority that may serve as a basis for institutional evaluation. Meanwhile, for academics and legal researchers, this research is expected to enrich the discourse on the integration of legal effectiveness theory and legal harmonization theory, which have rarely been employed together in studies of child protection law in Indonesia, thereby creating opportunities for further and more.

II. RESEARCH METHODS

This research adopts a *doctrinal legal research* approach using normative legal research methods. The research examines and analyzes law as norms applicable within the legal sytem through statutory, conceptual, and relevant legal theoretical approaches.[7] This aproach is relevant to the objectives of the research, which are to analyze the compatibility of the provisions of the Child Protection Law and the Law on the Eradication of the Crime of Trafficking in Persons with the principles of child protection established under the *United Nations Convention on the Rights of the Child* (CRC), as well as to examine the harmonization of national legal regulations with the CRC in improving the handling and legal protection of children in cases of trafficking in persons in Indonesia.

The approaches employed in this research are the statutory approach and the conceptual approach. The data sources consist of secondary legal materials comprising: (1) primary legal materials, namely Law No. 35 of 2014 on Child Protection and Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons; (2) secondary legal materials, including legal journals, scholarly legal articles, theses, and books; and (3) tertiary legal materials, including legal dictionaries. Data were collected through a literature review by gathering, reading, examining, and analyzing various sources of literature and legal materials.[8] The collected data were analyzed using a qualitative descriptive analysis method by interpreting the applicable legal provisions and systematically presenting the findings to examine, evaluate, and draw conclusions regarding the urgency of harmonizing child protection regulations with the United Nations Convention on the Rights of the Child in addressing cases of child abduction and trafficking

[7] D. Tan, "Metode Penelitian Hukum: Mengupas dan Mengulas Metodologi dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–2478.

[8] H. S. Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289–304.

III. ANALYSIS AND DISCUSSION

a. Compatibility of National Regulations with CRC Principles in the Protection of Child Victims of Trafficking in Persons

The implementation gaps identified above underscore the urgency conceptualized in this research. The CRC establishes a child protection system based on four fundamental principles: non-discrimination, which guarantees that every child enjoys equal rights without distinction; the best interests of the child as a primary consideration in every policy and decision concerning children; the right to life, survival, and optimal development; and respect for the views and participation of children in decisions affecting their lives.[9] The constitutional foundation of this obligation is reinforced by Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which explicitly guarantees every child's right to life, growth and development, and protection from violence and discrimination. This constitutional guarantee is not merely a normative declaration but constitutes a state obligation that must be realized through comprehensive legal instruments consistent with international standards.[10] Within Indonesia's legal hierarchy, the CRC constitutes an international legal instrument that has been incorporated into the national legal system through ratification. Accordingly, all relevant national regulations should be consistently aligned with the principles of the CRC. This principle therefore serves as a benchmark for assessing whether national regulations, particularly Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on Child Protection (Child Protection Law) and Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons (Anti-Trafficking Law), are consistent with Indonesia's international commitment to protecting children from all forms of exploitation, abduction, and trafficking.

The Child Protection Law constitutes the principal national legal instrument governing child protection comprehensively and serves as the foundation for child protection policies in Indonesia. Article 59 of the Child Protection Law provides that the central government, regional governments, and other state institutions are obligated and responsible for providing special protection to children in emergency situations; children in conflict with the law; children from minority and isolated groups; children who are economically and/or sexually exploited; children who are victims of narcotics abuse; child victims of abduction, sale, and trafficking; child victims of physical and/or psychological violence; child victims of sexual crimes;

[9] A. Yuserlina dan E. Ibrahim, "Protection of Children's Rights and Women's Rights as Part of Human Rights in Indonesia Through Ratification of International Regulations," *JCH (Jurnal Cendekia Hukum* 7, no. 2 (2022).

