

Conflict of Customary Law and Positive Law in Determining The Status of Children: Criminal Implications for Children's Rights and Legal Protection

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Entered : July 09, 2025
Accepted: July 22, 2025

Revised : July 20, 2025
Published : July 23, 2025

ABSTRACT

This study discusses the normative conflict between customary law and positive law in determining the status of children in Indonesia, with an emphasis on the juridical implications for the protection of children's rights. In the context of legal pluralism recognized by Article 18B paragraph (2) of the 1945 Constitution, customary law often rejects the recognition of children out of wedlock, children of serial marriages, and adopted children who do not conform to local kinship norms. This is contrary to the principles of non-discrimination and the best interests of children as stipulated in Law No. 35 of 2014 concerning Child Protection. The inconsistency of these norms not only has an administrative impact, but also raises the potential for criminal offenses, including child neglect due to not being officially recorded. This study uses a normative juridical approach with qualitative analysis methods on primary and secondary legal materials, including international conventions such as CRC. The results of the analysis show the urgency of legal harmonization through responsive derivative regulations, legal understanding by local actors, and the transformation of customary law values to be in line with the principles of child protection. Law No. 35 of 2014 is positioned as a transformational instrument to bridge the tension between local norms and national laws to ensure that children's rights are guaranteed comprehensively without discrimination.

Keywords: Criminal Implications; Children's Rights; Legal Dualism

INTRODUCTION

The legal system in Indonesia has pluralistic characteristics, where the existence of customary law is still recognized as long as it does not contradict the values of Pancasila and the 1945 Constitution as affirmed in Article 18B paragraph (2) of the 1945 Constitution. In the realm of determining the status of children, this legal pluralism often raises tensions between the principle of kinship that underlies customary law and the principle of equality and protection of rights that are the foundation of national positive law. This tension emerges in the issue of the status of children out of wedlock, children from serial marriages, and adopted children who are not customarily recognized. When customary law does not recognize the social and kinship status of children, the legal position of children becomes vulnerable, even though the state has a constitutional and juridical responsibility to ensure the protection of children as a whole.¹

In national law, children's rights to identity, legal recognition, and guarantees of non-discrimination are guaranteed by Article 2 and Article 3 of Law No. 35 of 2014.

¹ Munajat, M. (2025). Transformasi Penanganan Anak dalam Konflik Hukum: Kerangka Diversi dan Keadilan Restoratif. *IN RIGHT: Jurnal Agama dan Hak Azazi Manusia*, 14(1), 85-109.



Article 2 affirms that the implementation of child protection is based on the principles of non-discrimination, the best interests of children, the right to life, growth, and development, and respect for children's opinions.² When customary practices actually cause discrimination against children based on their birth status or marital relationship, then the practice substantially violates the provisions of this law. Further provisions in Article 5 state that every child has the right to be protected from discrimination of any kind, including those derived from the customary law system that does not provide equal legal recognition.³

Conflicts between customary norms and positive legal provisions not only have administrative impacts, but also implications for the criminal aspect. In Article 26 paragraph (1) letter c of Law No. 35 of 2014, it is stipulated that parents are obliged to record the birth of children to the implementing agency. If parents refuse to register their children due to the pressure of customary norms, the child loses access to basic rights such as education, health insurance, and legal protection. Neglect of these rights can legally qualify as a violation of Article 76B which prohibits everyone from abandoning a child, and this violation can be subject to criminal sanctions according to Article 77, which provides for imprisonment and/or fines for the perpetrator.⁴

Furthermore, Article 59 paragraph (2) letter m of the Child Protection Law states that children who are in minority and isolated situations, including children in indigenous communities, are children who are required to receive special protection from the state. This confirms that in the face of the insynchronization between customary law and positive law, the state has an affirmative responsibility to present and provide protection for children who are victims of unclear legal status due to the dominance of discriminatory local values. Without state recognition, children from indigenous or non-marital groups are at risk of being marginalized from the national legal system.

