

**CONSTITUTIONAL GUARANTEE OF CHILDREN'S HUMAN RIGHTS
PROTECTION****Hadiarto*, Muhammad Karyadie**Universitas Palangka Raya, Palangka Raya, Central Kalimantan, Indonesia
Email: hadiarto25@gmail.com***Abstract**

The amendments made to the 1945 Constitution (UUD 1945) clearly provide protection for human rights. Children's rights are explicitly stipulated in Article 28B of the 1945 Constitution. This is a right of protection that must be guaranteed by the state in the state process. Although the amendments to the 1945 Constitution have regulated the norms for the protection of children's rights, the 1945 Constitution has not fully accommodated the norms and principles of children's rights which are the spirit of the Convention on the Rights of the Child. Two of the 4 principles of the Convention on the Rights of the Child, namely: (i) the principle of the best interests of the child and (ii) the principle of respecting the views of the child has not been accommodated in the 1945 Constitution. Thus, the principle of the best interests of the child and the principle of respecting the views of the child have not yet become constitutional norms.

Keywords: protection; children's rights; constitution

Received 01 July 2022, Revised 18 July 2022, Accepted 27 July 2022

INTRODUCTION

Human rights are the core material of the text of the modern state constitution (Indrawan, Marhaini, Kristhy, & Kristanto, 2021). The concepts of crimes against humanity and severe human rights breaches are interwoven (Pérez-León Acevedo, 2017). Human rights are generally regarded to be the rights of human beings derived from their inherent humanity and dignity (Da Costa, 2014). Likewise, the rights and obligations of citizens are one of the main materials regulated in every constitution in accordance with the understanding of the modern state constitution.

Human rights have led to the implications of human obligations, in which human obligations are parallel and converge into a single entity (Dewi, 2021). Human rights are a set of rights inherent in the nature and existence of every human being as a creature of God Almighty and is His gift

that must be respected, upheld, and protected by the State, Law, Government, and everyone, for the sake of honor and protection of human dignity. That is, what is meant by human rights are rights inherent in every human person, rights that have been possessed by a person since he was in the womb and human rights can apply universally.

It is necessary to educate all Indonesians about human rights (Arifin & Lestari, 2019). In Indonesia, when reforms took place, one of them brought back the debate about the constitutionality of protecting human rights (Susanto, Kristhy, & Kristanto, 2021). Before the amendments were made (before the reform period), the 1945 Constitution could be said to not explicitly include guarantees for human rights. Even if it can be considered that the 1945 Constitution also contains several aspects of ideas about human rights, what is

formulated in the 1945 Constitution is very vague in nature. After the Amendment to the 1945 Constitution, especially the second amendment in 2000, the provisions regarding human rights in the 1945 Constitution have undergone very basic changes. The material which originally only contained seven provisions which also cannot fully be called guarantees of human rights, has now increased significantly, so that the formulation becomes complete and makes the 1945 Constitution one of the most complete basic laws containing protection of human rights.

The ratification of the Second Amendment to the 1945 Constitution in 2000, new material on the basic provisions on human rights in the 1945 Constitution is contained in Article 28A paragraph (1) to Article 28J paragraph (2), and among these arrangements are also regulated regarding guarantees for the protection of children's rights. Article 28 B paragraph which reads: "Every child has the right to survive, grow and develop, and has the right to protection from violence and discrimination". The provisions of Article 28B paragraph (2) contain two principles, namely: (i) Every child has the right to survive, grow and develop; and (ii) Every child has the right to protection from violence and discrimination.

Thus, the existence of children's human rights in the constitution guarantees normative protection and requires real implementation from all parties, not only the state to provide protection for children's human rights (Kristhy & Satrio, 2022). Because, children are an inseparable part of the survival of human life and the sustainability of a nation and state. In order to be able to be responsible for the sustainability of the nation and state, every child needs to have the widest opportunity to grow and develop optimally, physically, mentally, and socially. For this reason, it is necessary to make efforts to protect children's welfare by providing guarantees for

the fulfillment of their rights without discriminatory treatment.