[10] F. Said, M. Azham Ilham, dan Rizki Hadi Nugroho, "Analisis Hukum Terhadap Perlindungan dan Integrasi Hak Anak sebagai Hak Asasi Manusia dalam Sistem Hukum Indonesia," *Jurnal Tana Mana* 6, no. 2 (2025).

child victims of terrorist networks; children with disabilities; child victims of maltreatment and neglect; children with socially deviant behavior; and children who are victims of stigmatization or labeling related to the condition of their parents. This provision demonstrates the state's recognition of the various forms of vulnerability experienced by children and establishes an affirmative obligation on the part of the state to provide protection, rather than merely a passive obligation to refrain from violating children's rights.[11]

Substantively, this provision is consistent with Article 19 of the CRC, which requires States Parties to protect children from all forms of physical or mental violence, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, and with Article 35 of the CRC, which specifically requires States Parties to take appropriate measures to prevent the abduction, sale, or trafficking of children. However, the effectiveness of the special protection guaranteed by the Child Protection Law cannot be assessed in isolation from empirical realities demonstrating that child trafficking continues to occur and has reached concerning levels. Data from the Ministry of Women's Empowerment and Child Protection indicate that between 2020 and 2024, 1,265 children in Indonesia were identified as victims of trafficking in persons, reflecting persistent weaknesses in early prevention mechanisms Enggar Pareanom, Deputy Director of the Directorate of Crimes against Women and Children and Trafficking in Persons at the Criminal Investigation Department of the Indonesian National Police, has highlighted that current trafficking methods targeting children increasingly involve online gaming platforms, indicating that technological developments have created both vulnerabilities and new channels for trafficking network.[12] This reality indicates that the existing regulatory framework has not fully adapted to the evolving nature of the crime, as neither the Child Protection Law nor the Anti-Trafficking Law establishes specific digital monitoring mechanisms to protect children from recruitment through online platforms. This regulatory gap becomes increasingly apparent from a legal perspective. Although Article 27 paragraph (1) of the Electronic Information and Transactions Law (ITE Law) prohibits the distribution of content violating decency, including online child sexual exploitation, law enforcement continues to face substantial challenges because perpetrators may use false identities and exploit online platforms that are difficult to trace.[13]

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[11] Afrisyal Chandra Permana dan Asmak Ul Hosnah, "Perlindungan Anak Sebagai Subjek Hukum: Tinjauan Terhadap Tanggung Jawab Negara dalam Perspektif HAM," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 6 (2025): 9935–9946.

[12] Humas Biro Hukum, Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, informasi mengenai data dan perlindungan anak (2024).

[13] Hilman Nur et al., "Perlindungan Anak dari Eksploitasi di Dunia Digital: Kajian terhadap Kejahatan Online (Pasal 761 Jo. Pasal 88 UU No. 35 Tahun 2014 dan UU No. 11 Tahun 2008 tentang ITE)," *Journal Customary Law* 2, no. 3 (2025).

This condition demonstrates that the Child Protection Law, the Anti-Trafficking Law, and the ITE Law have not yet been fully integrated into a unified framework for digital child protection as required by Articles 34 and 35 of the CRC. The high number of child victims also indicates that the preventive principle under Article 35 of the CRC has not been translated into concrete early-detection programs reaching digital environments where children are increasingly vulnerable to exploitation. This condition demonstrates that child trafficking is not merely a matter of prosecuting perpetrators after a crime has occurred, but also concerns the state's capacity to establish an adaptive preventive protection system capable of responding to evolving methods of exploitation. Various institutions and states around the world continue to address the issue of international legal protection for children who become victims of trafficking in persons. Child trafficking constitutes a form of trafficking in persons that violates human rights and undermines the dignity and integrity of victims. To protect children from trafficking in persons, the international community has adopted various legal instruments.