The direct impact of the non-recognition of the status of children by indigenous communities is very real in civil aspects such as inheritance, as well as in criminal protection. Article 861 of the Civil Code stipulates that legal children and recognized children have a position in inheritance law. However, if customary law does not recognize the status of the child, then he or she does not obtain inheritance rights socially or administratively. In criminal law, the ambiguity of a child's status leads to weak state intervention in situations of child exploitation, violence, or trafficking.⁵ In this case, the Child Protection Law is the main legal tool that can guarantee that children remain protected, even if their social status is doubted by indigenous communities.⁶

Institutionally, the need for harmonization between customary law and national law is urgent to be realized in the form of policies based on the principle of child protection. It is necessary to give an example of how Supreme Court Regulation No. 3 of 2017 is a model in combining universal norms with local practices. By referring to the principles in Article 4 and Article 6 of the Child Protection Law, which prioritize the principle of the best interests of children in every legal decision, the establishment of

² Tang, A. (2020). Hak-Hak Anak dalam Pasal 54 UU No. 35 Tahun 2014 tentang Perlindungan Anak. *Jurnal Al-Qayyimah*, 2(2), 98-111.

³ Faried, M. (2023). *HAKIKAT SANKSI PIDANA ADAT DALAM MEWUJUDKAN KEADILAN BAGI ANAK YANG BERKONFLIK DENGAN HUKUM* (Doctoral dissertation, Universitas Hasanuddin).

⁴ Antari, P. E. D. (2021). Pemenuhan Hak Anak yang Mengalami Kekerasan Seksual Berbasis Restorative Justice pada Masyarakat Tenganan Pegringsingan, Karangasem, Bali. *Jurnal Ham*, 12(1), 75.

⁵ Saimima, I. D. S., Putri, A. H., & Aidy, W. R. (2023). Criminal Mediation and Customary Sanctions for Children in Conflict with The Law. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 12(4), 795-810.

⁶ Munajat, H. M., & Hum, S. H. M. (2023). *Hukum pidana anak di Indonesia*. Sinar Grafika.

regional-based derivative regulations that are responsive to the rights of children in indigenous communities becomes very relevant.

The understanding of legal actors at the local level of the provisions of Law No. 35 of 2014 is also still weak. Based on the BAPPENAS report (2021), many traditional leaders and village officials have not fully understood children's rights according to national law. This hinders the implementation of child protection norms in indigenous communities and opens up space for socially legitimate rights violations. Legal counseling and training based on the children's rights approach need to be strengthened so that customary law can be transformed in line with the principles of child protection in the law.⁷

Thus, Law No. 35 of 2014 functions not only as a normative legal umbrella, but also as a tool for value transformation that bridges the tension between customary law and positive law.⁸ The protection of children's rights must not be defeated by local norms that are exclusive and discriminatory. The State is obliged to ensure that every child, regardless of his or her social status, parental marital relationship, or customary position, acquires the right to legal recognition, identity, and protection from all forms of violence or neglect. This is the essence of the state of law that upholds the rights of children as non-negotiable human rights.

METHODS

This research uses a normative juridical legal research method, which is legal research that relies on literature studies to examine the applicable positive legal norms and relevant legal principles. This approach is used to analyze the conflict between customary law and positive law in determining the status of children, focusing on the juridical implications for the protection of children's rights based on the provisions of Law No. 35 of 2014 concerning Child Protection.

Normative research aims to examine and understand how the law should apply (*das sollen*), not how the law is practiced in empirical reality (*das sein*), so that the entire analysis process relies on primary and secondary legal materials that are textual and conceptual.⁹

As explained by Peter Mahmud Marzuki, normative legal research is a method that focuses on the study of legal materials as the main object of study, by interpreting and constructing applicable laws to answer certain legal issues.¹⁰ According to Marzuki, this approach is prescriptive because it aims not only to describe the law, but also to provide normative arguments for the validity of a legal action or act in the legal system adopted.¹¹ Meanwhile, Soerjono Soekanto and Sri Mamudji stated that normative legal research includes research on legal principles, legal systematics, legal synchronization, legal history, and comparative law.¹² The types of approaches used in this study are the statute approach and the conceptual approach. The legislative approach is carried out by

⁷ Gafnel, G., Ismail, I., & Yaswirman, Y. (2023). Human rights and customary law analysis: Uncovering the exploitation of children and women in developing countries. *Hakamain: Journal of Sharia and Law Studies*, 2(2), 174-185.

