



Legal Protection of Children Facing the Law for Their Published Identities

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Abstract

Introduction: The news that contains the identity of children involved in legal cases, whether as perpetrators, victims or witnesses, is a crucial issue because it can interfere with their physical, emotional and social development. Indonesian law has established various regulations that strictly prohibit the disclosure of children's identities in order to protect their rights. This research focuses on analyzing legal policies governing the protection of children in mass media coverage, particularly in the context of disclosing their identities.

Purposes of the Research: In addition, the study also evaluated potential legal consequences, including criminal sanctions and possible violations of the journalistic code of ethics.

Methods of the Research: Using a descriptive normative juridical method, this research explores the applicable legal provisions, the pattern of media coverage, and the impact caused by violations of these rules.

Findings of the Research: The findings of the study show that although there are clear rules regarding the protection of children's identities, their implementation is still hampered by several problems, such as the lack of understanding of journalists of relevant laws and indecisiveness in sanctioning violations. This study also identifies a number of laws that regulate criminal liability against mass media, including "Law Number 40 of 1999 concerning the Press, Law Number 11 of 2012 concerning the Anak Criminal Justice System, Law Number 35 of 2014 concerning Child Protection, and the Criminal Code".

Keywords: Legal Protection; Child Identity Publication; Liability and Code of Ethics.

Submitted: 2025-02-06

Revised: 2025-02-27

Accepted: 2025-02-28

Published: 2025-02-28

How To Cite: Wanda Frisilia Kalsela, Muhammad Nurcholis Alhadi, and Bayu Prasetyo. "Legal Protection of Children Facing the Law for Their Published Identities." *TATOHI: Jurnal Ilmu Hukum* 4 no. 12 (2025): 952-960. <https://doi.org/10.47268/tatohi.v4i12.2857>

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INTRODUCTION

Issues related to the disclosure of children's identities in legal cases have now become part of the trend in the media world. Basically, the disclosure of the identity of children involved in legal affairs refers to the dissemination of information about children involved in legal proceedings, both as perpetrators and victims of criminal acts, which is published through reports compiled by journalists¹. The Law on the Juvenile Criminal Justice System compiles categories for children involved in legal matters. Children between the ages of 12 and 18 who are suspected of violating the law are classified as minor offenders. Children who are victims of criminal acts, both physically, mentally, and economically, are referred to as child victims. In addition, children who testify about criminal incidents are classified as child witnesses². The publication of the identity of children involved in legal cases is still often seen in news coverage in the national media. Some news platforms even openly show

¹ Miftakhur Rokhman Habibi and Isnatul Liviani, "Kejahatan Teknologi Informasi (Cyber Crime) Dan Penanggulangannya Dalam Sistem Hukum Indonesia, *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 23, no. 2 (2020): 400-426."

² Sintha Utami F, "Perlindungan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Yang Identitasnya Di Publikasi". (Bandar Lampung: UNLAM 2018), h. 2.

off the children's faces, as well as mention the initials, school names, and addresses of those involved in the legal process. However, it is undeniable that the media has become the main channel for people's daily information needs, so the mass media plays a vital role in disseminating information to the public³, in a democratic state order, press freedom is one of the fundamental rights guaranteed by the Press Law as a means to access and disseminate information. However, in its implementation, this freedom is often misinterpreted as absolute freedom, thus ignoring various regulations that prohibit the dissemination of children's identities and protect children who are in conflict with the law. Regulations such as the Child Criminal Justice System Law, the Child Protection Law, the Journalistic Code of Ethics, the Guidelines for Child-Friendly News, and other regulations should be the main reference in journalistic practice. Therefore, it is important to question whether journalists who reveal the identity of children in news have carefully considered the impact caused and whether such actions are ethically and legally justified.

The spread of the identity of children involved in legal issues can have a significant impact, including psychological disorders due to trauma, negative views from the public, and difficulties in getting a job in the future because of a digital track record that is difficult to erase. Therefore, maintaining the confidentiality of children's identities is crucial. Efforts to protect children are not only the responsibility of the family, but also the state's obligation in carrying out its functions to ensure that children's rights are protected⁴. The Indonesian Constitution, namely the 1945 Constitution, emphasizes that every child has the right to protection and guarantees for his or her rights. This principle is in line with the Convention on the Rights of the Child (UN-CRC) adopted by the United Nations and ratified by Indonesia. The implementation of this commitment is manifested in national regulations, one of which is through Law Number 35 of 2014 concerning Child Protection.