In Indonesia, the Anti-Trafficking Law provides more technical and specific regulation concerning the handling of trafficking in persons, including cases involving child victims. Article 4 of the Anti-Trafficking Law provides for an enhanced sanction where the victim is a child, with the applicable penalty increased by one-third. This constitutes an explicit recognition of children's vulnerability and their heightened need for protection, consistent with Article 35 of the CRC, which places children among those requiring special protection from exploitation. The Anti-Trafficking Law does not focus solely on the punishment of perpetrators but also provides substantial attention to victim protection and recovery through Articles 43–55, which comprehensively regulate victims' rights. Article 48, in particular, provides that every child victim of trafficking in persons is entitled to all forms of protection and rights provided under the laws governing child protection and social welfare. This provision demonstrates an integrative approach that positions child protection as an interconnected system. Nevertheless, the Anti-Trafficking Law contains critical gaps, particularly the absence of a specific mechanism for the early identification of child victims before legal proceedings commence and the lack of clear procedural standards to ensure that child victims are not treated as perpetrators during investigation and prosecution. The absence of an early-identification procedure is inconsistent with the spirit of Article 39 of the CRC, which emphasizes that recovery and reintegration should commence as soon as possible after a child victim has been identified, rather than only after criminal proceedings have been completed.[14]

[14] R. Vita Sari dan R. Arum Prastyanti, "Perlindungan Hukum Internasional terhadap Anak sebagai Korban Tindak Pidana Perdagangan Orang," *Journal of Comprehensive Science* 3, no. 4 (2024).

The comprehensive legal framework established through complementary legislation under the Child Protection Law and the Anti-Trafficking Law has, at the normative level, incorporated the principles of the CRC, particularly the best interests of the child, protection from exploitation, and the right to recovery. The state's obligations to undertake prevention, protection, rehabilitation, reintegration, and repatriation measures for victims are consistent with Article 39 of the CRC, which requires States Parties to take all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims. The prohibition stipulated in Article 76F of the Child Protection Law and the enhanced sanctions provided under Article 4 of the Anti-Trafficking Law, which recognize children's particular vulnerability, are also consistent with the requirements of Articles 35 and 37 of the CRC concerning protection against exploitation and inhuman treatment. These provisions adopt a broad approach to establishing liability, extending beyond principal perpetrators to other persons involved in the chain of criminal conduct, including those who allow such conduct to occur.[15] Nevertheless, normative compatibility does not automatically translate into implementation compatibility, as a considerable gap remains between statutory provisions and law enforcement practices.

The disharmony between the Child Protection Law and the Anti-Trafficking Law can be identified in two areas, namely institutional arrangements and victim-protection mechanisms, both of which create uncertainty in the implementation of protection for child victims of trafficking in persons. The Child Protection Law mandates the establishment of the Indonesian Child Protection Commission (KPAI) as an independent institution responsible for monitoring the implementation of child protection, while the Anti-Trafficking Law establishes the Task Force for the Prevention and Handling of Trafficking in Persons, whose coordination function substantially overlaps with that of KPAI. This situation creates overlapping authorities that may reduce the efficiency of case handling because there is insufficient clarity regarding which institution bears primary responsibility. Restitution mechanisms also demonstrate a lack of synchronization. The Child Protection Law guarantees the right of child victims to obtain restitution but does not establish detailed procedures for its implementation, while the Anti-Trafficking Law provides more detailed restitution procedures but does not establish specific priority mechanisms for child victims. Consequently, the right of child victims to restitution remains difficult to realize in practice. Previous research indicates that the fulfillment of restitution rights for victims of trafficking in persons is regulated under Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons,

[15] Dhiyaul Habib Ifham et al., "Analisis Yuridis Perlindungan Hukum Anak Hasil Perkawinan Tidak Dicatatkan di Pemerintahan: Kajian Kritis dari Perspektif Undang-Undang No. 1 Tahun 1974 tentang Perkawinan," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 6 (2025).