⁸ Sinaga, A. H., Zega, J., Tinambunan, P., Tamba, C. P. M., Tampubolon, J. G. M., & Sijabat, I. S. (2025). Eksistensi Hukum Pidana Adat Dalam Hukum Pidana Nasional Setelah Pengesahan KUHP Baru. *Jurnal Intelek Dan Cendekiawan Nusantara*, 2(3), 2332-2347.

⁹ Novea Elysa Wardhani, Sepriano, and Reni Sinta Yani, *Metodologi Penelitian Bidang Hukum* (Jambi: PT. Sonpedia Publishing Indonesia., 2025).

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).

¹¹ Mahlil Adriaman et al., *Pengantar Metode Penelitian Ilmu Hukum* (Padang: Yayasan Tri Edukasi Ilmiah, 2024).

¹² Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.

examining various legal provisions related to the status of children and their protection, including the 1945 Constitution of the Republic of Indonesia, Law No. 35 of 2014, the Civil Code, and various related derivative regulations such as Supreme Court Regulation No. 3 of 2017. Meanwhile, a conceptual approach is used to dissect legal concepts such as *the best interests of the child*, the principle of non-discrimination, and the recognition of children in the perspective of customary law and positive law.

The main data sources in this study consist of primary and secondary legal materials. Primary legal materials include national laws and regulations, including Law No. 35 of 2014 concerning Child Protection, the Civil Code, as well as international conventions that have been ratified by Indonesia such as the Convention on the Rights of the Child (CRC). Secondary legal materials include legal literature, scientific journal articles, research results, and opinions of legal experts who discuss legal pluralism, customary law, and child protection in the national legal system.

Data analysis is carried out qualitatively, namely by outlining legal norms, interpreting relevant legal principles, and linking them to social practices related to the status of children in indigenous communities. In this framework, Law No. 35 of 2014 is analyzed as a normative and transformational tool that serves to overcome the disharmony between customary law and positive law in guaranteeing children's rights. This study aims to formulate juridical conclusions regarding the need for legal harmonization to ensure comprehensive and non-discriminatory child protection.

RESULTS AND DISCUSSION

1. Normative Conflict between Customary Law and Positive Law in the Determination of Child Status

The normative conflict between customary law and positive law in determining the status of children reflects the problem of dualism of the legal system that is still inherent in the Indonesian legal order. Customary law, as an unwritten law that lives and develops in society, reflects cultural and genealogical values in determining the status of children. In many indigenous societies, a child's status is highly dependent on the legitimacy of his or her parents' customary marriage, recognition from the father or male relative, and the prevailing patrilineal or matrilineal inheritance system. For example, in some indigenous peoples, children born outside of traditional marriage are not considered full members of the community, nor do they even acquire rights to family names or inheritance, thus experiencing social and legal exclusion.¹³

On the contrary, Indonesia's positive law, especially through Law No. 35 of 2014 as an amendment to Law No. 23 of 2002 on Child Protection—affirms that every child, regardless of birth status or marital background of parents, has the right to equal protection from the state. Article 1 number 1 of the Law states that a child is a person who is not yet 18 years old, including a child who is still in the womb, and all his rights must be guaranteed based on the principle of non-discrimination, respect for the rights of the child, and the principle of the best interest of the child. This norm is imperative and does not provide room for justification of discriminatory treatment on the basis of local customs or customs.

The incompatibility between the normative construction of customary and positive law gives rise to significant juridical conflicts. Concretely, this can be seen in population administration issues such as birth certificates, child recognition, inheritance

¹³ Julacha, S. (2022). AMBIVALENSI HUKUM PERKAWINAN ORANG TUA DENGAN ANAK ANGKAT BERDASARKAN HUKUM ADAT DAN HUKUM POSITIF INDONESIA. *Istinbath: Jurnal Hukum*, 19(01), 1-21.

rights, to parenting and guardianship. Children who are not recognized by the customary system often have difficulty in obtaining formal legal recognition, even though the law positively recognizes their existence in full. This inequality is a gap in violations of children's rights, because it creates ambiguity about the legal status of children in the public and private spheres. As a result, children become a vulnerable group trapped in a void of legal protection between two opposing normative systems.