Several news portals that publish the identity of children are of concern, such as First, BBC News Indonesia which reported on a child victim of rape and murder⁵, in this news portal, the name and address of the child victim are clearly mentioned. Second, detikSouth Sulawesi which reported a case of rape by two drunk men,⁶ One of which is a child perpetrator whose identity is published in the form of initials and photos of the child without censorship. Then the last is the news from the news portal Hot.grid which reports on a child who is a perpetrator of fake news,⁷ In the portal, his name, age and address are published without being disguised. Based on the existing background, where the practice of publishing children's identities is still often carried out in national journalistic activities. The Indonesian Constitution, namely the 1945 Constitution, outlines that every child has rights that must be protected and guaranteed to be fulfilled. This provision is in line with the Convention on the Rights of the Child (UN-CRC), an international treaty adopted by the

³ Habibi and Liviani, "Kejahatan Teknologi Informasi (Cyber Crime) Dan Penanggulangannya Dalam Sistem Hukum Indonesia."

⁴ Patricia Rinwigati Nur Hasanah, "Pengungkapan Identitas Anak Yang Berhadapan Dengan Hukum Oleh Pers: Evaluasi Terhadap Dewan Pers Indonesia," *UNES LAW REVIEW* 75, no. 4 (2023): 4235-4335.

⁵ BBC News Indonesia, 29 September 2016: "Terdakwa Pemerkosa dan Pembunuh Yuyun dijatuhi hukuman mati, dalam https://www.bbc.com/indonesia/berita_indonesia/2016/09/160929_indonesia_yuyun_vonis_terdakwa diunduh 20 Oktober 2024"

⁶ detikSulsel, Rabu, 25 Januari 2023, 16:10 WIB: "Tampang 2 Pria Mabuk Pemerkosaan Siswi SMA di Mamuju saat Ditinggal Ortu, dalam <https://www.detik.com/sulsel/hukum-dan-kriminal/d-6533837/tampang-2-pria-mabuk-pemerkosa-siswi-sma-di-mamuju-saat-ditinggal-ortu> diunduh 20 Oktober 2024"

⁷ Gridhot.id, Rabu, 12 Mei 2021, 05:42 WIB: "Kebohongan Justice for Audrey Terungkap, Begini Kabar siswi SMP yang ngaku Jadi Korban Pengeroyokan 12 Murid SMA, dulu sempat Depresi dan Trauma, dalam <https://hot.grid.id/read/182692098/kebohongan-justice-for-audrey-terungkap-begini-kabar-siswi-smp-yang-ngaku-jadi-korban-pengeroyokan-12-murid-sma-dulu-sempat-depresi-dan-trauma?page=all> diunduh 20 Oktober 2024"

United Nations (UN) and ratified by Indonesia. As a form of implementation of this commitment, Indonesia integrates the principles of child protection into national regulations, one of which is through Law Number 35 of 2014 concerning Child Protection.

METHODS OF THE RESEARCH

This study applies normative legal methods with a descriptive approach, which focuses on the evaluation of existing regulations and various related legal sources. The analysis in this study is based on information obtained through literature review. Most of this research is bibliographic, because it relies on secondary data that can be found in the library. The approach in this study uses a statute approach to assess whether there is a harmony and relationship between various laws that regulate the publication of children's identities, as well as a case approach to prepare arguments or analyses on how legal norms work in national journalistic practice, especially in terms of protecting the rights and identities published in the news and legal accountability by actors.