the Indonesian Criminal Procedure Code (KUHAP) concerning compensation arising from criminal offenses, Law No. 31 of 2014 amending Law No. 13 of 2006 on the Protection of Witnesses and Victims, Supreme Court Regulation No. 1 of 2022 on Procedures for Resolving Applications for Restitution and Compensation for Victims of Criminal Offenses, and Government Regulation No. 43 of 2017 on the Implementation of Restitution for Children Who Are Victims of Criminal Offenses. Nevertheless, restitution for trafficking victims remains ineffective because the criminal justice system does not provide sufficient certainty regarding its fulfillment, and inconsistencies remain in court decisions concerning the restitution rights of trafficking victims in Indonesia.[16]

Lawrence M. Friedman's Legal Effectiveness Theory further explains that law cannot operate effectively even when its substantive provisions are sound if institutional structures are weak and the prevailing legal culture does not support implementation. In practice, law enforcement authorities continue to focus heavily on prosecuting perpetrators without adequately applying the principle of the best interests of the child, resulting in child victims experiencing secondary victimization during legal proceedings. This disharmony ultimately demonstrates that neither the Child Protection Law nor the Anti-Trafficking Law has fully realized all of the principles of the CRC, particularly because weaknesses in the legal structure and legal culture dimensions identified by Friedman prevent otherwise adequate legal substance from operating effectively in practice.

Based on the foregoing analysis, it can be established that, at the normative level, the Child Protection Law and the Anti-Trafficking Law have incorporated the principles of the CRC, particularly concerning the prohibition of exploitation, enhanced sanctions for perpetrators targeting children, and recognition of victims' rights to recovery. However, the two laws are not yet fully aligned with the principles of the CRC at the implementation level, despite their substantive incorporation of international protection standards. Structural reform and enhanced capacity-building for law enforcement authorities are therefore necessary to ensure that the protection of child victims of abduction and trafficking is effectively realized in accordance with constitutional obligations and Indonesia's commitment to the CRC. The most significant gaps lie not in the formulation of prohibitions themselves, but in the absence of early-identification mechanisms, the unclear distribution of authority among institutions, and insufficient understanding among law enforcement authorities of the principle of the best interests of the child, which constitutes the core of the CRC child protection system. Rachmadi Usman's Legal Harmonization Theory emphasizes that an effective legal system requires

[16] U. A. Bui, S. Efendi, dan O. S. Mandala, "Studi Komparatif Pelaksanaan Hak Restitusi bagi Korban Perdagangan Orang di Indonesia," *Jurnal Fundamental Justice* 5, no. 2 (2024)

consistency not only in substantive provisions but also in institutional structures and implementation mechanisms. The absence of structural harmonization between these two laws is inconsistent with this principle and impedes the achievement of child protection objectives. Accordingly, while the Child Protection Law and the Anti-Trafficking Law are substantively aligned with the principles of the CRC, they remain insufficiently aligned at the structural and implementation levels. This gap constitutes a critical issue that requires comprehensive legal harmonization, structural reform, and enhanced capacity among law enforcement authorities to ensure effective protection for child victims of abduction and trafficking in accordance with constitutional obligations and Indonesia's commitment to the CRC.

b. Harmonization of National Law with the CRC in Improving the Handling and Legal Protection of Child Victims of Trafficking in Persons in Indonesia

Harmonization between national law and the CRC is particularly important because inconsistencies and overlapping provisions remain among existing laws and regulations. For example, the Anti-Trafficking Law emphasizes the element of "exploitation" as a core component of the offense, whereas the Child Protection Law places greater emphasis on protecting children from all forms of violence without necessarily distinguishing whether the element of exploitation has been established. This situation may create difficulties for law enforcement authorities in determining the appropriate legal basis for handling cases of child abduction and trafficking. Consequently, perpetrators may not always be charged under the most appropriate provisions, while child victims may fail to receive the maximum compensation and protection guaranteed under the CRC.[17]