The state upholds human rights, including children's rights which are marked by the guarantee of protection and fulfillment of children's rights in the 1945 Constitution of the Republic of Indonesia and several provisions of laws and regulations both national and international (Kristhy, Hawin, & Triyana, 2019). This guarantee is strengthened through the ratification of the international convention on the Rights of the Child, namely the ratification of the Convention on the Rights of the Child through Presidential Decree Number 36 of 1990 concerning Ratification of the *Convention on the Rights of the Child* (Convention Regarding the Rights of the Child.)

State, Government, Regional Government, Community, Families and Parents are obliged to provide protection and guarantee the fulfillment of children's human rights in accordance with their duties and responsibilities. treatment and opportunities appropriate to their needs in in various fields of life, so that in carrying out efforts to protect children's rights by the government, it must be based on the principles of human rights, namely respect, fulfillment, and protection of children's rights.

As the implementation of the ratification, the Government has ratified Law Number 23 of 2002 concerning Child Protection, which has substantively regulated several matters including the issue of children in conflict with the law, children from minority groups, children from victims of economic and sexual exploitation, Trafficked children, children victims of riots, children who are refugees and children in situations of armed conflict.

Child protection is carried out based on the principle of non-discrimination, the best interests of the child, respect for the opinion of the child, the right to live, grow and develop. Child protection systems have developed a holistic perspective of child outcomes that incorporates child well-being in

addition to child safety and permanence (Wulczyn, Parolini, & Huhr, 2021). In its implementation, the Law has been in line with the mandate of the 1945 Constitution of the Republic of Indonesia regarding the guarantee of human rights, namely that children as human beings have the same rights to grow and develop. Even though the legal instruments have been owned, in the course of the Law Number 23 of 2002 concerning Child Protection has not been able to run effectively because there is still overlap between sectoral laws and regulations related to the definition of children.

On the other hand, the rise of crimes against children in the community, one of which is sexual crimes, requires increased commitment from the Government, Regional Government, and the Community as well as all stakeholders related to the implementation of Child Protection. For the effectiveness of supervision of the implementation of Child Protection, an independent institution is needed which is expected to support the Government and Regional Governments in the implementation of Child Protection.

Amendments to Law Number 23 of 2002 concerning Child Protection also emphasize the need for heavier criminal sanctions and fines for perpetrators of crimes against children, to provide a deterrent effect, and to encourage concrete steps to restore physical, psychological and social recovery to child victims and/ or children. perpetrator. This needs to be done to anticipate Child victims and/or Child perpetrators of crimes in the future do not become perpetrators of the same crime. Regarding the guarantee of human rights in the constitution (Ahsinin, 2010):

Human rights guarantees in a constitution can be framed by the theory of granting rights-plus (*entitlement-plus theory*) and the theory of the granting of rights implemented through law (*legally implemented entitlements theory*)

1) The first theory states that the granting of rights alone cannot form *full-fledged rights*

if there is no person in charge who is burdened with obligations. Because the granting of rights does not fully guarantee the certainty of human rights protection. This burden for those in charge is a plus added to the granting of rights to produce a full entitlement.

2) The second theory, requires that rights must be implemented through law. Therefore, law enforcement practices are an effort to realize the existence of a right. The legal existence of a right can be traced in local, national and international legal systems and mechanisms.

Referring to the theory above, the constitution is a *condition sine qua non* (*condition sine qua non* is an event which is the result usually caused by several events or circumstances or factors that are related to each other) for guaranteeing the existence of human rights, including human rights. child rights. With the regulation of children's rights in the constitution, the existence of children's rights and child protection is getting stronger. The inclusion of children's rights in the constitution carries further juridical implications because every product of legislation must comply with constitutional norms.

Based on the description of the background above, the formulated problem of study is "How is the guarantee for the protection of children's rights in the constitution in Indonesia?"

METHOD

This research is a legal research using a statutory approach (Irianto, 2009). The legal materials used are primary, secondary, and tertiary legal materials which are analysed using analytical descriptive.

RESULTS AND DISCUSSION

A. Conceptualization of Guarantees for Legal Protection of Human Rights

Protection can be interpreted as efforts to maintain, guarantee or safeguard the possibilities that can bring harm to something. Legal protection is the protection of the dignity and worth, as well as the recognition of human rights owned by legal subjects based on legal provisions from arbitrariness or as a collection of rules or rules that will be able to protect one thing from another (Hadjon, 1987).

