

# LENTERA HUKUM

VOLUME 10 | ISSUE 1 | MAY 2023

<https://jurnal.unej.ac.id/index.php/ejlh>

*Research Article*

# Forensic Approach to Optimise Children's Right to Opinion in Indonesian Courts

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**ABSTRACT:** Various attempts to accommodate a child's opinion in courts have proven successful, and this participation has been increasingly regarded as integral to children's rights. However, the issue remains problematic, particularly in the Global South countries like Indonesia. This paper examines the legal and regulatory framework of protecting children in Indonesia to comply with children's right to opinion and how this right is implemented. Then, it demonstrates the significant role of forensic science in complementing legal inquiry to consider a child's opinion in court. Using policy-oriented study and doctrinal research with qualitative analysis and, to some extent, a comparative perspective, this paper elaborates on Indonesia's experience in protecting children's right to opinion with legislation in India, particularly dealing with child sexual offences. This study shows that Indonesia's legal and regulatory framework of children protection had not specified to elucidate children's right to an opinion, particularly in the Child Protection Law, the primary legal basis for children protection. Also, Indonesia is yet to have a robust and consistent practice of human rights-based instruments considered in the court, indicated by a lack of comprehensive understanding in law enforcement to implement this right. While the interpretation in law enforcement is essential to be optimised toward child-oriented resolution, taking the child's opinion in court promotes human rights practice in Indonesia. Compared to adults, children are complex, particularly in a case of a child victim of rape-related pregnancy. The forensic approach can be an alternative by involving forensic experts in courts to consider a child's psychology and physical condition.

**KEYWORDS:** Children's Rights; Forensic Science; Indonesian Courts; Right to Opinion.

## I. INTRODUCTION

Hitherto, human rights have still undergone expansion both at the international and national levels. While human rights may tend to gravitate toward adults, the term has increasingly embraced children's rights as

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Submitted: 25 January 2023 | Reviewed: 06 April 2023 | Revised: 07 May 2023 | Accepted: 08 May 2023

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integral. For instance, the Convention on the Rights of the Child considers children's opinions as children have the rights to be heard as indispensable. The early emergence of children's rights primarily oversees the rights of nurturance,<sup>1</sup> but in the second half of the 20<sup>th</sup> century, there was a paradigm shift from nurturance or protection towards the right to self-expression or self-determination.<sup>2</sup> Article 3 of the 1996 European Convention on the Exercise of Children's Rights interprets child rights to be heard in a judicial court. The Norway Constitution also stipulates children's right to be heard according to age and development.<sup>3</sup> In 2016, Singapore initiated a judicial interview of children during court proceedings.<sup>4</sup>

The child-related policies taken by governments in the Global South are in a state of persistent deprivation.<sup>5</sup> Following this view, children's rights in Southeast Asia revealed a grim picture, as such a right in this region is primarily built upon protection or nurturance.<sup>6</sup> For example, Brunei's Sharia model establishes no child's right to be heard in decision-making.<sup>7</sup> In the meantime, Lao PDR, Myanmar, Malaysia, and Thailand have yet to specify

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<sup>1</sup> Hanita Kosher, Asher Ben-Arieh, & Yael Hendelsman, *Children's Rights and Social Work*, SpringerBriefs in Rights-Based Approaches to Social Work (Switzerland: Springer International Publishing, 2016).

<sup>2</sup> *Ibid.*

<sup>3</sup> Anna Nylund, "Chapter 11 Children's Right to Participate in Decision-Making in Norway: Paternalism and Autonomy" in *Children's Constitutional Rights in the Nordic Countries* Stockholm Studies in Child Law and Children's Rights (Brill, 2019) at 201-224.

<sup>4</sup> Joyce A Tan & Partners, "Singapore – Hearing The Child's Voice: Interview And Review," *Conventus Law* (2 May 2016), online: <<https://conventuslaw.com/report/singapore-hearing-the-childs-voice-interview-and/>>. Accessed on 26 January 2023.

<sup>5</sup> Anna Holzcheiter, "Governing Children's Rights in Global Social Policy—International Organizations and the Thin Line Between Child Protection and Empowerment" in Alexandra, ed, *International Organizations in Global Social Governance* (Cham: Springer International Publishing, 2021) at 154.

<sup>6</sup> Singapore, Brunei, and Indonesia interpret children's rights as fundamental needs such as the right to education, healthcare, and social being. See Muhammad Ade Saffri Salampessy, Lucitania Rizky, & Isna Achdyana, "The Effectiveness of The Convention on the Rights of the Child (CRC) Regime by UNICEF in Encouraging the Implementation of Child Protection in Southeast Asian Countries" (2022) 2:1 *Journal of Advance in Social Sciences and Policy* 12–20.

<sup>7</sup> *Ibid.*

the age of consent.<sup>8</sup> These examples reflect cases to evaluate children's rights in Southeast Asia.<sup>9</sup> Furthermore, few children's rights studies focus on children's right to be heard in court. This right is linked to a comprehensive understanding of the judicial process considered crucial, especially in sexual violence cases.<sup>10</sup> Meanwhile, Article 10 of the Indonesia Child Protection Law 35/2014 implicitly guarantees children's right to be heard in general. With Indonesia's sharp rise in child abuse cases,<sup>11</sup> and how meaningful child participation in the judicial process is proven to be beneficial<sup>12</sup>, this calls for further accentuation. The Child Protection Law 35/2014 regulates children's perpetrator and victim rights,<sup>13</sup> but it has yet to specify measures for child's opinion,<sup>14</sup> further endangering child victim rights. Furthermore, the right to legal abortion in India provides considerable protection for women's rights, including rape victims, the mentally ill, and minors.<sup>15</sup> India's

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<sup>8</sup> Mubarak Rahamathulla, "Cyber Safety of Children in the Association of Southeast Asian Nations (ASEAN) Region: a Critical Review of Legal Frameworks and Policy Implications" (2021) 4 *International Journal on Child Maltreatment: Research, Policy, and Practice* 375–400.

<sup>9</sup> Note that Asian regional's responses inadequately address the establishment of a strong human rights regime. See Desi Hanara, "Mainstreaming Human Rights in the Asian Judiciary" (2018) 4:1 *Constitutional Review* 77–110.

<sup>10</sup> In Indonesia, forensic psychology's role is to support victims in coping with their trauma. See Ni Made Swandari, Anak Agung Sagung Laksmi Dewi, & Luh Putu Suryani, "Tinjauan Teoritis Psikologi Terhadap Anak yang Menjadi Korban Kekerasan Seksual" (2022) 3:1 *Jurnal Konstruksi Hukum* 184–190.