The conflict not only has a legalistic dimension, but also has an impact on the sociological and psychological dimensions of children. Stigmatization of children born out of wedlock or not recognized by indigenous communities creates systemic social marginalization.¹⁴ This is where the importance of a normative and progressive approach to legal harmonization lies. In the theory of legal pluralism, the harmonization between state law and local law does not mean negating one system, but rather creating an integration of values based on the universal principles of human rights and social justice. Therefore, customary law needs to be reviewed and reconstructed so that its values do not violate the basic principles of child protection as mandated in national positive law and international conventions such as the Convention on the Rights of the Child (CRC), which has been ratified by Indonesia through Presidential Decree No. 36 of 1990.

The reconstruction of customary law values requires a participatory and transformational approach. This can be realized through dialogue between indigenous communities, academics, and legal policy makers to review discriminatory practices against children. On the other hand, the state has a constitutional obligation to ensure the positive rule of law in guaranteeing substantive justice, as affirmed in Article 28B paragraph (2) and Article 28I paragraph (2) of the 1945 Constitution which affirms that every child has the right to survival, growth, and development and is entitled to protection from violence and discrimination.

In this context, the urgency of the principle of the best interest of the child is a crucial point in efforts to harmonize the law. This principle is not just an ethical norm, but is a binding legal principle and must be the main parameter in the entire process of legislation, adjudication, and policy implementation related to children. When customary law has a detrimental impact on the status and rights of children, the principle of the best interests for children must be a priority, even if it means correcting or adjusting certain customary norms. Thus, the national legal system must be firm but inclusive in bridging legal dualism so as not to create structural discrimination against children.¹⁵

Therefore, conflict resolution between customary law and positive law cannot be separated from the role of the state as a guarantor of the protection of children's rights. The state must build a policy mechanism that is able to accommodate local values without sacrificing the legal interests of children. One concrete form that can be pursued is through the formation of derivative regulations or regional regulations that reflect the substance of positive laws while opening up space for non-discriminatory local adaptation. This model will encourage the realization of a responsive, fair, and socially just legal system for children as the next generation of the nation.

Thus, legal reform both in terms of substance and institutional structure must be encouraged to end the dichotomy of customary law and positive law in terms of determining the status of children. When customary law is no longer in harmony with human values and child protection, then positive legal intervention becomes a legitimate and necessary corrective instrument. This is not a form of rejection of the existence of

¹⁴ Hakim, L., Rahmawati, A., Akbar, R. A., & Tamam, B. (2025). Normative Analysis of the Application of Balinese Customary Law in Determining Child Adoption. *Jurnal Hukum Indonesia*, 4(3), 103-112.

¹⁵ Renouw, D. M. E., & Anisah, A. The Customary Law Dilemma in Providing Legal Protection to Child Laborers in West Papua. *JournalNX*, 8(8), 58-67.

customary law, but an effort to honor children as subjects of law whose dignity and rights must be guaranteed unconditionally.

2. Legal and Criminal Implications due to Insynchronization of Child Status Recognition

The insynchronization of the recognition of children's status between the customary law system and positive law creates legal ambiguity that has serious implications for the guarantee of children's legal protection, both in the civil and criminal realms. In the civil law aspect, the unclear status of children, especially those born out of wedlock that is recognized by state law but not recognized customarily, or vice versa, has a direct impact on children's civil rights, such as the right to identity, birth certificates, citizenship, and inheritance rights. This is contrary to the principles of non-discrimination and the best interests of children as stated in Articles 2 and 3 of Law No. 35 of 2014 concerning Child Protection (PA Law).

