



## **Indonesia's Interpretation of the Convention on the Rights of Child**

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### **Abstract**

*There are lots of children violence such as victims of sexual violence, victims of physical violence, and psychological disorders. Besides it can damage the growth and development of children both physically and psychologically, and the loss of their rights can lead them to acts that are against the law. In Indonesia, violations of children's rights occurred in all regions creating very alarming situations and conditions. That is why Indonesia ratified the Convention on the Rights of Child on August 25, 1990. This research used qualitative research methods with a descriptive approach. The data analysis method used by the researcher is a documentation study method where the data used are primary and secondary data. The researchers would like to analyze the legal and political interpretation of Indonesia to the Convention on the Rights of Child. The result of this research showed that Indonesia interprets the international agreement as a law that needs to be obeyed in the form of 'Presidential Decree Number 36 of 1990' which is felt to be effective in Indonesia rather than the form of enactment. It is evidenced by the existence of various state policies and programs in fulfilling the obligations contained in this convention.*

**Keywords: Indonesia, Convention of the Rights of Child, Child Violence**

### **1. Introduction**

Violence, abuse, and even bad things done to children are the proper treatment even adults and parents should not think to do it. Because these treatments can damage the growth and development of children both physically and psychologically. Not only that, children have rights like adults that must be given so that justice in life that takes place in society can run well. Nevertheless, education that is not sufficient for the provision of children also worsens the condition of children, especially those who do not have the opportunity to pursue education. Physical and psychological damage to children and the loss of the rights they have can lead to acts that are against the law, such as stealing, fighting, and even taking drugs. They do it so they could get their rights and be released from the shackles of injustice for children.

Violations of children's rights that occurred in all regions of Indonesia created very alarming situations and conditions. There are 10 out of 34 provinces in Indonesia that



are recorded with the highest complaints of violations of children's rights, one of which is West Java which has 929 cases. From the reported data, it was recorded that the highest types of cases of children were victims of sexual violence, victims of physical violence, and psychological disorders.<sup>1</sup> Furthermore, based on data from the Ministry of Women's Empowerment and Child Protection, there are more than 20,000 children who are victims of domestic violence in 2021.<sup>2</sup>

There are various problems with these children due to the lack of fulfillment of rights and protection of children, which made the countries in the world feel that there is a need for binding policies that contain the promotion and protection of children's rights in the political, economic, social and cultural fields. Then, it gave born to an international agreement in the form of an international convention with the name "Convention on the Rights of Child". This convention, which has been ratified by more than 100 countries in the world, is a convention that regulates the level of standardization of behavior towards children, from treatment, care, and to child protection. This convention consists of 54 articles that contain children's rights that must be obeyed by countries that ratify them. Indonesia itself ratified its Convention on the Rights of Child on August 25, 1990, through Presidential Decree Number 36 of 1990 and applied it on October 5, 1990.<sup>3</sup>

## 2. Literature Review

Researcher used the journal by Silvia F. Nurushshobah entitled "*KONVENSI HAK ANAK DAN IMPLEMENTASINYA DI INDONESIA*" as a form of one of the literature reviews in writing. In her journal, Nurushshobah provides an overview of the phenomenon of child problems which is the urgency for making this convention. Furthermore, Nurushshobah identified the principles inherent in this convention, namely non-discrimination, the best interests of the child, the right to life, and children's participation. Apart from that, Nurushshobah also explained the programs along with statistical data related to what efforts have been made by Indonesia in implementing the

<sup>1</sup> "VIVA", Sepanjang 2022 KPAI Catat Ada 4683 Kasus Pelanggaran Hak Anak, Jawa Barat Tertinggi, accessed on 04/04/23, <https://www.viva.co.id/berita/nasional/1567346-sepanjang-2022-kpai-catat-ada-4683-kasus-pelanggaran-hak-anak-jawa-barat-tertinggi?page=all>.

<sup>2</sup> "SIGA KEMENPPPA", Jumlah Kekerasan Terhadap Anak Menurut Jenis Kekerasan yang Dialami, accessed on 04/04/23, <https://siga.kemenpppa.go.id/dataset?ids=&entity=bmF0aW9uYWw=>.