One of the critical points in the harmonization process concerns inconsistencies between applicable national law and the protection standards established by the CRC, extending from technical to operational aspects rather than being limited to substantive prohibitions. A systematic review of child protection regulations indicates that Indonesia continues to face regulatory disharmony concerning minimum working ages, protection against digital exploitation, the rights of stateless children, and children's privacy rights in online environments. These aspects have not yet been explicitly and comprehensively addressed in national legislation.[18] Although the Child Protection Law and the Anti-Trafficking Law have substantively incorporated principles consistent with the CRC, they do not yet provide adequate technical mechanisms to address trafficking crimes involving children that increasingly operate through digital platforms. This regulatory gap

[17] W. M. Mufrihah dan E. Jaelani, "Perlindungan Hukum Anak Korban International Child Abduction: Tinjauan terhadap Aspek Hukum dan Perlindungan Hak Anak," *Jembatan Hukum: Kajian Ilmu Hukum, Sosial dan Administrasi Negara* 1, no. 2 (2024).

[18] A. Manurung et al., "Kajian Sistematis terhadap Regulasi Perlindungan Anak dalam Kerangka Hukum Nasional dan Internasional," *Imperium Research: Law Science and Politics Journal* 1, no. 1 (2025).

cannot be regarded as a minor issue, given that Articles 34 and 35 of the CRC expressly require States Parties to take active measures to prevent the exploitation of children in all forms.[19] Regulations that fail to adapt to evolving forms of crime may result in an implementation gap between Indonesia's formal ratification of the CRC and the fulfillment of its international obligations. This gap between the commitment embodied in ratification and the absence of responsive technical regulations constitutes one of the critical challenges within Indonesia's current child protection system.

The issue of harmonization extends beyond substantive legal provisions to the institutional dimension, which has received comparatively limited attention. Indonesia's continued exposure to trafficking in persons, with women and children among the groups frequently identified as victims, highlights the need for an integrated protection system.[20] The existence of institutions such as KPAI, the TPPO Task Force, and Trauma Protection Centers has not necessarily resulted in an integrated and effective protection system. Overlapping institutional authorities may complicate coordination in practice, potentially leaving child victims navigating administrative procedures without receiving timely and appropriate protection. In this regard, legal harmonization requires not only alignment of regulatory texts but also institutional restructuring that clearly establishes responsibility and concrete mechanisms for interinstitutional coordination.[21]

Another crucial dimension concerns the right of child victims to recovery, which remains difficult to realize in practice despite its normative recognition. Law No. 21 of 2007 provides more specific protections for child victims of trafficking in persons than Law No. 35 of 2014 in certain respects, particularly because Article 51 of the Anti-Trafficking Law regulates rights relating to health rehabilitation, social rehabilitation, repatriation, and social reintegration. The Child Protection Law, on the other hand, relies substantially on restitution mechanisms that remain difficult to enforce effectively in practice.[22] Government Regulation No. 43 of 2017, which was intended as an implementing regulation for the Child Protection Law, has likewise not provided a substantially different solution because its restitution procedures remain similar to those established under the Anti-Trafficking Law.

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[19] Afrisyal Chandra Permana dan Asmak Ul Hosnah, "Perlindungan Anak Sebagai Subjek Hukum: Tinjauan Terhadap Tanggung Jawab Negara dalam Perspektif HAM," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 6 (2025).

[20] H. W. Hapsoro, "Perlindungan Hukum bagi Perempuan dan Anak sebagai Korban Perdagangan Manusia," *RISTEK: Jurnal Riset, Inovasi dan Teknologi Kabupaten Batang* 8, no. 1 (2023).

[21] L. P. R. Dewiyanti dan A. Grahani Firdausy, "Analisis terhadap Fungsionalisasi Komisi Perlindungan Anak Indonesia dalam Perlindungan Hak Konstitusional Anak," *Jurnal Hukum Kebijakan Publik* 4, no. 3 (2020).