RESULTS AND DISCUSSION

A. Implementation of Legal Policies that Regulate the Protection of News Publishing the Identity of Children Who Face the Law

The disclosure of the identity of children involved in legal proceedings indirectly threatens their freedom, because it violates the right to privacy that should be protected. Under Article 37 letter d of the Convention on the Rights of the Child, the state is obliged to ensure that such protection is guaranteed "Every child whose liberty is deprived shall have the right to receive huum and other appropriate support without delay, and shall have the right to challenge the legality of the deprivation of his liberty before an independent and impartial court or competent authority, with the right to receive a prompt decision on such action." Therefore, children as potential successors of the nation must avoid the negative impact of circulating information, so that they can develop optimally, grow up in an environment that is conducive to their progress, and experience a balance in physical and psychological development. However, in reality, news in Indonesia often makes children the target of exploitation or victimization, by revealing their identity in the mass media, either with a specific purpose or without realizing it. The language used in news about children sometimes still seems vulgar, such as still mentioning or bringing up the identity of the child so that it can still be recognized. Broadcast media often only camouflage the child's face using a mask or with a blur technique, but their physical characteristics can still be recognized and even mention initials or other characteristics.⁸

The statement reflects that legal guarantees to protect children are still not optimally realized. The treatment must consider the age of the child, encourage social reintegration, and create children who are able to contribute positively to society⁹, to ensure the confidentiality of the identities of children involved in legal proceedings, a number of regulations prohibit the publication of their identities. Article 64 Letter (i) in Law Number 35 of 2014 states that "children who are in conflict with the law must receive special protection, which includes a prohibition on the publication of their identities." Furthermore,

⁸ Taufiq Razali Indrawan Indrawan, Azmi, Edi Kurniawan, "Peran Media Pers Dalam Penerapan Kode Etik Jurnalistik Dan Pertanggungjawaban Pidana Penulisan Berita Tentang Anak Sebagai Pelaku Dan Korban," *CAKRAWALA* 6, no. April (2023): 1333-46.

⁹ Alfian Mahendra and Beniharmoni Harefa, "Perlindungan Hukum Terhadap Identitas Anak Sebagai Pelaku Tindak Pidana Dalam Proses Peradilan Pidana," *Kertha Semaya : Journal Ilmu Hukum* 8, no. 10 (2020): 1629-49.

Article 19 of the Juvenile Criminal Justice System Law stipulates that "the confidentiality of the identity of the child, the child who is the victim, and/or the child witness must be maintained in all forms of news both in print and electronic media." These two articles serve as a reference for the media in reporting, for law enforcement in providing protection, and for the public in interacting with children involved in legal cases. In addition, Article 5 of the Journalistic Code of Ethics is also a guideline for the media in carrying out their reporting obligations, which emphasizes that "Indonesian journalists do not mention and broadcast the identities of victims of immoral crimes and do not mention the identities of children who are perpetrators of crimes." This article reflects the main principle in journalistic practice, which is to prioritize the public interest without neglecting the human rights of individuals, especially for vulnerable groups such as children.

In response to these conditions, press personnel in Indonesia, which includes journalists, the media industry, and related organizations, have agreed to formulate the Guidelines for Child-Friendly Reporting as a standard in their journalistic practices. Journalists in Indonesia are aware of the importance of managing news about children with a wise approach and avoiding exploitation. Dispute resolution related to the implementation of these guidelines will be handled by the Press Council, in accordance with "the provisions contained in Law Number 40 of 1999 concerning the Press and Press Council Regulation Number: 1 /Regulation-DP/II/2019. In addition, Indonesian Broadcasting Commission Regulation Number 02/P/KPI/03/2012, Article 15 and Article 43 letter (g), strictly regulates the obligation for broadcast programs to hide the faces and identities of children involved in legal cases, both as perpetrators and victims, including the identities of their families". On the contrary, freedom of the press is recognized as a human right that every individual has and is included in the four freedoms guaranteed by the state in a democratic system. Although press freedom is universally recognized as an essential part of human rights, it is not without limits. Its application must still pay attention to aspects that protect the public interest and norms of equal importance. The publication of children's identities in legal cases is clearly contrary to various existing regulations to provide special protection to children. Some examples of such violations can be seen in the following news:

Quoted from BBC News Indonesia, stated "The accused rapist and murderer Yuyun was sentenced to death." In this news portal, the name of the child victim is clearly mentioned and until this writing, the news of the name of the child victim has not been deleted or replaced by the news editor on the portal¹⁰. In another case, *detiksulsel* reported "Looks 2 Drunk Men Raping High School Students in Mamuju: Police arrested 2 men with the initials FWA (19) and TH (13) who raped a 17-year-old high school student in Mamuju Regency, West Sulawesi..."¹¹ in the news, it is clear that the photo of the two perpetrators was published and one of the perpetrators was a 13-year-old child as a criminal offender.

