



## **CHARACTERISTICS OF CHILD MURDER IN DEEP ARTICLE 460 OF THE 2023 CRIMINAL CODE BASED ON DIGNITY JUSTICE**

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### **Abstract:**

*Child murder is a criminal act that has very complex legal, social, psychological, and moral dimensions, considering that children are a group that is physically and psychologically in the most vulnerable position. The 2023 Criminal Code through Article 460 presents an important breakthrough by providing special provisions related to child murder, which is different from ordinary murder. This study aims to analyze the characteristics of the crime of child murder as stipulated in Article 460 of the 2023 Criminal Code and examine its relevance to the principle of dignified justice. The research method used is normative juridical with a statutory approach and a conceptual approach. The results of the study show that Article 460 of the 2023 Criminal Code has three main characteristics, namely: (1) the existence of special protection for children as victims of criminal acts, (2) criminal aggravation as a form of stricter legal protection, and (3) an orientation to dignified justice that balances the interests of perpetrators, victims, and society and emphasizes respect for human dignity. Furthermore, this article not only functions as a repressive norm but also as a moral and educational instrument in upholding human values and protecting children's rights. In conclusion, Article 460 of the 2023 Criminal Code is a form of progressive progress in Indonesia's criminal law politics, although the success of its implementation still depends heavily on the consistency of law enforcement officials, the effectiveness of the criminal justice system, and public awareness in respecting children's rights.*

### **Keywords:**

Child Murder, Criminal Code 2023, Article 460, Dignity Justice, Child Protection

### **1. Introduction**

Child social, moral, and psychological dimensions. Children as legal subjects have a very vulnerable position, both physically and psychologically, because they are not fully able to protect themselves from various forms of threats. Therefore, when a child becomes a victim of murder is a criminal act that has received serious attention in the criminal law system in Indonesia. This phenomenon is not only related to the juridical aspect, but also touches on deep order, it is not only a violation of the criminal law, but also a direct attack on human dignity and dignity, as well as a denial of the state's obligation to provide maximum protection to children (Yanto et al., 2020).

In the context of national criminal law, the old Criminal Code (KUHP), which is a Dutch colonial legacy (Wetboek van Strafrecht voor Nederlandsch-Indië, 1915), basically does not explicitly regulate the killing of children as a stand-alone criminal act. The old Criminal Code placed more provisions regarding murder in a general framework, as stipulated in Articles 338 to 340 of the Criminal Code. Consequently, law enforcement of child murder cases during the enactment of the old Criminal Code often only uses these general articles, so that it does not provide adequate legal protection for children as a vulnerable group (Ade Putri Agustini & Abdul Ficar Hadjar, 2024). This situation shows that there is a vacuum of norms (rechtsvacuum) in the criminal law that prevailed in Indonesia before the birth of the new Criminal Code.

The birth of Law Number 1 of 2023 concerning the Criminal Code (Criminal Code 2023) brings a breath of fresh air to the reform of Indonesia's criminal law. This new Criminal Code not only replaces colonial codification, but also accommodates the needs of modern law in accordance with the values of Pancasila, the 1945 Constitution, and the development of international law. One of the important breakthroughs in the 2023 Criminal Code is the inclusion of special provisions regarding child murder. This is reflected in Article 460 of the 2023 Criminal Code which expressly states the existence of the crime of murder against a child with a heavier criminal threat than ordinary murder. This affirmation is a manifestation of the politics of Indonesian criminal law which increasingly places children as a group that must receive maximum protection (Jufnidar et al., 2023).

This legislation policy is actually in line with the principles of child protection as contained in Law Number 23 of 2002 concerning Child Protection which was later amended by Law Number 35 of 2014. In the regulation, it is stated that children are a mandate as well as a gift from God Almighty who has the right to live, grow, develop, and participate reasonably in accordance with the dignity and dignity of humanity. Therefore, all forms of criminal acts that threaten the survival of children must be seen as serious violations that require strict handling (Ratnasari, 2023).

In addition, Indonesia is also a party to the Convention on the Rights of the Child (CRC) which was adopted by the United Nations General Assembly in 1989 and ratified through Presidential Decree No. 36 of 1990. The convention expressly mandates that the state protect children's rights, including the right to life, from all forms of threats and violence (Alam, 2024). Thus, the regulation regarding child murder in the 2023 Criminal Code is a concrete form of the implementation of Indonesia's international obligations.

From a theoretical perspective, the existence of Article 460 of the 2023 Criminal Code needs to be understood within the framework of dignified justice. This concept emphasizes that the purpose of criminal law is not solely to avenge evil deeds with appropriate punishment, but also to maintain and protect human dignity. In the context of child murder, dignified justice means that the law must not stop at the retributive dimension alone, but must also pay attention to aspects of protection for victims, prevention of potential similar crimes in the future, and the restoration of social conditions due to these crimes (Rudiana & Setiabudhi, 2021). Thus, dignified justice contains three main dimensions, namely the protection of the dignity of the victim (child), the balance of interests between the perpetrator, the victim, and the community, and the strengthening of moral values that function to prevent the recurrence of the same criminal act.