Legal protection is a narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the existence of rights and obligations, in this case that is owned by humans as legal subjects in their interactions with fellow humans and their environment. As legal subjects, humans have rights and obligations to take legal action (Hadjon, 1987).

Legal protection is actions or efforts to protect the public from arbitrary actions by authorities that are not in accordance with the rule of law, to create order and peace so as to enable humans to enjoy their dignity as human beings (Setiono, 2004).

Legal protection is activities to protect individuals by harmonizing the relationship of values or rules that are manifested in attitudes and actions in creating order in the social life between fellow human beings (Muchsin, 2009). Furthermore, legal protection is something that protects legal subjects through applicable laws and regulations and enforced its implementation with a sanction.

The protection and fulfillment of the constitutional rights of citizens must be carried out in accordance with the conditions of various citizens. The reality of the Indonesian people shows that there

are differences in the ability to access the protection and fulfillment of rights granted by the state. The difference in ability is not based on the will of a particular group, but because the social structure that develops tends to marginalize it.

The protection and fulfillment of constitutional rights that are carried out without regard to the existence of these differences will automatically maintain and even further the differences. So that every citizen has the same ability and can obtain protection and fulfillment of the same constitutional rights, special treatment is needed for certain groups. Only with this special treatment can equal treatment be achieved in the protection and fulfillment of the constitutional rights of every citizen. Therefore, the 1945 Constitution guarantees such special treatment as the right to obtain the same opportunities and benefits. Article 28H Paragraph (2) states "Everyone is entitled to special facilities and treatment to obtain the same opportunities and benefits in order to achieve equality and justice".

One group of citizens who because of their condition requires special treatment are children. For this reason, it is necessary to make efforts to protect children's welfare by providing guarantees for the fulfillment of their rights without discriminatory treatment. Because, children are an inseparable part of the survival of human life and the sustainability of a nation and state. Therefore, the guarantee of the protection of children's rights in Indonesia in the constitution (UUD 1945) is implemented through the birth of laws and regulations concerning children.

B. The constitutionality of Human Rights in the 1945 Constitution

The constitutionality of Human Rights for citizens occurs when human rights are guaranteed and regulated in the hierarchy of the highest legal norms,

namely the substance of human rights is placed in a constitution or constitution. After the amendments to the 1945 Constitution, the 1945 Constitution regulates much more completely than before the amendment, from the beginning there were only 5 articles that regulated human rights (rights to work and a decent living for humanity, freedom of association and assembly and

expression of thoughts orally and in writing, guarantees of freedom of religion and belief, as well as the right to teaching, the right to access to natural resources) into at least 17 articles (with 38 different substance of rights) related to human rights (Wiratraman, 2007). The following table describes the constitutionality of human rights in the Post-Amendment 1945 Constitution (Ahsinin, 2010).

Table 1
Guarantee of Civil Rights and Political Rights (Freedom) in the 1945 Constitution

No.	Article (UUD 1945)	Classification of Guaranteed Rights
1.	Article 27 paragraph (1)	Equal position in law and government.
2.	Article 27 paragraph (2)	The right to work and a decent living for humanity.
3.	Article 28A Article 28I	The right to live, defend life and life.
4.	Article 28D paragraph (1) Article 28I	<ul style="list-style-type: none"> • The right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law; • The right to be recognized as a person before the law.
5.	Article 28D paragraph (3)	The right to have equal opportunities in government.
6.	Article 28D paragraph (4) Article 28E paragraph (1)	Right to citizenship status and to choose citizenship.
7.	Article 28E paragraph (1)	The right to freely embrace one's religion and worship according to one's religion.
8.	Article 28E paragraph (1)	Chooses a place of residence in the territory of the state and leaves it, and has the right to return.
9.	Article 28E paragraph (2)	The right to freedom to believe in beliefs, express thoughts and attitudes, according to one's conscience.
10.	Article 28E paragraph (3)	Right to freedom of association, assembly and expression.
11.	Article 28F	<ul style="list-style-type: none"> • Right to communicate and obtain information; • The right to seek, obtain, possess, store, process, and convey information using all available channels.
12.	Article 28G paragraph (1)	<ul style="list-style-type: none"> • The right to protection of personal, family, honor, dignity, and property under his control; • The right to a sense of security and protection from the threat of fear to do or not to do.
13.	Article 28G paragraph (2) Article 28I	<ul style="list-style-type: none"> • The right not to be tortured; • The right to be free from torture or degrading treatment of human dignity;