Then in other news also clearly mentioned the child's name and an illustration of the child's face who was the perpetrator of public lies, reported on the *Hot.grid* portal with the narration "Justice for Audrey's lie revealed, this is the news of a junior high school student

¹⁰ BBC News Indonesia, 29 September 2016: "Terdakwa Pemerkosa dan Pembunuh Yuyun dijatuhi hukuman mati, dalam https://www.bbc.com/indonesia/berita_indonesia/2016/09/160929_indonesia_yuyun_vonis_terdakwa diunduh 20 Oktober 2024"

¹¹ *detikSulsel*, Rabu, 25 Januari 2023, 16:10 WIB: "Tampang 2 Pria Mabuk Pemerkosaan Siswi SMA di Mamuju saat Ditinggal Ortu, dalam <https://www.detik.com/sulsel/hukum-dan-kriminal/d-6533837/tampang-2-pria-mabuk-pemerkosa-siswi-sma-di-mamuju-saat-ditinggal-ortu> diunduh 20 Oktober 2024"

who claimed to be Jorban Pengeroyokan..."¹² Just like with the previous 2 news, this news has also not been followed up by the authorities until the time of writing this research. From the three news cases above, it is very unfortunate that the Press Council is not serious enough in investigating violations of the disclosure of the identity of the victim's child and the perpetrator's child in the news. In fact, until now there has been no evaluation of the news portal from the Press Council. Even though the regulations related to the violation of the publication of children's identities on the news portal are very clear. Although press policy in Indonesia already includes the protection of children's identities, the reality is that there are still shortcomings in providing effective protection for children involved in legal proceedings. Therefore, the Press Council needs to be more proactive, especially in the midst of rapid technological advances and information flows that continue to grow. It is hoped that in the future, similar incidents will not be repeated, and the Press Council can enforce the rules by giving strict sanctions to media that violate the applicable provisions.

B. Legal and Ethical Responsibility for Violations of the Journalistic Code of Ethics that Reveal the Identity of Children Facing the Law Through News in the Mass Media

In carrying out their duties, the mass media often faces a dilemma between press freedom and ethical and legal responsibility. The relationship between press freedom and its power can potentially lead to abuse of that freedom, which ultimately leads to criminal acts. This criminal act can occur through the dissemination of ideas or feelings through writings and reports that are deliberately disseminated by the media for certain purposes. Therefore, it is crucial to know who must bear responsibility or receive criminal consequences if there is a violation in press practice¹³. Therefore, it is important to discuss legal liability, both in the criminal and ethical realms, for offenders to ensure that the principles of child protection can be consistently enforced. One way the law protects children in this situation is by requiring the media to hide the identity of the child.

Law Number 40 of 1999 concerning the Press acts as a legal guideline that regulates journalistic practices. The media is obliged to comply with applicable provisions in disseminating information, especially related to news related to children and their identities. Currently, many journalists compile reports without paying attention to the provisions in the Journalistic Code of Ethics, especially Article 5 which regulates the protection of the identity of children related to criminal acts¹⁴.