<sup>11</sup> Konradus Epa, "Indonesia records sharp rise in child abuse cases," *Union of Catholic Asian News* (10 February 2021), online: <<https://www.ucanews.com/news/indonesia-records-sharp-rise-in-child-abuse-cases/91359>>; UNICEF, "Up to 56 per cent of online child sexual exploitation and abuse in Indonesia goes undisclosed and unreported, according to a new survey", *UNICEF* (22 July 2022), online: <<https://www.unicef.org/indonesia/press-releases/56-cent-online-child-sexual-exploitation-and-abuse-indonesia-goes-undisclosed-and>>. Accessed on 26 January 2023.

<sup>12</sup> Caterina E Tempesta, *Legal Representation as a Critical Aspect of the Realisation of the Child's Right to Be Heard* (Master Thesis, Leiden, 2019).

<sup>13</sup> Muh Jufri Ahmad, "Perlindungan Anak dalam Sistem Peradilan Di Indonesia" (2011) 7:13 *DIH Jurnal Ilmu Hukum* 45–56.

<sup>14</sup> Francisca Novita Eleanora, "Pidana Penjara dan Hak-Hak Anak" (2020) 4:1 *Yure Humano* 58–71.

<sup>15</sup> The right to legal abortion can be seen as a child's opinion in this context. See Bhumika Saraswati, "India's top court rules abortions up to 24 weeks legal, regardless of marital status", *PBS News Hour* (29 September 2022), online: <<https://www.pbs.org/newshour/world/indias-top-court-rules-abortions-up-to-24-weeks-legal-regardless>>

experience in protecting this right can link to a trans-jurisdictional conversation with Indonesia within the Global South issue. In this regard, Indonesia's strict prohibition towards legal abortion may injure child victims of rape-related pregnancies as abortion of rape-related pregnancy in Indonesia creates a legal dilemma.

Indonesian law has yet to specify a legal framework to accommodate a child's opinion in courts, and existing judicial practice cannot accommodate a child's opinion, especially in abortion or rape-related pregnancy (RRP).<sup>16</sup> This situation affirms a complex challenge when abortion manifests a child's opinion. As a consequence of this complexity in normative basis, there is a need for a well-informed decision-making process to consider children's right to be heard in courts, especially in the abortion of RRP case.<sup>17</sup>

This paper aims to analyse the legal framework of children's rights, especially the child's opinion in judicial practice in Indonesia. In particular, this paper explores the prospect of child rights as it highlights children's meaningful participation in Indonesia's judicial framework through a lens of forensic science. In measuring a child's opinion in criminal court to overlook other aspects of a child's general opinion, this study compares India's approach to the issue towards existing legal practice and legislation. Hence, this paper focuses on the potential use of forensic science to accommodate a child's opinion in a court by taking into account specific measures from certain forensic science that has yet to be considered in Indonesia. To this end, this paper consists of three main parts of the discussion. The first part analyses current Indonesian law enforcement on child rape victims in measuring child's opinions. The second part explores the prospect of forensic science intervention to accommodate a child's opinion as a measurable instrument.

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of-marital-status>; Nidhi Suresh, "India: Late-term abortion ruling highlights mothers' rights", *DW* (December 2022), online: <<https://www.dw.com/en/india-late-term-abortion-ruling-highlights-mothers-rights/a-64068504>>.

<sup>16</sup> See Case Number 5/Pid.Sus.Anak/2018/PN Mbn.

<sup>17</sup> Edith Sibya Muzokura, Petty Makoni, & Tendai Manditsvara, "Rape-related pregnancy: Concept analysis" (2020) 3:1 *International Journal of Advance Research in Nursing* 102–107.

Finally, it compares India's legal framework concerning legal abortion rights and its intersection with the Indonesian context.

## II. METHODOLOGY

This research was conducted using policy-oriented and doctrinal research with qualitative analysis. Throughout the investigation, this research also used a comparative approach by taking into account India's legal and regulatory frameworks in addressing the issue in the Indonesian context. The data were obtained from some authoritative sources such as the Convention on the Rights of the Child, the Indonesian Constitution, the Indian Constitution, the Indonesian Criminal Code, and Indian Penal Code, India Protection of Children from Sexual Offences Act/2012, and India Medical Termination of Pregnancy Act. The secondary data were obtained from books, journal articles and reports relevant to the issue of children's right to be heard in courts and, to some extent, its relation to child sexual offences.

## III. CHILD'S OPINION ON ABORTION OF CHILD RAPE VICTIM

Women's Commission reported in 2019 that sexual violence against women, especially children is the third highest.<sup>18</sup> While sexual violence can take various forms, like rape-related pregnancy.<sup>19</sup> Rape adds further suffering to the victim since social pressure experienced by the victim and their family tends to result in abortion.<sup>20</sup> Abortion of rape-related pregnancy (RRP) is

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<sup>18</sup> See Indonesian Women Commission, *Fact Sheet and Key Points of the 2019 Indonesian Women Commission Annual Notes* (Indonesian Women Commission, 2019); Joko Suwandi, Chusniatun, & Kuswardani, "Karakteristik Kekerasan Seksual Terhadap Anak Perempuan Di Wonogiri Dan Boyolali" (2019) 29:1 Jurnal Pendidikan dan Ilmu Sosial.

<sup>19</sup> James Hamblin, "How Often Does Rape Lead to Pregnancy?", *The Atlantic* (20 August 2012), online: <<https://www.theatlantic.com/health/archive/2012/08/how-often-does-rape-lead-to-pregnancy/261307/>>. Accessed on 23 January 2023.

<sup>20</sup> Monica Frederico et al., "Factors Influencing Abortion Decision-Making Processes among Young Women" (2018) 15:2 *International Journal of Environmental Research and Public Health*, online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5858398/>>.

strictly legal according to Indonesian law.<sup>21</sup> While not final, Court's decision No.5/Pid.Sus.Anak/2018/PNMB<sup>22</sup> sentenced a child rape victim to six months imprisonment with three months of job training for committing abortion.<sup>23</sup> Judicial Case No. 5/Pid.Sus.Anak/2018/PNMBn puts a child in a double legal stand as a victim<sup>24</sup> and perpetrator.<sup>25</sup> In this regard, judges do not consider the child's position as a victim, while abortion through RRP is a form of the child's opinion. In particular, judges overlook that child's opinion correlates with the principle of a child's right to life, survival, and development. While a child's opinion is regulated in the Indonesian Constitution,<sup>26</sup> state law<sup>27</sup> and international conventions<sup>28</sup>, its enforcement is still far from sufficient.