No.	Article (UUD 1945)	Classification of Guaranteed Rights
		<ul style="list-style-type: none"> The right to obtain political asylum from another country.
14.	Article 28H paragraph (4)	The right to have private property rights.
15.	Article 28I paragraph (1)	<ul style="list-style-type: none"> Right to freedom of thought and conscience; Religious rights; The right not to be enslaved.
16.	Article 28I paragraph (1)	<ul style="list-style-type: none"> Right to be free from discriminatory treatment The right to get protection against discriminatory treatment.
17.	Article 28	Freedom of association and assembly, expressing thoughts verbally and in writing and so on.
18.	Article 29 paragraph (2)	Freedom of every resident to embrace his own religion and to worship according to his religion and beliefs.

Table 2
Economic, Social, and Cultural Rights (Equality) in the 1945 Constitution

No.	Article (UUD 1945)	Classification of Guaranteed Rights
1.	Article 27 paragraph (2)	The right to work and a decent living for humanity.
2.	Article 28B paragraph (1)	The right to form a family and continue offspring through marriage.
3.	Article 28C paragraph (1)	<ul style="list-style-type: none"> The right to self-development through the fulfillment of basic needs; The right to education and benefit from science and technology, arts and culture.
4.	Article 28D paragraph (2)	The right to work, receive fair and proper remuneration and treatment in an employment relationship.
5.	Article 28H paragraph (1)	<ul style="list-style-type: none"> Right of residence; The right to obtain health services.
6.	Article 28H paragraph (3)	Right to social security.
7.	Article 31 paragraph (1)	Right to education.
8.	Article 34 paragraph (1)	The poor are cared for by the state.

Table 3
Solidarity Rights In the 1945 Constitution

No.	Article (UUD 1945)	Classification of Guaranteed Rights
1.	Article 28C paragraph (2)	The right to advance oneself in fighting for their rights collectively to build their society, nation and state.
2.	Article 28H paragraph (1)	The right to obtain the environment.
3.	Article 28H paragraph (2)	The right to receive facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice.
4.	Article 28I paragraph (3)	The right to cultural identity; The rights of traditional communities are respected;
5.	Article 33 paragraph (3)	Right to the utilization of natural resources.

Table 4
Rights for Special Subjects: Women's Rights in the 1945 Constitution

No.	Article (UUD 1945)	Classification of Guaranteed Rights
1	Article 28H paragraph (2)	The right to receive facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice.

Table 5
Rights for Special Subjects: Children's Rights in the 1945 Constitution

No.	Article (UUD 1945)	Classification of Guaranteed Rights
1.	Article 28B paragraph (2)	The right to survival, growth, and development and the right to protection from violence and discrimination.
2.	Article 34 paragraph (1)	Abandoned children are cared for by the state.

The provisions of the 1945 Constitution mentioned above, if detailed item by point, may include the following basic principles:

- 1) Everyone has the right to live and defend his life and life;
- 2) Everyone has the right to form a family through a legal marriage and has the right to continue their offspring through a legal marriage;
- 3) Every child has the right to survive, grow, develop, and has the right to protection from violence and discrimination;
- 4) Everyone has the right to develop himself through the fulfillment of his

basic needs, in order to improve the quality of his life and for the welfare of mankind;

- 5) Everyone has the right to education, in order to improve the quality of his life and for the welfare of mankind;
- 6) Everyone has the right to benefit from science and technology, art and culture, in order to improve the quality of his life and for the welfare of mankind;
- 7) Everyone has the right to advance himself in fighting for his rights collectively to build his community, nation and country;