Criminally, the non-fulfillment of the recognition of the status of the child can be qualified as a form of child neglect, which is regulated in Article 76B of the PA Law, which states that everyone is prohibited from abandoning a child in any form. Violation of this provision is threatened with a criminal penalty as stipulated in Article 77, which is a maximum prison sentence of five years and/or a maximum fine of one hundred million rupiah. When a child's status is not administratively recognized by parents or indigenous peoples, the child is legally in a vulnerable position to neglect basic needs such as education, health, nurturing, and social protection.¹⁶

In terms of criminal law enforcement, the inconsistency in children's status also leads to inequality in access to protection mechanisms when children become victims of physical, sexual, or economic exploitation. In many cases, law enforcement officials face obstacles when the victim's status is not officially recorded in the population document, which is the administrative basis for processing criminal reports. Without a clear legal identity, the authorities have difficulty implementing the protections as stipulated in Article 59 and Article 64 of the PA Law, which require the state to provide special protection to children in emergency situations, including children who are victims of trafficking and exploitation.

This inconsistency also poses a normative dilemma in legal practice in the field. On the one hand, law enforcement officials are required to respect and consider customary law values as part of the living law recognized in the national legal system. But on the other hand, positive law requires administrative recognition of the status of children as a condition for access to legal protection and services. This raises the problem of legal hermeneutics, where there is a conflict between norms derived from local value systems and national legal norms that are codified.¹⁷

Conceptually, this inconsistency shows the failure of the state in carrying out its obligations as a duty bearer in fulfilling the rights of the child based on the principle of "best interest of the child" which is also contained in the Convention on the Rights of the Child, which has been ratified through Presidential Decree No. 36 of 1990. In this context, the state is seen as negligent if it allows a legal vacuum or ambiguity of the legal status of children to have a direct impact on their juridical and social protection.

¹⁶ Alba, N. P. A. M. S., Senastri, N. M. J., & Mulyawati, K. R. (2025). Legal Protection for Children Who Repeat Criminal Acts Through Special Child Development Institution (LPKA). *Jurnal Hukum Prasada*, 12(1), 73-78.

¹⁷ Hamdan, H., Jaya, A., & Syam, E. S. (2021). Batasan Perlindungan Hukum Bagi Anak yang Dapat Dipertanggungjawabkan sebagai Pelaku Kejahatan. *Al-Ishlah: Jurnal Ilmiah Hukum*, 24(1), 53-67.

In addition, from the point of view of customary criminal law (criminal law that lives in society), recognition or denial of the status of children is often used as a form of social sanction that leads to the exclusion of children from the communal social system. This creates layered discrimination that is not only socially harmful, but can also open up loopholes for human rights violations against children. In this case, there is a structural and systemic act of neglect, which puts the child in a state of legal dependence without any guarantee of protection.

Therefore, harmonization between customary law and positive law is a normative and practical imperative. An active role of the state is needed to build a legal bridge through derivative regulations that can ensure the recognition of children's status both from the customary and administrative sides. One strategy that can be applied is to strengthen the role of District Courts and Religious Courts in accommodating the determination of children's status that takes into account customary law values, as well as encouraging village officials or local customary institutions to have an administrative mechanism that is integrated with the national legal system.

Thus, the inconsistency in the recognition of children's status is not only a technical legal issue, but also reflects the failure of the legal system in guaranteeing children's fundamental rights. An integrative approach, which combines sensitivity to customary norms and the applicability of national law, is a middle ground that must be put forward to prevent legal discrimination and criminal violations of children's rights.

3. The Urgency of Harmonizing Customary Law and Positive Law in the Context of Protecting Children's Rights

Harmonization between customary law and positive law within the framework of the protection of children's rights is an urgent need in a pluralistic national legal system. In practice, there is still an imbalance between customary norms rooted in the traditions and habits of local communities with positive legal provisions that are national and universal, as stipulated in Law Number 35 of 2014 concerning Child Protection. This inequality often causes conflicts in the implementation of child protection, especially in determining the status of children, resolving family disputes, and handling violence against children in indigenous communities. Therefore, harmonization efforts are very urgent as a form of integration of local values in the national legal framework that upholds the principle of child protection.