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<sup>21</sup> Article 75(2) of the Health Law excludes the act of abortion with several preconditions: a. Indications of medical emergencies detected at an early age in pregnancy; or b. Pregnancy as a result of rape can cause psychological trauma for rape victims.

<sup>22</sup> Eventually annulled by the Jambi High Court in Decision Number 6/Pid.Sus.Anak/2018/PT. JMB by freeing the child from conviction.

<sup>23</sup> The court argues under Article 77A of the Child Protection Law.

<sup>24</sup> Legal protection for victims of crime is not comparable to protection for perpetrators. See Rena Yulia, "Mengkaji Kembali Posisi Korban Kejahatan Dalam Sistem Peradilan Pidana" (2016) 28:1 Jurnal Mimbar Hukum 33–45 at 33.

<sup>25</sup> Children in contact with the law are divided into three classifications, namely child perpetrators, children victims, and children witnesses. The Law on the Juvenile Criminal Justice System Article 1.2 outlines children conflicting with the law as victims and witnesses to criminal acts. See Dony Pribadi, "Perlindungan Terhadap Anak Berhadapan Dengan Hukum" (2018) 3:1 Jurnal Volkgeist at 15.

<sup>26</sup> Article 28B (2) of the 1945 Constitution states that every child has the right to survival, growth, and development and is entitled to protection from violence and discrimination.

<sup>27</sup> Despite being protected in the 1945 Constitution, child protection is outlined in Article 2 of the Child Protection Law refers to the principles of the Convention on the Rights of the Child; See also laws that strengthen the particular position of a child, namely: Law 4/1979 concerning Child Welfare, Law 11/2012 on Juvenile Courts, Law 35/2014 on Child Protection, including Law 39/1999 on Human Rights.

<sup>28</sup> There are four principles set out in the Convention on the Rights of the Child: non-discrimination, the best interest of the child, the rights to life, survival, and development, and respect for the child's opinion; see Supriyadi W Eddyono, *Pengantar Konvensi Hak Anak*, Bacaan Kursus HAM untuk Pengacara XI Tahun 2007 Materi Konvensi Hak Anak (Lembaga Studi dan Advokasi Masyarakat, 2007) at 2-3; UN Resolution 44/25 (Convention of the Rights of the Child), UN Resolution No. 40/33 concerning Standard Minimum Rules for the Administration of Juvenile Justice

Article 12(1) of the Convention on the Rights of the Child sets the child's opinion, which outlines the government's duties to ensure children can form opinions and the right to express those views freely. This provision includes children's opinions given due weight following their age and maturity. In so doing, the state guarantees freedom for children to express their opinions and the right to be respected.<sup>29</sup> As a result, children have autonomy over themselves and act independently. They should not be under pressure and should be free from exploitation and actions demeaning their human dignity. As children are autonomous individuals with their own experiences, desires, imaginations, obsessions, and aspirations that are not comparable to adults,<sup>30</sup> they should not be regarded as miniature adults.<sup>31</sup> Therefore, in respecting a child's opinion, it should also consider and adjust to the child's age and maturity level.

Children, as the RRP victims committing to abortion, are considered as the child in the opposite position in defending their interests.<sup>32</sup> They are placed

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(The Beijing Rules), UN Resolution No. 45/112 concerning UN Guidelines for the prevention of Juvenile Delinquency (The Riyadh Guidelines), UN Resolution No. 45/113 concerning the UN Standard of the Protection of Juveniles Deprived of their Liberty, UN Resolution No. 45/115 concerning UN Standard Minimum Rules for Custodial Measures 1990 (the Tokyo Rules)

<sup>29</sup> Kadek Widya Dharma Putra & I Made Subawa, "Perlindungan Hukum Terhadap Anak Yang Berkonflik Dengan Hukum Ditinjau Dari Hukum Positif Indonesia" (2018) 7:3 Kertha Wicara: Jurnal Ilmu Hukum.h.4.

<sup>30</sup> Meilan Lestari, "Hak Anak Untuk Mendapatkan Perlindungan Berdasarkan Peraturan Perundang-Undangan" 1:2 UIR Law Review 183–190 at 189; compare with Muhaemin B.'s quote, that form of respect on child's opinion is to respect children's rights to participate and express their opinions in decision-making, especially when it comes to matters that will affect their lives Muhaemin B, "Prinsip-Prinsip Dasar Tentang Hak Perlindungan Anak (Tinjauan Quranik, Hadis, Dan Hukum Positif)" (2016) 14:1 Jurnal Hukum Diktum 77–87 at 83.

<sup>31</sup> Various studies have shown that children and adults are not comparable in behavioural aspects. See Christopher G Lucas et al., "When children are better (or at least more open-minded) learners than adults: Developmental differences in learning the forms of causal relationships" (2014) 131 Cognition 284–299; Emily G Liquin & Alison Gopnik, "Children are more exploratory and learn more than adults in an approach-avoid task" (2022) 218 Cognition; Novi Cahya Dewi, "Individual Differences in Developmental Psychology Early Childhood Mentality" (2021) 4:2 Nazhruna: Jurnal Pendidikan Islam 447–459.

<sup>32</sup> Victims experience secondary victimisation by perpetrators and by the criminal justice system. In contrast, criminal justice prioritises the interests of perpetrators (offender-



as children in the tug-of-war between certainty, expediency, and justice, or *spannungsverhältnis*.<sup>33</sup> In *spannungsverhältnis*, it is necessary to have a priority for stakeholders in enacting policies,<sup>34</sup> especially for law enforcement officials. In this case, the child as the RRP victim, as well as the perpetrators of abortion, require policies that concede the child's opinion.

### *A. Child Perpetrator on Formal Justice Process*

Indonesian law prohibits abortion. Although the exceptions to abortion prevail, they are too rigid and cannot interpret differently.<sup>35</sup> The Court's decision No. 5/Pid.Sus.Anak/2018/PN.Mbn becomes the landmark of their rigidity regarding abortion. The panel of judges overlooked that the perpetrator was a victim of RRP. The court considers abortion as a standard abortion offence without any official notes of chances given to the child to opine. This case indicates that the child's opinion has been violated.<sup>36</sup> Even though criminal processes in the formal justice system<sup>37</sup> that are carried out

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centred) because the criminal justice system is organised to try suspects and not serve the victims' interests mainly. See Mudzakkir, "Kedudukan Korban Tindak Pidana Dalam Sistem Peradilan Pidana Indonesia Berdasarkan KUHP Dan RUU KUHP" (2011) 14:1 Jurnal Ilmu Hukum 29–30.