- 8) Everyone has the right to recognition, guarantee, protection, and fair legal certainty equal treatment before the law and the right not to be prosecuted on the basis of retroactive law;
- 9) Everyone is free to choose a job, has the right to work, gets remuneration, and gets fair and proper treatment in an employment relationship;
- 10) Every citizen has the right to have equal opportunities in government;
- 11) Everyone has the right to citizenship status and everyone is free to choose citizenship, has the right to choose a place to live in the territory of the country, leave it, and has the right to return to the country;
- 12) Everyone is free to embrace religion and worship according to his religion;
- 13) Everyone is free to choose education and teaching;
- 14) Everyone has the right to freedom to believe in beliefs, to express thoughts and attitudes, according to his conscience;
- 15) Everyone has the right to freedom of association (*freedom of association*), the right to freedom of assembly (*freedom of peaceful assembly*), and the right to *freedom of expression*;
- 16) Everyone has the right to communicate and obtain information in order to develop their personal and social environment, and has the right to seek, obtain, possess, store, process, and convey information using all available channels;
- 17) Everyone has the right to protection of himself, his family, honor, dignity and property under his control, and has the right to a sense of security and protection from the threat of fear to do or not do something which is a human right;
- 18) Everyone has the right to be free from torture or other treatment that degrades human dignity;
- 19) Everyone has the right to obtain political asylum from another country;
- 20) Everyone has the right to live in physical and spiritual prosperity;
- 21) Everyone has the right to live (good and healthy), has the right to a good and healthy living environment, and has the right to health services;
- 22) Everyone has the right to get special facilities and treatment to get the same opportunities and benefits in order to achieve equality and justice;
- 23) Everyone has the right to social security that allows his/her full development as a dignified human being;
- 24) Everyone has the right to have private property rights and such property rights may not be taken over arbitrarily by anyone;
- 25) Everyone has the right to freedom of thought and conscience;
- 26) Everyone has the right to be free from discriminatory treatment on any basis, the right not to be enslaved, and the right to get protection against such discriminatory treatment.

C. Constitutionality of Guarantees for the Protection of Children's Rights in the 1945 Constitution

Regarding the legal protection of children, the amendments made to the 1945 Constitution (UUD 1945) clearly provide protection for human rights. Then Chapter XA of Human Rights, Articles 28A-28J reflects this. Meanwhile, children's rights are explicitly stipulated in Article 28B: "Every child has the right to survive, grow, and develop and has the right to protection from violence and discrimination". This is a right of protection that must be guaranteed by the state in the state process.

Based on Article 28B (2) of the 1945 Constitution which is amended implicitly reflects the contents of Article 27 of the

Convention on the Rights of the Child (CRC). What is important in this context is that both Article 28B (2) of the 1945 Constitution and Article 27 of the *Convention on the Rights of the Child (CRC)* have linked life and development measures. Thus it has created a "right" that goes beyond the basic elements necessary for the survival of the child. The revised 1945 Constitution (Article 28B (2)) can be interpreted as a "*fundamental rights*" (also known as "*Basic Rights*"). When translated into Indonesian, they are basic human rights or better known as "Rights human rights" (any rights explicitly or implicitly guaranteed by the Constitution) are not "*non-fundamental rights*".

These basic rights are further strengthened by Article 3 of Law Number 23 of 2002 concerning Child Protection which states:

Child protection aims to ensure the fulfillment of children's rights so that they can live, grow, develop, and participate optimally in accordance with their dignity, humanity, and receive protection from violence and discrimination, for the sake of realizing quality, noble, and prosperous Indonesian children.

Based on the table above, the constitutionality of children's rights has been guaranteed and regulated in the 1945 Constitution, namely:

- 1) Article 28B paragraph (2) which states that: "The right to survival, growth, and development and the right to protection from violence and discrimination".
- 2) Article 34 paragraph (1) which states that: "Abandoned children are cared for by the State".

The constitutionalizing of legal norms for child protection has juridical implications, namely that every product of legislation proposed and made by the legislature and executive must comply with constitutional norms. Although the

1945 Constitution as a result of the amendments has regulated the norms for the protection of children's rights, the 1945 Constitution has not fully accommodated the norms and principles of children's rights which are the spirit of the Convention on the Rights of the Child (Ahsinin, 2010). The Convention on the Rights of the Child is framed by 4 principles as pillars that support the implementation of other children's rights. The four principles include:

- 1) The right to be treated equally (non-discrimination);
- 2) Right to life, survival and development;
- 3) Decisions based on the best interests of the child;
- 4) Respect the child's views (participation).