[22] A. Jefri dan B. Harefa, "Pemenuhan Hak Anak Korban Tindak Pidana Perdagangan Orang," *Jurnal Suara Hukum* 3, no. 1 (2021).

Child victims of trafficking require recovery that extends beyond financial compensation. Such recovery should include psychological rehabilitation, educational guarantees, and dignified social reintegration. The principle embedded in the CRC is the *best interests of the child*, which requires all such mechanisms to be designed with the child's needs and interests as a primary consideration. As long as Indonesia's legal system continues to place the punishment of perpetrators as the primary objective while treating victim recovery as secondary, full harmonization with the CRC will remain difficult to achieve.

There are also significant implementation problems concerning the manner in which law enforcement authorities treat child victims during legal proceedings. Victims may be treated merely as witnesses or, in some circumstances, even as suspects, thereby exposing them to procedures that may further exacerbate their psychological distress and result in secondary victimization.[23] Lengthy legal proceedings without adequate psychological assistance, inadequate protection of child victims' identities, and the absence of trauma-informed interviewing procedures constitute concrete manifestations of the gap between national legal practice and international protection standards.[24] Without changes in the prevailing legal culture, efforts toward normative harmonization risk remaining merely formal and failing to produce meaningful protection in practice.

Harmonization cannot be achieved merely by amending a single statute. It must encompass the alignment of the Child Protection Law, the Anti-Trafficking Law, regulations concerning child labor, and regulations governing the digital sphere within a coherent child protection framework consistent with the principles of the CRC. Harmonization between national law and the CRC is not merely an international legal obligation but also a constitutional imperative derived from Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia.[25] Indonesia's commitment to compliance with the CRC must not remain limited to the ratification document but must also be reflected in policies, budgets, programs, and child protection practices. Accordingly, meaningful protection for child victims of trafficking can only be achieved when every element of the legal system, from legislators to frontline officers, understands and internalizes the principle that the best interests of the child must constitute a primary consideration. Indonesia possesses the normative foundations necessary to establish a credible child protection system; what remains necessary is sustained commitment and

[23] S. Nurfauziah dan E. H. Setyorini, "Perlindungan Hukum terhadap Korban Tindak Pidana Perdagangan Orang," *Juris Studia: Jurnal Kajian Hukum* 5, no. 3 (2025).

[24] M. R. Ghoni et al., "Perlindungan Hukum terhadap Anak yang Berhadapan dengan Hukum melalui Implementasi Diversi di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (2020).

[25] K. Rizki, L. P. Karjaya, dan M. Sood, "Implementasi Convention on the Rights of the Child (CRC): Studi Kasus Child Trafficking di Riau Tahun 2020," *Prosiding SAINTEK LPPM Universitas Mataram* 2, no. 2 (2021).

accountability mechanisms capable of ensuring that such commitments do not remain merely declaratory.[26]

The issue of harmonization may be understood as reflecting a situation in which two legal instruments that should operate synergistically instead overlap and fail to provide optimal protection for child victims of trafficking in persons. Research indicates that the Anti-Trafficking Law may provide more specific protection for child victims of trafficking than the Child Protection Law, which is intended to provide broader protection across various aspects of children's rights but relies on restitution mechanisms that remain difficult to enforce in practice.[27] laws should also function as preventive mechanisms against trafficking in persons involving children. However, their application may remain predominantly reactive because intervention frequently occurs after the crime has already taken place, while failing to fully address children's preventive protection needs. The developmental harm resulting from exploitation cannot be completely remedied through criminal sanctions alone.[28] Addressing child trafficking from an international legal perspective requires Indonesia not only to strengthen its domestic legal framework but also to reinforce its role and contribution within the international legal regime.