<sup>33</sup> *Spannungsverhältnis* is the term used by Gustav Radbruch in describing the tug-of-war between certainty, expediency, and justice as the three fundamental values of law, whose positions cannot be equal and collide with each other. See *Formal Review and Material Review of Law 13/2022 on the Second Amendment to Law 12/2011 on the Formation of Legislation under the 1945 Constitution*, 2022 Constitutional Court of Indonesia at 21.

<sup>34</sup> Stakeholder mapping is a technique that can be used to identify and assess the interests of critical parties, groups, or institutions that can influence the success of a policy. Damarjati Prabowo & Dewi Rotyaningsih, "Stakeholders Mapping In Overcoming Child Marriage Problems In Semarang" (2019) 8:4 Journal of Public Policy and Management Review at 6.

<sup>35</sup> ICJR, "Amicus Curiae: Jangan Hukum Korban Perkosaan", *Institute for Criminal Justice Reform* (7 August 2018), online: <<https://icjr.or.id/amicus-curiae-jangan-hukum-korban-perkosaan/>>. Accessed on 10 January 2023.

<sup>36</sup> Even though Case Number 5/Pid.Sus.Anak/2018/PN Mbn was annulled by the Jambi High Court in Decision Number 6/Pid.Sus- Anak/2018/PT. JMB freed children from punishment by applying the principle of the child's best interests but not elaborating on the essence of the child's opinion tried for abortion.

<sup>37</sup> The criminal justice system includes the investigation sub-system, the prosecution sub-system, the justice sub-system, and the criminal execution sub-system, where a

on children endanger their future.<sup>38</sup> The Court's Decision No. 5/Pid.Sus.Anak/2018/PN.Mbn is carried out through the stages of arrest, detention, examination in court, and imposition of sanctions imprisonment. Formal justice for child rape victims who committed abortions potentially sets a bad precedent for similar cases in the future. Prioritising the protection of child victims by applying the applicable principles is far more critical than a judicial process that is punishment centred.<sup>39</sup>

### *B Child-Oriented Law Enforcement*

Child victims of rape should not be criminalised. Criminalising only results in doubling child experience as victims, which harms physical, mental, and social conditions.<sup>40</sup> Criminalising rape victims and forcing them to continue pregnancies without adequate mental preparation can cause psychological disturbances and even depression. It has the potential to create an environment that is not supportive of the growth and development of future

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child who conflicts with the law fulfils the requirements to be detained, tried, and sentenced to imprisonment in the crime of abortion of RRP. In some cases, the criminal justice system is related to formal justice against children, which results in trauma and endangers a child's future. Therefore resolving children's problems using formal processes should be avoided. As a comparison, Article 11 of the Beijing Rules states: (1) If necessary, consideration must be given to officials authorised to deal with children who commit crimes without following the formal justice process; (2) Police, prosecutors, or other institutions that handle cases of delinquent children must be authorised to handle such cases at their discretion without going through a formal trial, following the criteria stated in the objectives of the applicable legal system and by the principles in this provision; (3) any diversion that involves handing over to the community or other services deemed necessary, requires the consent of the child, or their parents/guardians. The decision to divert the case should be subject to the review of the competent authorities in practice

<sup>38</sup> Ilham Wahyudi, "Penyelesaian Perkara Anak Secara Restorasi Dalam Penerapan Sistem Peradilan Anak" (2017) 4:2 Salam: Jurnal Sosial dan Budaya Syar-i at 233.

<sup>39</sup> Provision of restitution, medical assistance, and psychosocial rehabilitation assistance need to be prioritised in dealing with cases of abortion on RRP child victims, as well as rights mentioned in Article 5 Act No. 13 of 2006 on Protection of Witnesses and Victims as amended according to Act No. 31 of 2014 on Amendments to Act No. 13 of 2006.

<sup>40</sup> *Problem Aturan Aborsi: Ancaman Kriminalisasi Tenaga Kesehatan, Korban Perkosaan, dan Ibu Hamil dalam RKUHP*, by Frenia Nababan et al (Jakarta Selatan: Perkumpulan Keluarga Berencana Indonesia (PKBI), 2017) at 21.

children.<sup>41</sup> The refusal of an RRP on a child by having an abortion reflects the child's opinion to refuse its role as a mother. In this case, respect for a child's opinion expressed by abortion should be protected by not incorporating it into the formal criminal justice system.<sup>42</sup>

Children are vulnerable and in need of protection, especially under the law.<sup>43</sup> This is shown by legal principles that give privileges to children as the next generation of people who conflict with the law. In applying the law regarding children who conflicted with the law, the court should not be a 'mouthpiece of the law,' but the court should be able to function as a mirror of justice and expediency in applying the rule of law. The application of the law by judges<sup>44</sup> can be carried out using the principle of criminal individualisation<sup>45</sup>. The use of sanctions in criminal law must be adapted to the offender's characteristics and personal circumstances. There must be leeway/flexibility for the judge in choosing the appropriate sanction or even freeing the child from criminal responsibility. The application of criminal individualisation in abortion cases to child victims of RRP is by prioritising the victim rather than the abortion

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<sup>41</sup> Jennifer Scott et al., "A qualitative analysis of psychosocial outcomes among women with sexual violence-related pregnancies in eastern Democratic Republic of Congo" (2017) 11:64 *International Journal of Mental Health Systems*.

<sup>42</sup> Adverse effects are related to the act of abortion and the processes that children go through in the formal criminal justice system. Apart from being directly related to the principle of respect for a child's opinion, it relates to the child's best interest and, most importantly, the principle of the right to life, continuity, and development. The right to life of an aborted fetus can contradict the principle of the right to life. However, in this context, the option of abortion for a child victim of RRP has become an alternative preferred.

<sup>43</sup> Laurensius Arliman S, "Perlindungan Anak Oleh Masyarakat Ditinjau Dari Mazhab Sejarah Di Dalam Penerapan Prinsip The Best Interest Of The Child Pada Kehidupan Anak Di Indonesia" 2:1 *Jurnal Era Hukum*.