The application of dignified justice in the context of child murder is very relevant, considering that children are a group that must be morally and legally protected by the state and society. If criminal law is only oriented towards punishing the perpetrator, then the preventive and educational function of the law will be neglected. In fact, the main purpose of criminal law in the Pancasila law state is to create a just, orderly, and dignified social order. Therefore, Article 460 of the 2023 Criminal Code needs to be understood not only as a rule that provides a heavier criminal threat, but also as an instrument to realize dignified justice for all parties involved (Adler, 2023).

Since the ratification of the UN Convention on the Rights of the Child, the principle of "in the best interests of the child" has become the main basis for the formation of laws and regulations related to children, including in the criminal justice system (Rosyada & In'am, 2023). In addition, the existence of Article 460 of the 2023 Criminal Code also shows that there is a more progressive political development of Indonesian criminal law. If previously the old Criminal Code was neutral and general in regulating murder, now the new Criminal Code explicitly provides special legal protection for children. This change can be seen as a manifestation of the principle of legal protection that is responsive to the needs of the community. This means that criminal law is no longer solely an instrument of the state to punish perpetrators, but also a means of protecting vulnerable groups, especially children.

However, the existence of norms in the 2023 Criminal Code does not necessarily guarantee the success of law enforcement in the field. The implementation of the provisions of Article 460 will depend heavily on the consistency of law enforcement officials in enforcing the law, the understanding of judges in interpreting dignified justice, and public awareness in respecting children's rights. In other words, the challenges faced lie not only in the normative aspect, but also in the cultural and structural aspects.

Based on the description above, it can be understood that child murder is a criminal act that has its own complexity, both in terms of vulnerable victims, severe criminal threats, and its relevance to the principles of dignified justice. Therefore, this study aims to in-depth describe the characteristics of child murder in Article 460 of the 2023 Criminal Code and examine its relevance to the concept of dignified justice, so that it can make an academic and practical contribution to the development of criminal law in Indonesia.

## 2. Research Methods

This type of research uses a normative juridical method by combining several approaches. First, the statute approach, namely by examining in depth the provisions of Article 460 of the 2023 Criminal Code and other regulations related to child protection. Second, a conceptual approach that relies on the theory of dignity justice and the concept of child protection as the basis for analysis of legal norms. Third, a comparative approach is carried out by comparing the provisions of the law in Indonesia with the practice of legal regulation regarding child murder in various other countries (Kulesza, 2025). The sources of legal materials used consist of primary legal materials, namely the 2023 Criminal Code, the Child Protection Law, and various international conventions related to children's rights; secondary legal materials, in the form of legal literature, books, journals, and relevant articles; and tertiary legal materials, such as legal dictionaries and legal encyclopedias. All of these legal materials are analyzed qualitatively-descriptively, with an emphasis on the interpretation of the article and its relevance to the principles of dignified justice, so as to provide a comprehensive picture of the characteristics of child murder in Article 460 of the 2023 Criminal Code.

## 3. Results and Discussion

### 3.1. Provisions of Article 460 of the 2023 Criminal Code

Article 460 of the 2023 Criminal Code provides a formula that expressly regulates the crime of child murder. The provisions of the article read: "Any person who deliberately takes the life of a child shall be sentenced to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years, or the death penalty, or life imprisonment, in the event that the murder is carried out with planning." The formulation shows that there are efforts by lawmakers to affirm that children are legal subjects who have a privileged position so that they need stricter legal protection. Substantially, this article places child murder as a criminal act with a higher level of seriousness than ordinary murder, because in addition to taking someone's life, this crime also cuts off the sustainability of the nation's generation.

When compared to the general provisions in Article 454 of the 2023 Criminal Code regarding ordinary murder, there is a significant difference in terms of criminal threats. Article 454 only states that anyone who deliberately takes the life of another person is threatened with imprisonment for a maximum of 15 years. The article is neutral, does not distinguish who the victim is, whether it is children, adults, or the elderly. Thus, the formulation of Article 454 tends to generalize the crime of murder as a general offense. However, Article 460 of the 2023 Criminal Code provides special treatment by placing children as specific victims who deserve stronger protection (Armelia et al., 2024). This distinction is not only an editorial issue, but shows the existence of a new direction in criminal law politics in Indonesia.

The placement of children as specific victims in this article reflects a special protection approach. The politics of Indonesian criminal law contained in the new Criminal Code is no longer neutral as in the colonial legacy Criminal Code, but is more responsive to the needs of modern society. By regulating a special article on child murder, the lawmakers emphasized that the safety of children is a priority that should not be negotiated. This is in line with the theory of victimology that places children as the most vulnerable victims, because their limitations both physically and psychologically make children unable to protect themselves from the threat of crime (Lubis et al., 2024).