The news that has been mentioned in the previous sub shows that there are violations of regulations and journalistic ethics in protecting children's privacy. The news shows that the element of press offense has been fulfilled, because violations are committed through mass media that publish information widely, so it has the potential to have a significant negative impact on children. Based on the legal rules that have been outlined earlier, media that commit this violation can be sanctioned in accordance with "Law Number 40 of 1999 concerning the Press, in Article 18 (1) affirming that violations of the provisions of the Press Law can be subject to criminal sanctions". Therefore, strict action against these violations

¹² Gridhot.id, Rabu, 12 Mei 2021, 05:42 WIB: "Kebohongan Justice for Audrey Terungkap, Begini Kabar siswi SMP yang ngaku Jadi Korban Pengeroyokan 12 Murid SMA, dulu sempat Depresi dan Trauma, dalam <https://hot.grid.id/read/182692098/kebohongan-justice-for-audrey-terungkap-begini-kabar-siswi-smp-yang-ngaku-jadi-korban-pengeroyokan-12-murid-sma-dulu-sempat-depresi-dan-trauma?page=all> diunduh 20 Oktober 2024"

¹³ Hosea Otorita, "Tinjauan Yuridis Terhadap Pertanggungjawaban Pidana Dalam Delik Pers Menurut KUHP," *Lex Privatum IV*, no. Agustus (2016): 110-16.

¹⁴ Nur Hasanah, "Pengungkapan Identitas Anak Yang Berhadapan Dengan Hukum Oleh Pers: Evaluasi Terhadap Dewan Pers Indonesia."

must be taken to ensure legal protection of children, maintain journalistic integrity and prevent similar violations in the future.

The publication of children's identities in legal cases by the mass media is a form of press discourse. Delik, according to KBBI, is an action that can be sanctioned by law for violating the law or categorized as a criminal offense. According to Chapter I of the General Provisions of the Press Law, the press is a social entity and a mass communication channel that is involved in the journalistic process through various media platforms. Therefore, press offenses can be interpreted as violations of the law committed by the press in disseminating information through these various media¹⁵, in terms of proving the fulfillment of the elements of press offense in the event of a case of press violation that publishes the identity of a child who is facing the law, it is necessary to pay attention to the elements. These elements include the act of publishing, namely conveying, or disseminating information to the public or the public. This not only includes the process of performing such actions, such as writing news in newspapers or magazines, but also includes the results of these actions, which are when the news has been spread and known by the audience.

The dissemination of this information is considered a violation of the law because it has the potential to damage the rights that should be protected, especially the identity of children involved in legal proceedings and protected by law. This action can only be considered a criminal act if the infringing information is published or disseminated so that it can be accessed by the wider community. Therefore, the criminal element in press offenses lies in the unlawful content and publication actions that make the content known to the public. The unlawful nature of this press crime is objective. The element of intentionality in press crimes becomes crucial when violations occur, because it determines who is responsible for the crime. "Press crimes are regulated in a number of laws and regulations, including the Criminal Code, the Press Law, the Broadcasting Law, the Information and Electronic Transactions Law, the Child Protection Law, and the Law on the Juvenile Criminal Justice System. Broadly speaking, press offenses can be categorized into two types, namely those regulated in the Criminal Code and those regulated in regulations outside the Criminal Code".¹⁶ If a press company is involved in a criminal violation, then the responsible parties within the company, such as the manager and editor-in-chief, will bear legal responsibility. The rules regarding criminal liability for this kind of case are regulated in the laws and regulations that are still running. Therefore, it is important to realize that criminal liability is not only related to the perpetrator and his actions, but also involves the fulfillment of certain factual conditions that ensure that the criminal process takes place fairly and proportionately.

The regulation regarding the procedure for "complaints of violations of the journalistic code of ethics is listed in the Press Council Regulation Number 3/Regulation/DP/VII/2013 which regulates complaints to the Press Council. This regulation includes violations related to journalistic work, as well as acts or behaviors of journalists related to their profession, as stipulated in Article 13 of the Press Law. However, the Press Council will not handle complaints that have been reported to the police, unless the complainant withdraws his report or if the police decide to hand over the handling of the case to the Press Council, in accordance with Article 4 of the Press Council Regulation Number

¹⁵ Subekti Riana Dewi, "Pertanggungjawaban Tindak Pidana Dan Pelanggaran Kode Etik Atas Publikasi Identitas Anak Yang Berhadapan Dengan Hukum Dalam Pemberitaan Di Media Massa," *RECIDIVE* 6, no. 1 (2017): 142-60.

¹⁶ Otorita, "Tinjauan Yuridis Terhadap Pertanggungjawaban Pidana Dalam Delik Pers Menurut KUHP."