<sup>44</sup> In criminal law enforcement, the adjudication phase is the stage of examining a case by a judge. In contrast, the stages of investigation, investigation, and prosecution are qualified as the pre-trial phase, and the implementation of criminal sanctions is qualified as the post-trial phase. The adjudication phase can only be carried out if the pre-trial phase fails to carry out its mission of overcoming the problem of abortion by child victims of RRP.

<sup>45</sup> The principle of criminal individualisation departs from the importance of protecting individuals (perpetrators of criminal acts) in the criminal law system. See Tri Wahyu Widiastuti, "Prinsip Individualisasi Pidana Dalam Hukum Pidana Dan Hukum Pidana Islam Di Indonesia" (2010) 9:2 *Wacana Hukum* at 46-47.

committed. Thus, if the judge imposes sanctions, it is not solely for retaliation but is more prospective and oriented toward the child's future.<sup>46</sup> In this case, the application of criminal individualisation is in line with the paradigm shift in sentencing.<sup>47</sup> There is compatibility between the imposition of a judge's decision and the nature of the child as a victim and an offender.

The judge should consider child victims of RPP that commit abortion as a special case. The judge is not supposed to impose criminal sanctions<sup>48</sup>, but deciding not guilty as an alternative. The judge's job in law enforcement is more than just applying the law<sup>49</sup>, because for law enforcement officials, the law is an interpretive concept. There is room for law enforcement officials, namely investigators, prosecutors, and judges to make interpretations in selecting, placing, and applying the law.<sup>50</sup> The judge's task is not only to apply the law and the existence of an interpretive concept in the examination of criminal cases but to represent the absolute power of a judge.<sup>51</sup> The

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<sup>46</sup> Marjuanda Sinambela, "Vonis Penjara oleh Hakim Terhadap Kasus Pelecehan Seksual yang Dilakukan Anak dalam Perspektif Keadilan Restoratif (Studi Kasus Putusan Nomor: 98/Pid.Sus-Anak/2014/PN.SAG)" (2017) 4:4 Nestor Tanjungpura Journal of Law, online: <<https://media.neliti.com/media/publications/209634-vonis-penjara-oleh-hakim-terhadap-kasus.pdf>>.

<sup>47</sup> Hadibah Zachra Wadjo, "Pemidanaan Anak Dalam Perspektif Keadilan Restoratif" (2016) 22:1 Jurnal Sasi at 79.

<sup>48</sup> Article 191(2) of the Criminal Procedure Code of Indonesia states that if the court believes that the act charged against the defendant is proven. However, the act does not constitute a crime, and the defendant is acquitted of all charges.

<sup>49</sup> Ifrani, "Kajian Filsafat Hukum Tentang Kedudukan Hukum Dalam Negara Ditinjau Dari Perspektif Keadilan" (2012) 1:1 Jurnal Konstitusi at 79.

<sup>50</sup> Aulia A Rachman, "Strategi Penegakan Hukum Mengatasi Mafia dan Korupsi" 6:35 Jurnal Intelijen dan Kontra Intelijen at 49.

<sup>51</sup> Compare Dworkin's argument, which distinguishes between the arguments of principles and policies, called a policy argument when judges try to account for decisions by demonstrating benefits for the political community. In contrast, the principle argument is the judge's argument that justifies the decision based on respect or protection of individual or group rights. Each case is unique, so it requires a new legal interpretation. In other words, there are never two completely similar cases. See Michel Rosenfeld, "Dworkin and the One Law Principle: A Pluralist Critique" (2005) 233:3 *Revue internationale de philosophie* 363–392.

absolute power of judges<sup>52</sup> provides full opportunity for subjective discretion in law enforcement.<sup>53</sup> Thus, the judge's task is not only to apply the law but to his subjective discretion.<sup>54</sup> The judge has the authority and full power to free the child against all charges. In addition, the judge should reflect on the child's position as an RRP victim. Therefore, the child decides to have an abortion based on the child's opinion, which essentially also contains the application of the principle of the child's best interests and the principle of the right to life<sup>55</sup>, survival, and development.<sup>56</sup>

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<sup>52</sup> The absolute power of the judge is a reflection of the freedom of the judge to decide every case. In this case, the judge's freedom is part of the judicial power, and the judiciary possesses the independence or independence to create an objective and impartial decision. See Firman Floranta Adonara, "Prinsip Kebebasan Hakim dalam Memutus Perkara Sebagai Amanat Konstitusi" (2015) 12:2 Jurnal Konstitusi at 217.

<sup>53</sup> Wayne LaFavre states that law enforcement is a process, in essence, the application of discretion, which involves making decisions that are not strictly regulated by the rule of law but have an element of personal judgment. According to Wayne La Favre, discretion in law enforcement is critical because of no perfect legislation and delays in adapting laws and regulations to societal developments that give rise to uncertainty. In addition, the reason covers the lack of funds to implement legislation as legislators desired and individual cases requiring special treatment. See I Wayan Juliartha Suda & I Wayan Suwanda, "Kajian Tugas Dan Fungsi Polri Dalam Penegakan Hukum" (2022) 16:1 Jurnal Ganec Swara at 1337.

<sup>54</sup> According to the Law Dictionary, discretion is a policy that must be taken by law enforcement because of the field urgency. M Marwan & Jimmy P, *Kamus Hukum* (Surabaya: Reality Publisher, 2009) at 173.

<sup>55</sup> The right to life of a child must be interpreted narrowly. In this case, sacrificing 'prospective children' who are aborted by prioritising the lives of child victims of RRP can be justified using a philosophical approach. Ethical reasons can be put forward as justification for committing it. Fokky Fuad, "Aborsi Sebuah Perdebatan Filsafat Hukum" (2014) 11:1 Lex Jurnalica at 2.

<sup>56</sup> Judges are not legislators because their job is to adjudicate or examine and adjudicate. The task of making laws lies within the realm of legislation. However, in the end, the judge determines what the law requires. As Satjipto Rahardjo quoted Dworkin's argument, Judges also "make laws" at a higher level. This is because the judge decides that the law is not carried out by reading the text (textual reading) but by exploring the moral behind it (moral reading). See Muhammad Akib, "Refleksi Pemikiran Hukum Modern Suatu Orientasi Menuju Paradigma Deep Ecologi dalam Pengkajian Ilmu Hukum" (2009) 27:2 Jurnal Hukum Pro Justitia 155–167.