<sup>3</sup> Nurushshobah, Silvia F., "KONVENSI HAK ANAK DAN IMPLEMENTASINYA DI INDONESIA", *Jurnal Ilmiah Kebijakan dan Pelayanan Pekerjaan Sosial*, Vol. 1, Iss. 2, (2019): 122.



convention. The difference between the research focus of researchers and Nursshobah's journals is that researchers analyze the Convention on the Rights of Child from the legal and political perspective of the countries that ratified the convention, specifically Indonesia.

### **3. Research methods**

In this research, the researcher used qualitative research methods with a descriptive approach. The data analysis method used by the researcher is a documentation study method where the data used are primary and secondary data. Primary data itself can be interpreted as data obtained directly through primary sources such as interviews or experiments. However, in this research, the primary source referred to by the researcher is in the form of documents directly from the Presidential Decree of the Republic of Indonesia and the United Nations Human Rights. Secondary data is data obtained indirectly from the main source. The forms of secondary data sources that the researcher uses in this research are books, journals, and articles. To obtain the data, an in-depth search on the internet is carried out. Researchers tried to understand Indonesia's interpretation, especially from a legal and political point of view of one of the international agreements namely the Convention on the Rights of Child.

#### **3.1 Theory**

In this study, the theory of international relations used by researchers is the rational choice theory. Duncan Snidal says in his book entitled "*Rational Choices and International Relations*" that individuals make decisions based on facts, information, and analysis which ultimately results in a decision. This theory focuses on individuals in making decisions. In rational choice, individuals as actors then have a perception of the choices that exist and in the end, they will make a choice that will later be used as a decision.<sup>4</sup> Or briefly, this theory states that countries act rationally in achieving their goals. Furthermore, the research focus of researchers is on Indonesia's decision to ratify the Convention on the Rights of Child in terms of legal and political interpretation. Marijke Breuning classifies models of decision-making, one of which is a policy

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<sup>4</sup> Snidal, Duncan, "Rational Choices and International Relations", in *Handbook of International Relations*, (London, California, New Delhi: SAGE Publication, 2002), 87.



determined by national interests.<sup>5</sup> Indonesia's rational choice here is based on national interests and Indonesia bases it on Pancasila, especially in the 5th precept and the Preamble to the 4th paragraph of the 1945 Constitution of the Republic of Indonesia which discusses social justice and welfare for all Indonesian citizens including children.

### **3.2 Concept**

#### **a. Legal Interpretation of International Agreements**

Interpretation of international agreements based on international law is a law that needs to be obeyed. The international agreement itself bases its law on the Statute of the International Court of Justice and the 1969 and 1986 Vienna Conventions. As a form of agreement between countries, international agreements have binding legal force and must be obeyed by the parties that sign and ratify them. The Convention on the Rights of Child itself is an international agreement whose binding nature 'law-making treaty' or '*treaties laws à*' where the power of law covers the entire international community and not only the parties that ratify it.<sup>6</sup> In general, these international agreements also have rules that apply universally and generally. So the states have an obligation to comply with international agreements they have signed and ratified.

#### **b. Political Interpretation of International Agreements**

Political interpretation is a process of how an international treaty law is transformed into national law by considering the needs of all citizens and the state. Also understanding and interpreting the contents of the agreement and the purpose of the agreement. Furthermore, there are considerations of laws, regulations, and the implications of these legal decisions for individuals, groups, or society as a whole in a state by state institutions, namely the executive, legislative, and judiciary. The executive may do any negotiations and is free to approve or sign any international agreement. However, often in a democratic state like Indonesia, the ratification of international agreements into national law requires legislative approval. This is because the legislature has a prerogative right that can accept or reject the adoption of international

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<sup>5</sup> Breuning, Marijke, "*Foreign Policy Analysis: A Comparative Introduction*", (New York: PALGRAVE MACMILLAN, 2007), 87.

<sup>6</sup> Kristiyanti, "*THE 1951 REFUGEE CONVENTION – STUDI TENTANG KETERIKATAN NEGARA PADA PERJANJIAN INTERNASIONAL YANG MEMILIKI KARAKTERISTIK LAW MAKING TREATY*", *JURNAL ILMU HUKUM ALETHEA*, Vol. 01, Iss. 02, (2018), 146-147.



agreements into national law.<sup>7</sup> Meanwhile, the judiciary is more directed at the application of international law in national courts.