Harmonization of national law with the CRC must be understood in terms of both the substantive requirements of the relevant legal instruments and the state's obligation to ensure that those regulations provide meaningful protection against crimes that increasingly operate across national borders. The international legal framework established by the CRC, which Indonesia has ratified, provides a strong foundation for developing a comprehensive child protection system, particularly when accompanied by effective implementation. International cooperation and effective law enforcement constitute two important pillars in combating trafficking in persons, as this crime cannot be effectively addressed by a single state without structured mechanisms of international cooperation.[29] The CRC provides a universal foundation that has served as an important reference for developing responsive child protection systems.

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[26] R. Gusmarani dan M. H. P. Ginting, Model Harmonisasi Untuk Pencegahan Perdagangan Anak (2025).

[27] A. Hamida dan J. Setiyono, "Analisis Kritis Perlindungan terhadap Anak Korban Kekerasan dalam Rumah Tangga: Kajian Perbandingan Hukum," *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022).

[28] M. F. Said, M. Azham Ilham, dan Rizki Hadi Nugroho, "Analisis Hukum Terhadap Perlindungan dan Integrasi Hak Anak sebagai Hak Asasi Manusia dalam Sistem Hukum Indonesia," *Jurnal Tana Mana* 6, no. 2 (2025)

[29] D. W. Surya dan T. K. Bayu, "Peran Hukum Internasional dalam Memerangi Perdagangan Manusia: Tinjauan Studi Literatur," *ALADALAH: Jurnal Politik, Sosial, Hukum dan Humaniora* 2, no. 2 (2024).

From the perspective of international criminal law, children involved in trafficking networks, whether as victims or as persons compelled to participate in criminal activities, must consistently be treated in accordance with the best interests of the child. International legal standards recognize the principle of non-punishment for children who are compelled to participate in criminal activities as a result of coercion or exploitation, while promoting restorative approaches focused on recovery, education, and social reintegration.[30] In Indonesia, although Law No. 11 of 2012 on the Juvenile Criminal Justice System incorporates diversion and restorative approaches, their application in cases related to trafficking in persons remains limited because law enforcement authorities may regard such cases as serious offenses that are unsuitable for diversion. The gap between available normative instruments and law enforcement practices therefore represents a form of failed harmonization that is not merely regulatory but also cultural.

The restorative justice approach constitutes one concrete manifestation of incorporating CRC principles into the national legal system and requires further strengthening. In the context of trafficking in persons involving children, this approach is relevant not only to children in conflict with the law but also to child victims who require reintegration into society. Law No. 11 of 2012 on the Juvenile Criminal Justice System provides a normative foundation for diversion and restorative approaches; however, their application in trafficking cases remains limited. Genuine harmonization requires expanding restorative mechanisms so that they explicitly encompass the treatment of child victims of trafficking, thereby making recovery a central component of the entire process rather than merely an additional measure after criminal proceedings have concluded.[31]

A law enforcement paradigm that remains predominantly retributive is inconsistent with the spirit of the CRC, which recognizes children, regardless of their circumstances, as rights-holders entitled to special protection rather than merely as objects of judicial proceedings. This transformation requires interventions through specialized training for law enforcement personnel, the development of child-sensitive standard operating procedures, and independent oversight of the treatment of children within the justice system. Every child who becomes a victim while gaps remain within the legal system represents a concrete consequence of delayed harmonization. Articles 35 and 39 of the CRC establish clear state obligations concerning protection against exploitation and the recovery of child victims. This situation requires Indonesia to move beyond normative achievements

[30] D. N. Perdana et al., "Perlindungan Hukum terhadap Anak pada Tindak Pidana Perdagangan Orang: Perspektif Hukum Pidana Internasional," *Judge: Jurnal Hukum* 6, no. 4 (2025)

[31] Doni Christian Hosnah, A. U. Nainggolan, dan Y. Febrianty, "Penerapan Prinsip Keadilan Restorative Justice dalam Memberikan Kompensasi kepada Korban Kejahatan Anak," *Jurnal Multilingual* 4, no. 3 (2024).

and ensure that existing child protection provisions are implemented effectively and fairly for children who require protection.