Two of the 4 principles of the Convention on the Rights of the Child, namely: (i) the principle of the best interests of the child and (ii) the principle of respecting the views of the child has not been accommodated in the 1945 Constitution. Thus, the principle of the best interests of the child and the principle of respecting the views of the child have not yet become constitutional norms. The juridical implication is that because these two principals have not been regulated in the constitution, the rights of children are not fully guaranteed in the existing legal system. The opposite happens if all the principles of the Convention on the Rights of the Child are accommodated as constitutional norms, then all existing laws and regulations must refer to and must not conflict with applicable constitutional norms. The State's full commitment to guaranteeing children's rights requires the State to enshrine the principles and norms of the Convention on the Rights of the Child in the constitution.

The constitution serves as a framework for the formulation and implementation of national laws and policies to ensure the realization of the

protection and fulfillment of children's rights. Furthermore, the constitutionality of children's rights because they have the status of the highest standard of norms, the State's actions formulated in laws and regulations can be ruled out for conformity with the constitutionality of children's rights. This is in accordance with the substance of the norms of Article 3 of the Convention on the Rights of the Child which regulates actions taken by the government, social institutions, courts, bureaucracy and the legislature must consider the best interests of children. Thus, without a constitutional norm of children's rights, children's rights cannot be guaranteed.

This commitment is a legal obligation of the State as stated in Article 4 that the State must carry out legal reforms so that the rights of children recognized in the Convention on the Rights of the Child are fully realized. The main step in implementing the provisions of Article 4 of the Convention on the Rights of the Child to provide protection for children is to regulate children's rights in the constitution. This step should be followed by building national legislation to develop a child protection system because Indonesia is fully bound by the Convention on the Rights of the Child after ratifying the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990.

Looking at the existing arrangements in the 1945 Constitution which already has dimensions of regulating child rights and child protection the 1945 Constitution is still in the category of moderately committed. The Medium Commitment category is that there is recognition of children as subjects of rights without specifically acknowledging the State's obligations in providing protection to children. However, there is content about the pattern and direction of child protection even though it

is not placed in special articles but is superimposed or mixed with other human rights arrangements (Ahsinin, 2010).

This categorization looks at the following indicators (Ahsinin, 2010):

- 1) The regulation of the constitutional norms of children's rights is still general in nature and does not detail the rights of children as regulated and guaranteed in the Convention on the Rights of the Child;
- 2) The regulation of the constitutional norms of children's rights is still placed together with other human rights arrangements that have not been specifically regulated;
- 3) In addition, the 1945 Constitution has not regulated the pattern of social policy as a direction for the protection of children in accordance with the characteristics of their specific rights;
- 4) Furthermore, the principle of the best interests of the child and the principle of participation have not been recognized as constitutional norms.

The principle of the best interests of the child is one of the principles that guarantees the effective implementation of the Convention on the Rights of the Child and is a basic right for the operation of other rights in the Convention on the Rights of the Child. Given the importance of the best interest principle in the effective implementation of other rights, making this principle a constitutional norm is a *condition sine quanon*. This principle can be the legal framework and the main foundation in formulating policies including in legislative reform, budgeting, planning, and programming. In other words, the principle of the best interests of children as regulated in Article 3 of the Convention on the Rights of the Child is the main key for efforts to develop constitutional norms and becomes a reference when interpreting contradictory provisions so as to strengthen children as subjects of rights.

CONCLUSION

Regarding legal protection for children, the amendments made to the 1945 Constitution (UUD 1945) clearly provide protection for human rights. Children's rights are explicitly stipulated in Article 28B of the 1945 Constitution. This is a right of protection that must be guaranteed by the state in the state process. Although the 1945 Constitution as a result of the amendments has regulated the norms for the protection of children's rights, the 1945 Constitution has not fully accommodated the norms and principles of children's rights which are the spirit of the Convention on the Rights of the Child. Two of the 4 principles of the Convention on the Rights of the Child, namely: (i) the principle of the best interests of the child and (ii) the principle of respecting the views of the child has not been accommodated in the 1945 Constitution. Thus, the principle of the best interests of the child and the principle of respecting the views of the child have not yet become constitutional norms.