#### 4. Results and Discussion

##### 4.1 Indonesia's Legal Interpretation of the Convention on the Rights of Child

Indonesia interprets the Convention on the Rights of Child as a law that needs to be obeyed, which the researcher means is when President Soeharto's decision to ratify it by "Presidential Decree" means the law needs to be obeyed in Indonesia.<sup>8</sup> Some of the steps that Indonesia has taken to fulfill its obligations as a form of obedience to this international agreement include issuing various legal regulations, government regulations, strengthening institutions that focus on the protection of children's rights, such as Law Number 35 of 2014 on Amendments to Law Number 23 of 2002 on Child Protection and Law Number 11 of 2009 on Social Welfare.<sup>9</sup> In addition, the Indonesian government has also established the National Commission for Child Protection to ensure the protection and fulfillment of children's rights in Indonesia.<sup>10</sup>

Indonesia makes the Conventions on the Rights of Child as a reference in the formation of the child protection index which is classified into 2 parts, namely the fulfillment of children's rights and special protection of children. Indonesia sets a national development target called the "*Medium-Term Development Plan*" for 2020-2024 in which 3 of the 5 targets focus on efforts to fulfill and specifically protect children, namely:

1. Reducing violence against children
2. Reduction of child labor
3. Prevention of child marriage<sup>11</sup>

##### 4.2 Indonesian Political Interpretation of the Convention on the Rights of Child

Based on the Law Number 24 of 2000 concerning International Agreements, Article 10 states that ratification of international agreements is carried out by enactment

<sup>7</sup> Cope, Kelvin L., "Treaty Law and National Legislative Politics", in *Research Handbook on the Politics of International Law*, (Cheltenham & Northampton: Edward Elgar Publishing, 2017), 122.

<sup>8</sup> Presidential Decree Number 36 of 1990.

<sup>9</sup> Nursshobah, **Op. Cit.**, 124.

<sup>10</sup> KPAI, "Sejarah", accessed on 04/04/23, <https://www.kpai.go.id/profil>.

<sup>11</sup> Ministry of Women's Empowerment and Child Protection, "*Indeks Perlindungan Anak Indonesia 2020*", 108.



if it is under human rights, while whose material does not include the material referred to in Article 10, is carried out by Presidential Decree. Indonesia is one of the countries that have ratified its Convention on the Rights of Child through ‘*Presidential Decree Number 36 of 1990*’ even though the material contained in this international agreement contains material on human rights for children. However, the President of Indonesia chose to ratify this international agreement through a ‘*Presidential Decree*’ after going through previous considerations. Based on the provisions in Law Number 12 of 2011, then ‘*Presidential Decree Number 36 of 1990*’, can be interpreted as a presidential regulation whose material concerns the administration of government power and occupies the 5th position in the hierarchy of laws and regulations, namely under government regulations.<sup>12</sup> In addition, the ratification of the convention also considers the prospects for child welfare, namely the development of children's potential so that they can participate optimally in the country's development and the provision of opportunities to develop their rights.

Several programs to fulfill children's rights in Indonesia are:

1. Based on Article 7 Section 1 of the Convention on the Rights of Child that said “*The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and...*”. Indonesia proves it by holding a Coordination Forum for the Acceleration of Birth Certificate Ownership by the Ministry of Women's Empowerment and Child Protection as a forum for interaction regarding innovation and ease of access to having a birth certificate as a child's identity. As what has already been known, Birth Certificate is an important thing for a child in Indonesia because it is used for education necessities, finding a job, passport requirements, and other access in the state. Besides that, when Indonesia does the calculation of its population (census of the population), by the more accurate data of the rate of growth in it, Indonesia could decide on better policies or strategies to increase the well-being of its citizens.

2. Based on Article 13 Section 3 that said “*The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and*

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<sup>12</sup> Prameswari, Zandy W. A. W., “RATIFIKASI KONVENSI TENTANG HAK-HAK ANAK DALAM SISTEM PERATURAN PERUNDANG-UNDANGAN DI INDONESIA”, *Yuridika*, Vol. 32, Iss. 01, (2017), 185.



*ideas of all kinds...*” and Article 14 Section 1 that said “ *States Parties shall respect the right of the child to freedom of thought, conscience, and religion.*” Indonesia proves it by establishing the Children's Forum Communities in several areas which contain representatives from children's groups to accommodate children's aspirations and needs as a form of respect for children's views.