#### IV. THE CHILD BASED ON FORENSIC SCIENCE INTERVENTION

The children as RRP victims committing to abortion are in a dual position in the Indonesian criminal system as they are victims and perpetrators. As this may result in a paradoxical situation, a child's RRP abortion is treated with a standard criminal justice process.<sup>57</sup> H. L. Packer, a professor of law from Stanford University, warned that the general and coercive use of criminal sanctions would cause the criminal facility to become a "prime threat."<sup>58</sup> Criminal sanctions constitute the best guarantor when used sparingly, carefully, and humanely, and once a 'main threat' when used indiscriminately and forcibly.<sup>59</sup> By referring to Packer's opinion, the use of criminal law in the case of children as RRP victims committing to abortion should be carried out sparingly, carefully, and humanely. A comprehensive approach towards a victim's predicaments or a comprehensive victim's mental state should be one of the determining factors in the court process. Therefore, a humanistic approach is needed by prioritising the scientific crime investigation approach.<sup>60</sup>

At the same time, child perpetrators of abortion require the assistance of other disciplines in supporting the urgency of applying the principle of

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<sup>57</sup> Reko D Salfutra, "Hak Asasi Manusia Dalam Perspektif Filsafat Hukum" (2018) 12:2 Jurnal Hukum Progresifi 2146–2158.

<sup>58</sup> Vernon B Fox, Paul M Whisenand, & Neil C Chamelin, *Introduction to Criminal Justice*, Prentice-Hall (New Jersey: Prentice-Hall, 1979) at 26.

<sup>59</sup> Herbert L Packer, *The Limits of the Criminals Sanctions* (California: Stanford University Press, 1968) at 366.

<sup>60</sup> Scientific Crime Investigation is an effort to research, investigate, search, examine, and collect data, information, and findings to prove a fact's truth or even falsity. These findings then present conclusions based on science that has been proven scientifically correct by applying forensic science. Riza Sativa, "Scientific Investigation dalam Penyidikan Tindak Pidana Pembunuhan" (2021) 15:1 Jurnal Ilmu Kepolisian at 59. Forensic science is scientific knowledge used to reveal the occurrence of scientific events as a tool to objectively reveal criminal events because scientific knowledge is obtained through scientific research so that scientific truth can be guaranteed. Muhammad Mustofa, "Peran Ilmu-ilmu Forensik dalam Penegakan Hukum di Indonesia (Suatu Tinjauan dari Sudut Pandang Kriminologi)" (2010) 73 Jurnal Studi Kepolisian at 110.

respect for the child's opinion.<sup>61</sup> The act of abortion is potentially related to the victim's mental state. Forensic science can explore and support the assessment of respect for a child's opinion.<sup>62</sup> Law enforcement officials may take specific policies and not even continue the legal process dealing with the children as the RRP victims, particularly if they refuse to have a pregnancy.<sup>63</sup> The empowerment of forensic sciences in dealing with child victims of RRP includes examining forensic medical experts<sup>64</sup>, forensic psychiatrists, forensic psychologists, and forensic social worker experts.<sup>65</sup>

Forensic psychologists play a crucial role in cases of children who are victims and witnesses of RRP.<sup>66</sup> Psychology can help diagnose victims, provide

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<sup>61</sup> Applying the principle of respect for the child's opinion implies applying the principle of the child's best interests.

<sup>62</sup> Forensic science is used to apply Scientific Crime Investigation to support proof of legal (criminal) cases based on scientific truth. The urgency of applying forensic science cannot be separated from the objective of finding material or actual truth in examining criminal cases. The branches of forensic science include forensic medicine, forensic psychiatry, forensic psychology, forensic anthropology, forensic social workers, forensic sociology, forensic odontology, digital forensics, forensic ballistics, forensic toxicology, and so on.

<sup>63</sup> In this case, it prioritises the opinion of the child victim in choosing to continue the pregnancy or end the pregnancy by utilising an abortion. Decision-making based on the recommendations of forensic experts is based on the assessment given after examining the child. The forensic expert team plays a vital role in exploring the child's opinion and deciding to have an abortion. The expert team's assessment is used as a basis for law enforcement officials and all stakeholders to make the best decision for the child by respecting the child's opinion in continuing or terminating the pregnancy.

<sup>64</sup> Marchel R Maramis, "Peran Ilmu Forensik Dalam Penyelesaian Kasus Kejahatan Seksual Dalam Dunia Maya (Internet)" (2015) 2:7 Jurnal Ilmu Hukum at 42; Ratna Dewi P et al, *Buku Ajar Pemeriksaan Fisik Dan Aspek Medikolegal Kekerasan Seksual Pada Anak Dan Remaja* (Lampung: Bagian Obstetri Dan Ginekologi Fakultas Kedokteran Universitas Lampung, 2017) at 7.

<sup>65</sup> However, the term forensic social worker is yet to be widespread in Indonesia, even though in America, social workers who deal with legal issues are called forensic social workers. Oktaviani, *Forensic Social Worker Studi Kasus Peran Pekerja Sosial dalam Proses Diversi pada Sistem Peradilan Pidana di Kabupaten Sleman* Universitas Islam Negeri Sunan Kalijaga Yogyakarta, 2016).

<sup>66</sup> See Amelia Pingky Nadia Tita Suwito & Putri Pusvitasari, "Peran Psikolog Forensik Pada Anak Yang Menjadi Korban Sekaligus Saksi Pelecehan Seksual" (2022) 8:13 Buletin Konsorsium Psikologi Ilmiah Nusantara, online: <<https://buletin.k-pin.org/index.php/arsip-artikel/1067-peran-psikolog-forensik-pada-anak-yang-menjadi-korban-sekaligus-saksi-pelecehan-seksual>>.

justice for victims, prevent recurring incidents and have a more significant impact on victims, and provide policy recommendations under laws and regulations. Forensic psychologists are needed to help cope with crimes that cause victims to themselves, help victims carry out their functions in the ongoing judicial process, and fulfil victims' rights. Forensic science reports may provide information that triggers a comprehensive understanding of the law enforcement process. Forensic psychologist involvement may enlighten the intricate characteristic of abortion of a child victim.