Referring to this, children as an integral part of the Indonesian people should be recognized for their constitutional existence as the subject of full and equal rights. The effort that should be made is to re-make minimal amendments to make the principle of the best interests of the child and the principle of child participation the constitutional norm. However, this legal reform effort will be closer to the ideal condition if the very fundamental norms in the Convention on the Rights of the Child are incorporated/transformed into constitutional norms so that the 1945 Constitution will later become the Constitution on the Rights of the Child.

REFERENCES

- Ahsinin, A. (2010). *Menjamin Perlindungan Anak melalui Konstitusi: Urgensi Amandemen UUD 1945 Menuju Konstitusi Anak (Child Constitution), Sebuah Penajakan Awal*. Yayasan Pemantau Hak Anak (Children Human Right's Foundation). tanpa tahun. [Google Scholar](#)
- Arifin, R., & Lestari, L. E. (2019). Penegakan dan Perlindungan Hak Asasi manusia di Indonesia dalam konteks implementasi sila kemanusiaan yang adil dan beradab. *Jurnal Komunikasi Hukum (JKH)*, 5(2), 12–25. [Google Scholar](#)
- Da Costa, K. (2014). Can the observance of human rights of individuals enhance their resilience to cope with natural disasters? *Procedia Economics and Finance*, 18, 62–70. [Scopus](#)
- Dewi, D. A. (2021). Hak Asasi Manusia: Pentingnya Pelaksanaan Dan Penegakan Hak Asasi Manusia Di Indonesia Saat Ini. *Journal Civics & Social Studies*, 5(1), 90–97. [Google Scholar](#)
- Hadjon, P. M. (1987). *Perlindungan hukum bagi rakyat di Indonesia: sebuah studi tentang prinsip-prinsipnya, penanganannya oleh pengadilan dalam lingkungan peradilan umum dan pembentukan peradilan administrasi negara*. Bina Ilmu. [Google Scholar](#)
- Indrawan, K., Marhaini, S., Kristhy, M. E., & Kristanto, K. (2021). Electronic Criminal Case Trial from the Perspective of Justice and Legal Certainty. *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, 4(3), 3392–3401. [Google Scholar](#)
- Irianto, S. (2009). *Metode Penelitian Hukum: Konstelasi dan Refleksi*. Yayasan Pustaka Obor Indonesia. [Google Scholar](#)
- Kristhy, M. E., Hawin, M., & Triyana, H. J. (2019). *Relevansi Prinsip Right To Economic Self Determination Terhadap Kedaulatan Indonesia Dalam Bilateral Investment Treaty (BIT)*. Universitas Gadjah Mada. [Google Scholar](#)
- Kristhy, M. E., & Satrio, H. (2022). Analisis Peran Hukum Dalam Pembangunan Ekonomi Nasional Menghadapi Era Revolusi Industri 4.0. *Jurnal Pendidikan*

- Kewarganegaraan Undiksha, 10(2), 244–249. [Google Scholar](#)*
- Muchsin, A. (2009). Perlindungan Hukum Terhadap Pasien Sebagai Konsumen Jasa Pelayanan Kesehatan Dalam Transaksi Terapeutik. *Jurnal Hukum Islam. [Google Scholar](#)*
- Pérez-León Acevedo, J. P. (2017). The close relationship between serious human rights violations and crimes against humanity: International criminalization of serious abuses. *Anuario Mexicano de Derecho Internacional, 17, 145–186. [Google Scholar](#)*
- Setiono, R. O. L. (2004). *Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret*. Surakarta. [Google Scholar](#)
- Susanto, H., Kristhy, M. E., & Kristanto, K. (2021). Legal Assurance of Investor Dispute Settlement with Indigenous Law Communities in Legal Pluralism Perspective. *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences, 4(3), 3382–3391. [Google Scholar](#)*
- Wiratraman, H. P. (2007). Hak-Hak konstitusional warga Negara setelah amandemen UUD 1945: konsep, pengaturan dan dinamika implementasi. *Jurnal Hukum Panta Rei, 1(1), 1–18. [Google Scholar](#)*
- Wulczyn, F., Parolini, A., & Huhr, S. (2021). Human capital and child protection: A research framework in the CRC context. *Child Abuse & Neglect, 119, 104610. [Scopus](#)*



© 2022 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC BY SA) license (<https://creativecommons.org/licenses/by-sa/4.0/>).