Despite the continuing implementation challenges, the normative achievements resulting from the harmonization of national law with the CRC should also be recognized. The Child Protection Law incorporates the CRC principle of non-discrimination through Article 2, which provides that child protection must be implemented without distinction based on ethnicity, religion, race, social group, sex, ethnicity, culture, or language. The principle of the best interests of the child is reflected in Article 3, which establishes the best interests of the child as a primary consideration in every action concerning children.[32] The Anti-Trafficking Law further reinforces this protection through Article 17, which provides special protection for child witnesses and victims throughout the judicial process, consistent with Article 40 of the CRC, which requires children involved in the justice system to be treated in a manner consistent with their dignity and rights.

The establishment of Women and Children Service Units within police structures also represents an institutional effort to provide case handling that is sensitive to the specific needs of child victims, consistent with the CRC's emphasis on recovery within a supportive environment. Based on the foregoing analysis, it can be concluded that although national legislation has incorporated the foundations and principles of the CRC, significant gaps remain in implementation. Legal reform, the effective implementation of ratified international standards, and procedural improvements for law enforcement authorities involved in cases concerning child victims of trafficking cannot be indefinitely postponed. The existing regulatory framework continues to contain structural, institutional, and cultural weaknesses that systematically impede the realization of effective and dignified child protection. The necessary legal reform should be integrative and encompass the alignment of substantive provisions across legislation, strengthening of institutional coordination mechanisms, development of regulations responsive to digitally facilitated forms of crime, and transformation of the legal culture of law enforcement authorities toward a paradigm that places the best interests of the child at the center of decision-making. Indonesia possesses the normative capacity to establish a credible system for protecting children; what is now required is sustained commitment and institutional capacity to ensure that the protection of child victims of trafficking in persons remains a primary priority.

[32] A. Muchlis, "Penegakan Prinsip Kepentingan Terbaik Anak pada Penerapan Diversi dalam Sistem Peradilan Pidana Anak," *Jurnal Hukum Progresif* 12, no. 1 (2024)

IV. CONCLUSION

This research asserts that Indonesia faces a serious legal paradox. Normatively, Law Number 35 of 2014 concerning Child Protection and Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking have adopted the core principles of the Convention on the Rights of the Child (CRC)—ranging from special protections for child victims of exploitation and harsher penalties for perpetrators who target children, to the recognition of a victim's right to recovery. However, this normative alignment does not automatically guarantee effective protection in practice. The most significant gaps lie not in the formulation of prohibitions, but rather in the absence of mechanisms for the early identification of victims; overlapping mandates between the Indonesian Child Protection Commission (KPAI) and the Task Force on the Eradication of Human Trafficking; inadequate digital-based protection in the face of criminal modes that now operate via online platforms; and a lack of understanding among law enforcement officials regarding the principle of the "best interests of the child." The fact that 1,265 children were recorded as victims of human trafficking between 2020 and 2024 serves as concrete evidence of a systemic failure that can no longer be tolerated.

Therefore, harmonizing national law with the CRC is not merely a matter of fulfilling international legal obligations, but a constitutional necessity rooted in the mandate of Article 28B, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This harmonization must be comprehensive and integrative, encompassing the alignment of substance across various laws, institutional restructuring to ensure clear authority and coordination, the development of regulations that are adaptive to digital-era crimes, and a transformation in the legal culture of law enforcement officials—shifting toward a restorative paradigm that prioritizes the recovery of the child rather than focusing solely on the punishment of the perpetrator. As long as the Indonesian legal system remains retributive in orientation and continues to treat child victims as mere objects within the judicial process, true harmonization with the CRC will remain unattainable. Indonesia actually possesses all the normative prerequisites to become a nation that is serious about protecting children; what is now urgently needed is consistent political will and tangible accountability mechanisms, ensuring that the commitment to child protection does not remain merely a declaration, but is genuinely experienced by every child who needs it.

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