For child victims, abortion is a traumatic experience that already shook their overall mental state. The involvement of children in the legal process or dealing with the law can potentially affect emotional and psychosexual development<sup>67</sup>, even psychosocial<sup>68</sup>. Therefore, forensic psychologists can play a role in helping child victims overcome and recover from their trauma.<sup>69</sup> Abortions by RRP victims must receive legal protection considering the suffering they experience physically and psychologically.<sup>70</sup> Child victim recovery from trauma must be a top priority that all parties must carry out. Physical trauma can be recovered with the help of a doctor through a forensic medical examination. Physically the doctor can determine the condition of

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<sup>67</sup> Psychosexual term meaning is to describe sexual pleasure. During childhood, the parts of the body have a psychological meaning that stands out as a source of new pleasures, and new conflicts gradually shift from one part of the body to another at certain stages of development; See Donna L Wong, *Buku Ajar Keperawatan Pediatrik*, 6th ed (Jakarta: EGC, 2009) at 117; See Andi Nur Andriani, "Peran Orang Tua Terhadap Pengetahuan Seks Pada Anak Usia Dini" (2016) 4:2 *Jurnal Equilibrium Pendidikan Sosiologi* at 225.

<sup>68</sup> Psychiatric and social problems that have a reciprocal influence as a result of social change and or social turmoil in society, which can lead to mental disorders; Ernalinda Rosya, *Modul Psikososial Dan Budaya Dalam Keperawatan* (Jakarta: Universitas Esa Unggul, 2019) at 13.

<sup>69</sup> Forensic psychologists can assist in telling stories and giving testimony by paying attention to the psychological condition of the victim's child. In proving legal cases, the law regulates that children can give testimony in criminal cases for investigation, prosecution, and examination. In practice, all parties must consider the child's best interests. See Fitri Melati Sopyani & Triana Noor Edwina, "Peranan Psikologi Forensik dalam Hukum di Indonesia" (2021) 1:1 *Jurnal Psikologi Forensik Indonesia* 46–49.

<sup>70</sup> Rinna Dwi Lestari, "Perlindungan Hukum Perempuan Pelaku Aborsi Dari Korban Perkosaan Terhadap Ancaman Tindak Pidana Aborsi" (2020) 1:1 *Magistra Law Review* at 1.



the victim's child in determining the appropriateness of choices to abort or continue the child's pregnancy based on medical science that has been scientifically proven. In contrast, psychological trauma through forensic psychologist insight and intervention plays a vital role in recovering traumatic conditions and assisting children in expressing children's opinions regarding their condition. Through a psychological approach, respect for children's opinions can be broken down and used as material for consideration by all parties in making policies.

Victims of RRP experience tremendous losses as one of the heaviest forms of violence against women. According to Abdul Wahid and Muhammad Irfan, the women victims of rape should be placed in a broader social context, where it is socially defined and controlled since crime often occurs in this pattern of relations.<sup>71</sup> Rape has hurt and destroyed the life of the victim and also his family. Moreover, the child of the victim and his family must bear the burden of 'accepting' the pregnancy, which incidentally results from the crime.<sup>72</sup> Prohibiting abortion of child victims RRP and 'forcing' them to continue their pregnancies has an impact on all aspects of life, be it economic, social, cultural, or legal.<sup>73</sup>

Almost every cultural environment shows that being a mother is a highly respected role<sup>74</sup>, but under certain conditions, it is often stigmatised. The obligation of women in the reproductive cycle as the owner of the uterus to continue the next generation has not been followed by fulfilling their sexual rights and reproductive health<sup>75</sup>. Victims of RRP who have not recovered

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<sup>71</sup> Andika Legesan, "Korban Kejahatan Sebagai Salah Satu Faktor Terjadinya Tindak Pidana Pemerkosaan" (2012) 1:4 *Lex Crimen* at 12.

<sup>72</sup> Most of the reasons for abortion are non-medical. For example, they do not want to have children. They fear disrupting their careers, disturbing their school, and being financially unable to raise children. They do not want to raise children without the presence of a father, and pregnancies outside of marriage, or to maintain family honour. See Rumelda Silalahi & Rasmita Luciana, "Pandangan Hukum Kesehatan Terhadap Abortus Provocatus Berdasarkan Undang-Undang Nomor 36 Tahun 2009" 27:3 *Jurnal Darma Agung* at 1082.

<sup>73</sup> The legal impact is mainly related to civil administration registration concerning a child's identity due to crime.

<sup>74</sup> Frenia Nababan et al, *supra* note 31 at 3.

<sup>75</sup> *Ibid.*

from the trauma are then threatened by law and 'forced' to continue with unwanted pregnancies, meaning that their body rights have been deprived<sup>76</sup>, in addition to other accompanying rights. Even though the law guarantees that someone is in an '*overmacht*',<sup>77</sup> a condition that cannot be prosecuted and sentenced.

The condition of psychological trauma due to RRP may create an environment of pressure from the family and society, indicating the existence of a coercive situation or '*overmacht*,' which should have eliminated prosecution and punishment. In criminal law, forensic psychiatrists play an essential role in determining and proving whether or not there is a capacity to be responsible.<sup>78</sup>, including determining the size of responsibility in terms of the psychological condition of an alleged perpetrator of a crime, while forensic social worker experts play a dominant role as enablers, namely assisting clients in accessing resource systems, identifying problems, increasing self-capacity in overcoming problems, so that child victims of RRP can return to functioning socially.<sup>79</sup>

The involvement of forensic experts<sup>80</sup> in providing an assessment of child victims of RRP should involve the family, both parents and guardians, where the victim's child lives within the scope of a family. However, traditional values in Indian and Indonesian societies will likely intervene with forensic experts' assessment since child rights are foreign to each patriarchal society.

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<sup>76</sup> *Ibid.*

<sup>77</sup> Coercive power can be accepted as the reason for abolishing a sentence originating from a greater power, namely power that generally cannot be resisted, including absolute coercion, relative coercion, and emergencies. See Thomas Chandra, "Overmacht (Daya Paksa) dalam Hukum Pidana", *Lembaga Bantuan Hukum Pengayoman Universitas Katolik Parahyangan* (1 June 2021), online: <<https://lbhpengayoman.unpar.ac.id/konsep-overmacht-daya-paksa-dalam-hukum-pidana/>>. Accessed on 19 January 2023.

<sup>78</sup> Muhammad Farhan Abdillah & Iman Santoso, "Psikiater Dalam Ranah Hukum Peradilan Pidana" 10:1 Jurnal Pendidikan Kewarganegaraan Undiksha at 98.

<sup>79</sup> Rifdah Arifah Kurniawan, R Nunung Nurwati, & Hetty Krisnani, "Peran Pekerja Sosial Dalam Menangani Anak Korban Kekerasan Seksual" (2019) 6:1 Prosiding Penelitian & Pengabdian Kepada Masyarakat at 21.

<sup>80</sup> Forensic medical expert, forensic psychologist, forensic psychiatrist and forensic social worker expert.