While several child protection programs from Indonesia based on Article 19 Section 1 said “*States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse...*” are:

1. Improving the reporting system and complaint service for violence against children
2. Reform the management of cases of violence against children to be faster, more integrated, and more comprehensive.<sup>13</sup>

## 5. Conclusion

As a form of positive support for Human Rights in the form of protection of children's rights in the world, Indonesia participated in it by ratifying the Convention on the Rights of Child. Legally and politically, Indonesia interprets the international agreement as a law that needs to be obeyed in the form of ‘*Presidential Decree Number 36 of 1990*’ which is felt to be effective in Indonesia rather than the form of enactment. It is evidenced by the existence of various state policies and programs in fulfilling the obligations contained in this convention. Indonesia proves it by:

1. Holding a Coordination Forum for the Acceleration of Birth Certificate Ownership by the Ministry of Women's Empowerment and Child Protection as a forum for interaction regarding innovation and ease of access to having a birth certificate as a child's identity, fulfilling the obligation of Article 7 Section 1 of the Convention on the Rights of Child
2. Establishing the Children's Forum Communities in several areas which contain representatives from children's groups to accommodate children's aspirations and needs as a form of respect for children's views, fulfilling the obligation of Article 13 Section 3 and Article 14 Section 1 of the Convention on the Rights of Child

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<sup>13</sup> Ministry of Women's Empowerment and Child Protection, **Op. Cit.**, 9, 108-131.



3. Improving the reporting system and complaint service for violence against children and Reforming the management of cases of violence against children, fulfilling the obligation of Article 19 Section 1 of the Convention on the Rights of Child

### **References**

Breuning, Marijke. 2007. *Foreign Policy Analysis: A Comparative Introduction*. New York: PALGRAVE MACMILLAN.

Cope, Kelvin L. 2017. "Treaty Law and National Legislative Politics." In *Research Handbook on the Politics of International Law*, 122. Cheltenham & Northampton: Edward Elgar Publishing.

"Home." n.d. YouTube. Accessed April 4, 2023.

<https://siga.kemenpppa.go.id/dataset?ids=&entity=bmF0aW9uYWw=>.

KEPUTUSAN PRESIDEN REPUBLIK INDONESIA NOMOR 36 TAHUN 1990.  
1990. *PENGESAHAN CONVENTION ON THE RIGHTS OF THE CHILD*  
(*KONVENSI TENTANG HAK-HAK ANAK*).

Kristiyanti. 2018. "THE 1951 REFUGEE CONVENTION – STUDI TENTANG KETERIKATAN NEGARA PADA PERJANJIAN INTERNASIONAL YANG MEMILIKI KARAKTERISTIK LAW MAKING TREATY." *JURNAL ILMU HUKUM ALETHEA* 01 (02): 146-147.

Ministry of Women's Empowerment and Child Protection. 2020. *Indeks Perlindungan Anak Indonesia 2020*.





- Nurusshobah, Silvia F. 2019. “KONVENSI HAK ANAK DAN IMPLEMENTASINYA DI INDONESIA.” *Jurnal Ilmiah Kebijakan dan Pelayanan Pekerjaan Sosial* 1 (2): 122-124.
- OHCHR. 1989. *Convention on the Rights of the Child*.
- Prameswari, Zendy W. 2017. “RATIFIKASI KONVENSI TENTANG HAK-HAK ANAK DALAM SISTEM PERATURAN PERUNDANG-UNDANGAN DI INDONESIA.” *Yuridika* 32 (01): 185.
- “Sejarah.” n.d. Komisi Perlindungan Anak Indonesia (KPAI). Accessed April 9, 2023. <https://www.kpai.go.id/profil>.
- “Sepanjang 2022 KPAI Catat Ada 4683 Kasus Pelanggaran Hak Anak, Jawa Barat Tertinggi.” 2023. Viva. <https://www.viva.co.id/berita/nasional/1567346-sepanjang-2022-kpai-catat-ada-4683-kasus-pelanggaran-hak-anak-jawa-barat-tertinggi?page=all>.
- Snidal, Duncan. 2002. “Rational Choices and International Relations.” In *Handbook of International Relations*,, 87. London, California, New Delhi: SAGE Publication.