3/Regulation/DP/VII/2013". After the stage of complete examination, the Press Council will hold a meeting to prepare a Statement and Recommendation which will later be submitted to both parties, both complainants and complainants, and announced to the public. All parties involved have an obligation to comply with the decisions made, which must be implemented within a 14-working day deadline from the time the official decision is issued.

However, it should be underlined that although the Journalistic Ethics Court Decision has an important function in upholding the code of ethics and journalistic professionalism, the decision cannot be categorized as a decision with permanent legal force. This is due to the nature and characteristics that are different from the court decision. The decision of the ethics hearing is only internal within the scope of the professional organization and serves as a mechanism to maintain ethical standards and take action against violations committed by members of the organization. Therefore, in the case of violations of the Journalistic Code of Ethics related to the dissemination of the identity of children involved in the legal process, after the perpetrator has undergone a code of ethics hearing and received sanctions at the professional level, the next step that must be taken is to bring the case to the realm of criminal justice, thus, in addition to accounting for ethical violations professionally, the perpetrator is obliged to account for his actions in the criminal general court in accordance with the applicable legal rules.

In this kind of situation, there are two related legal regulations, namely the "Criminal Code and the Law on the Juvenile Criminal Justice System, which affirms that in the realm of criminal law, each individual is responsible for his or her own actions, as stated in Articles 55 and 56 of the Criminal Code". These articles regulate the main perpetrators, those who order, those who participate, and those who persuade to commit criminal acts. If the principles of the Criminal Code are fully applied in the world of the press, many journalistic activities can be classified as violations of the press law. Not only the journalists who wrote the news, but also the general leaders, the leaders of the reaction will be held accountable. This is because journalism is a collective activity that involves many parties. Then in accordance with Article 97 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it states "Every person who violates the obligations as referred to in Article 19 paragraph (1) shall be sentenced to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah)." The content of paragraph 19 paragraph (1) in question is that "the identity of the child, the victim's child, and/or the witness's child must be kept secret in the news in print and electronic media." Violation of this provision is not only contrary to children's human rights, but also fulfills the elements of press offenses that must be criminally accounted for. The enforcement of sanctions against these violations must be guided by the values of justice, equality of rights, and respect for human dignity, in line with the principles of criminal liability regulated in the Criminal Code, with this approach, the legal policies taken can ensure the creation of a balance between child protection, press freedom, and fair law enforcement. As a result, the purpose of the law to protect the interests of the community and ensure justice for individuals can be optimally achieved.

CONCLUSION

In Indonesia, a number of legal regulations have been implemented to protect the privacy of children involved in legal procedures, including "Law Number 11 of 2012 concerning the

Child Criminal Justice System, Law Number 35 of 2014 concerning Child Protection", as well as guidelines in the Journalistic Code of Ethics. These regulations expressly prohibit the media, both print and electronic, from publishing children's identities, with the aim of protecting their rights and avoiding the potential negative impact that could interfere with children's development. The implementation of this policy is in line with Indonesia's commitment to the Convention on the Rights of the Child, which has been ratified. However, in its implementation, this policy still faces a number of problems, such as weak supervision and lack of understanding among journalists about existing regulations to protect children's identities in the news. Therefore, stricter law enforcement and training are needed for journalists so that they can carry out news that prioritizes optimal child protection. Legal obligations regarding criminal acts and violations of the journalistic code of ethics involving the disclosure of children's identities in legal cases have been regulated in detail in the Law on the Juvenile Criminal Justice System and the Journalistic Code of Ethics. If there is a violation of this provision, the perpetrator may be subject to criminal penalties, including a maximum prison sentence of five years and a fine of up to Rp.500,000,000.00. In addition, violations can also be subject to administrative and ethical sanctions through the Press Council mechanism, in the context of criminal law, accountability is based on the principle of personality, and respect for children's rights is the basis for the implementation of these sanctions. However, in practice, there are still obstacles in enforcing accountability, especially related to weak supervision of violators. This shows the importance of collaboration between the government, law enforcement officials, the Press Council, and the media to ensure that children's rights can be protected to the fullest, while still maintaining press freedom.

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