Family involvement in accompanying children psychologically<sup>81</sup> may be beneficial. Child collaboration with a competent guardian and parents may help in every stage of forensic experts' examination, especially in supporting the application of the principle of respect for children's opinions. Law enforcement in dealing with child victims of RRP must be carried out carefully, thoroughly, and carefully based on the assessment of the relevant forensic experts. A thorough psychological examination may result in a comprehensive court process. Therefore, prioritising respect for the child's opinion must be the most crucial part of solving the problem of abortions by child victims of RRP, primarily based on the assessment of forensic experts.

## V. LAW RELATING TO CHILD SEXUAL VIOLENCE AND ABORTION IN INDIA

India has enacted the Protection of Children from Sexual Offences (POCSO) Act 2012 to tackle the increasing sexual offences against children. According to this act, a child means any person under 18. This act, along with the provisions of the Indian Penal Code of 1882, helps the executive body of India tackle sexual offences against children. Even under the POCSO Act 2012, a special court for trial has been formed to deal with the cases of sexual offences related to minors. Accordingly, the government's response should ensure that the investigation process is child-friendly and that the case is disposed of within one year from the date of the report.

Indian law, from the very beginning, has considered the rape victim's right to abortion under the Medical Termination of Pregnancy Act, 1971 (MTP Act), irrespective of the victim's age. Sec. 3(2), Explanation 2 of the MTP Act deals with humanitarian conditions, where rape victims are given the right to go for an abortion, which is also protected under the right to life with dignity and the right to privacy under Article 21 of the Indian

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<sup>81</sup> The family plays a significant role in moral and material development in adapting to the social environment. When sexual crimes occur, family is a factor that significantly influences the development of the victim's psychological recovery; Muhammad Haviz Burahman, "Peran Keluarga Dalam Pendampingan Dan Pemulihan Kepada Anak Yang Menjadi Korban Kekerasan Seksual di Kota Dumai" (2022) 2:2 Educational Journal: General and Specific Research at 285.

Constitution. If the victim is a minor, then in such cases, guardian consent for abortion is required under the MTP Act. The lawmakers of India have considered the judgement passed in *Rex versus Bourne*, ALL ER 615, where, for the first time, a girl of 14 years who was a rape victim had an abortion, irrespective of the fact that at the time, abortion was not legal. In this case, the court determined that therapeutic abortion is legal when performed for the mother's mental and physical protection. Forcing a rape victim to continue her pregnancy is dangerous for the mother and the child. Thus, Indian legislation and the judiciary have repeatedly demonstrated that rape victims should be permitted to have abortions.

In *Chandrakant Jayantilal Suthar & Another v. State of Gujarat*, 2016 (4) RCR (Criminal) 876, a minor rape victim was expressively distraught and bodily weak to bear a child after being raped by her doctor. The medical team doctors told them that this pregnancy due to rape posed a severe threat to her life and that termination at 24 weeks of pregnancy was a much better option than not terminating it. Also, such termination would cause no mental or physical harm to the victim's health. After considering the medical opinion, the Supreme Court allowed the termination of pregnancy if the girl consented to do so.

Even in international forums like the case of *LMR versus Argentina*, UN Doc. CCPR/C/101/D/1608/2007, the Human Rights Committee held that "the denial of legal abortion for a rape victim inflicted physical and mental suffering, violating the woman's right to be free from torture or cruel, inhuman, or degrading treatment, and her right to privacy". In this case, the court has been convinced that denying an abortion right to a rape victim will amount to cruelty and is against their right to privacy.

In the *State of Rajasthan v S*, the Rajasthan High Court concluded that a woman's "reproductive choice" is a fundamental right and that a child rape victim has a fundamental right to an abortion. In such a case, guardian consent will be sufficient.<sup>82</sup> As per Indian law, identifying the rape victim

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<sup>82</sup> Apoorva Mandhani, "Minor rape victim's right to abort outweighs foetus' right to be born: Rajasthan High Court", *The Print* (2 May 2020), online: <<https://theprint.in/india/minor-rape-victims-right-to-abort-outweighs-foetus-right-to-be-born-rajasthan-high-court/413369/>>. Accessed on 10<sup>th</sup> February 2023.

should not be disclosed. Indonesian law failed to understand the mental and bodily trauma of the rape victim, irrespective of the victim's age. Indonesian law has to understand that rape is more than just a physical assault; it usually ruins the victim's entire psyche. A murderer destroys the victim's human body, while a rapist ravages the hapless woman's entire soul. Charging a rape victim for RRP is against humanity. The law, particularly in cases of sexual violence against minors, should be protective towards the victim. In this regard, the government is obliged to provide therapeutic abortion to a rape victim on humanitarian grounds. It is a well-accepted fact that a rape victim's physical scar may diminish over time, but the psychological scar will never go away. Convicting and punishing a child rape victim for abortion in RRP will cause her and her family double mental trauma.

The denial of abortion rights to a rape victim is a violation of women's reproductive rights, too, which is again a well-accepted right at the international level and under CEDAW. Woman's reproductive rights include the right to equality, the right to privacy, the right to education, the right to liberty, the right to safe access to health care, the right to be free from any violence, the right to abortion and reproductive health information and services.

## VI. CONCLUSION

The study concludes that rules on a child's opinion, especially its role in courts, are vital for re-evaluation. Indonesian legislation in this matter appears ambiguous in law enforcement and in interpreting child victim rights, often failing in legal practice in child protection. Court's Decision No. 5/Pid.Sus.Anak/2018/PN Mbn addresses that child's opinion in courts is ignored, while a lack of child perspective is shown in dealing with a child victim of RRP. In addition, the lack of clear policing of child-oriented law can be seen as a determining factor of poor law enforcement. The study shows a dire need for forensic science intervention to deal with such matters. Hence, Indonesia's policy-making may consider abortion as a form of child's opinion by considering India, which stipulates legal abortion right established as a form of child's opinion. In doing so, the Indonesian

government can involve forensic experts to address this shortcoming, as particularly the existing Indonesian legal framework has provided experts to be involved in courts. This involvement of forensic experts will be a way to optimise child-oriented courts in Indonesia.

## ACKNOWLEDGMENTS

None.

## CONFLICT OF INTEREST

The authors declare no competing interests.

## ETHICS APPROVAL

The corresponding author states that no human participants or animals are involved in this research.

## INFORMED CONSENT

On behalf of all authors, the corresponding author states that no human participants are involved in this research, therefore, informed consent is not required by them.

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