Law No. 35 of 2014 affirms that children as part of citizens have inherent rights from birth, including the right to identity, upbringing, protection from violence, and guarantees of growth and development. This provision is in line with the principle *of the best interest of the child* which is also affirmed in the Convention on the Rights of the Child which has been ratified by Indonesia through Presidential Decree No. 36 of 1990. However, in indigenous peoples, the determination of children's status, inheritance rights, and mechanisms for resolving child conflicts often use customary approaches that do not always prioritize children's rights universally. For example, in some indigenous communities, children outside of formal customary marriage may lose social status and inheritance rights, which is contrary to the principle of non-discrimination in positive law.¹⁸

For this reason, a legislative approach is needed that is able to accommodate local values without sacrificing children's rights. One concrete form of harmonization is through the formation of Regional Regulations (Perda) based on local wisdom that are

¹⁸ Ayu, R. O., Sukmariningsih, R. M., & Hartati, S. (2024, November). HARMONISASI HUKUM ADAT DAN HUKUM POSITIF DALAM MEMPERKUAT IDENTITAS NASIONAL DI TENGAH KEBERAGAMAN. In *SEMINAR NASIONAL KONSORSIUM UNTAG SE INDONESIA* (pp. 272-278).

synergized with the provisions of the Child Protection Law. The Regional Regulation can regulate procedures for resolving child disputes based on customary deliberation, but still refers to the minimum standards of children's rights determined nationally. In addition, the establishment of modern customary law guidelines that are codified in a participatory manner can be a normative instrument that bridges between customary law and positive law, without eliminating the characteristics of local culture.

Strengthening the capacity of local legal actors, including traditional stakeholders, community leaders, and village officials, is also a crucial component in harmonization efforts. Many customary provisions are implemented without a thorough understanding of children's rights according to national and international law. Therefore, structured and sustainable legal counseling programs for indigenous communities are essential to transform traditional values in a direction that is more responsive to the needs and rights of children. This also includes increasing customary law literacy among law enforcers, so that they can carry out a mediative and educational role when there is a legal conflict between customary values and state law.

Furthermore, this harmonization must be based on the principle of *legal pluralism* that recognizes the existence of customary law, but remains within the constitutional corridor and the principle of non-derogable rights. In this case, the transformation of customary law does not mean removing local values, but rather reinterpreting customary values to be in line with the spirit of substantive justice, especially for vulnerable groups such as children. This transformation can be carried out through inter-normative dialogue between indigenous communities, academics, policymakers, and civil society organizations, resulting in an inclusive hybrid legal system.

Thus, the urgency of harmonizing customary law and positive law is not only rooted in juridical issues, but also reflects the state's responsibility to ensure social justice and the protection of children's rights in its entirety. This effort also strengthens the adaptive power of the national legal system in responding to the socio-cultural diversity of Indonesian society, while remaining based on the universal principle of child protection. Successful harmonization will prevent systemic discrimination, increase accountability for legal protection of children in indigenous communities, and strengthen social cohesion through contextual and inclusive justice.

CONCLUSIONS

The normative conflict between customary law and positive law in determining the status of children reflects the complexity of the pluralistic legal system in Indonesia that has not been fairly and harmoniously integrated. Customary law still maintains genealogical logic and cultural values that often lead to the exclusion of children born outside of customary marriage. Meanwhile, positive law through Law No. 35 of 2014 guarantees non-discriminatory protection for all children regardless of their birth background. This inconsistency has a serious impact on children's rights in the civil and criminal spheres, such as identity recognition, inheritance rights, and protection from neglect and violence. When customary law rejects recognition of a child's status, it creates legal ambiguity that can lead to human rights violations against children. The state as a duty bearer has a constitutional responsibility to ensure the legal equality of children through corrective instruments based on national law. Legal harmonization is a strategic step that not only unites norms, but also adjusts customary values to be in line with the universal principle of children's rights. Mechanisms such as the establishment of adaptive regional regulations, dialogue between norms, and capacity building of local legal actors are important foundations for such integration. In the framework of legal pluralism, customary law is not abolished, but reformulated to be more responsive to the needs of

children. The principle of the best interests of children must be the main guide in the preparation and implementation of legal norms. This harmonization is a collective effort of the state and society in ensuring substantive justice and child protection in a comprehensive and sustainable manner.

REFERENCE

- Alba, N. P. A. M. S., Senastri, N. M. J., & Mulyawati, K. R. (2025). Legal Protection for Children Who Repeat Criminal Acts Through Special Child Development Institution (LPKA). *Jurnal Hukum Prasada*, 12(1), 73-78.
- Antari, P. E. D. (2021). Pemenuhan Hak Anak yang Mengalami Kekerasan Seksual Berbasis Restorative Justice pada Masyarakat Tenganan Pegringsingan, Karangasem, Bali. *Jurnal Ham*, 12(1), 75.
- Ayu, R. O., Sukmariningsih, R. M., & Hartati, S. (2024, November). Harmonisasi Hukum Adat Dan Hukum Positif Dalam Memperkuat Identitas Nasional Di Tengah Keberagaman. In *Seminar Nasional Konsorsium Untag Se Indonesia* (pp. 272-278).
- Faried, M. (2023). HAKIKAT SANKSI PIDANA ADAT DALAM MEWUJUDKAN KEADILAN BAGI ANAK YANG BERKONFLIK DENGAN HUKUM (Doctoral dissertation, Universitas Hasanuddin).
- Gafnel, G., Ismail, I., & Yaswirman, Y. (2023). Human rights and customary law analysis: Uncovering the exploitation of children and women in developing countries. *Hakamain: Journal of Sharia and Law Studies*, 2(2), 174-185.
- Hakim, L., Rahmawati, A., Akbar, R. A., & Tamam, B. (2025). Normative Analysis of the Application of Balinese Customary Law in Determining Child Adoption. *Jurnal Hukum Indonesia*, 4(3), 103-112.
- Hamdan, H., Jaya, A., & Syam, E. S. (2021). Batasan Perlindungan Hukum Bagi Anak yang Dapat Dipertanggungjawabkan sebagai Pelaku Kejahatan. *Al-Ishlah: Jurnal Ilmiah Hukum*, 24(1), 53-67.
- Julaeha, S. (2022). Ambivalensi Hukum Perkawinan Orang Tua Dengan Anak Angkat Berdasarkan Hukum Adat Dan Hukum Positif Indonesia. *Istinbath: Jurnal Hukum*, 19(01), 1-21.
- Mahlil Adriaman et al., *Pengantar Metode Penelitian Ilmu Hukum* (Padang: Yayasan Tri Edukasi Ilmiah, 2024).
- Munajat, H. M., & Hum, S. H. M. (2023). Hukum pidana anak di Indonesia. Sinar Grafika.
- Munajat, M. (2025). Transformasi Penanganan Anak dalam Konflik Hukum: Kerangka Diversi dan Keadilan Restoratif. *IN RIGHT: Jurnal Agama dan Hak Azazi Manusia*, 14(1), 85-109.
- Novea Elysa Wardhani, Sepriano, and Reni Sinta Yani, *Metodologi Penelitian Bidang Hukum* (Jambi: PT. Sonpedia Publishing Indonesia., 2025).
- Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).
- Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.
- Renouw, D. M. E., & Anisah, A. The Customary Law Dilemma in Providing Legal Protection to Child Laborers in West Papua. *JournalNX*, 8(8), 58-67.
- Saimima, I. D. S., Putri, A. H., & Aidy, W. R. (2023). Criminal Mediation and Customary Sanctions for Children in Conflict with The Law. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 12(4), 795-810.
- Sinaga, A. H., Zega, J., Tinambunan, P., Tamba, C. P. M., Tampubolon, J. G. M., & Sijabat, I. S. (2025). Eksistensi Hukum Pidana Adat Dalam Hukum Pidana Nasional Setelah

Pengesahan KUHP Baru. Jurnal Intelek Dan Cendikiawan Nusantara, 2(3), 2332-2347.

Tang, A. (2020). Hak-Hak Anak dalam Pasal 54 UU No. 35 Tahun 2014 tentang Perlindungan Anak. Jurnal Al-Qayyimah, 2(2), 98-111..