Furthermore, Article 460 of the 2023 Criminal Code also shows continuity with various international legal instruments that have been ratified by Indonesia, especially the Convention on the Rights of the Child (CRC) which affirms the right of children to survival, growth, and development. In the framework of human rights, the right to life is a non-derogable right, meaning that it cannot be reduced under any circumstances (Manik et al., 2022). Thus, when the state pays special attention to the crime of child murder, this is not only a criminal policy, but also a form of Indonesia's constitutional and international responsibility in protecting the basic rights of children.

From the perspective of dignified justice, this provision has a deeper meaning. Dignity justice demands that the criminal law not only be a means of punishment, but also uphold human dignity, both victims and perpetrators. In the case of child murder, the dignity of children as victims receives priority protection, because children have the right to live, grow, and develop which has been guaranteed by the constitution and national laws and regulations (Harefa et al., 2024). The state through Article 460 not only punishes the perpetrators, but also provides a moral message to the community that children's lives are sacred and must be guarded together.

In addition, the existence of a more severe criminal threat, namely the death penalty or life imprisonment if the murder is committed with planning, shows that lawmakers place planning (premeditation) as a form of intentionality with the highest error rate (Limbong & Adhari, 2022). In criminal law theory, the existence of planning indicates that the perpetrator has carefully planned the crime, so that the level of criminal responsibility is also greater. Therefore, it is natural that the criminal threat for the perpetrator of child murder with planning becomes heavier than the crime of ordinary murder.

However, the effectiveness of Article 460 of the 2023 Criminal Code certainly depends heavily on the implementation of law enforcement officials. Although normatively this article has provided maximum protection for children, its practice in the field often faces various obstacles, such as weak evidence, limited law enforcement resources, and a community legal culture that is still permissive towards violence against children (Rahmadianto, 2024). Therefore, in addition to strengthening regulatory aspects, there is also a need to increase the capacity of law enforcement officials, public education, and the active role of social institutions in preventing and handling child murder cases.

In terms of criminal policy, the regulation of Article 460 of the 2023 Criminal Code can be seen as a policy-oriented criminal law that focuses on protecting the nation's future generations. This article is a symbol of the state's partiality towards children as a group that must be kept to the maximum. Such criminal law politics shows that lawmakers realize that the murder of a child cannot be seen as the same as the murder of an adult, because in addition to taking lives, this act also eliminates the hope, potential, and future of the nation (Johnson & Dawson, 2021).

Thus, the provisions of Article 460 of the 2023 Criminal Code are not just a normative formulation, but an important instrument in building a more humane and responsive criminal law system. The existence of this article confirms that Indonesian criminal law has moved towards a new paradigm, namely a protection paradigm based on human dignity. Children as victims are seen not only as objects of legal protection, but as subjects who have dignity that must be maintained (Butt, 2023). This is the essence of dignified justice which is the philosophical foundation of the new Criminal Code, namely that criminal law exists not only to punish, but also to protect and humanize human beings.

### **3.2. Characteristics of Child Murder in Article 460 of the 2023 Criminal Code**

The provisions of Article 460 of the 2023 Criminal Code have several characteristics that distinguish it from ordinary murder. First, there is a special victim subject, namely a child. The 2023 Criminal Code explicitly affirms that children are specific victims intended in this article. Thus, this arrangement emphasizes the position of the child as a legal subject who needs extra protection. This is in line with the provisions of Law Number 35 of 2014 concerning Child Protection which states that every child has the right to live, grow, develop, and participate optimally in accordance with the dignity and dignity of humanity (Dudy & Ashady, 2024).

Second, heavier criminal threats. Compared to ordinary murder, Article 460 regulates the criminal threat of a minimum of 5 years in prison, a maximum of 15 years, and can even be aggravated to the death penalty or life imprisonment if carried out with planning ((Firda) & Suartini, 2024). This threat is higher than the general article in the Criminal Code, thus showing that child murder is considered a serious crime that must be given appropriate punishment.

Third, there is an orientation to the protection of human rights (HAM). The right to life of children is part of non-derogable rights or rights that cannot be reduced under any circumstances. Thus, this provision is not only repressive, but also preventive in efforts to uphold human rights in Indonesia (Muhadzib & Yusnita, 2025).

Fourth, there is the application of the principle of dignified justice. This article not only regulates the aspect of punishment for perpetrators, but also considers the protection of victims and their impact on society. Thus, criminal law is not solely retributive (retributive) oriented, but also has educational and preventive value (Hamamah, 2023).

### **3.3. Child Murder in the Perspective of Dignified Justice**

The concept of dignified justice is very relevant in discussing Article 460 of the 2023 Criminal Code. Dignity justice basically departs from the idea that every human being has dignity that should not be degraded by anyone, including by the state through criminal law (Tedjokusumo & Siswanto, 2023). Human dignity is seen as a universal value that must be upheld in every aspect of life, both at the individual, society, and state levels. Therefore, in enforcing criminal law, the state must not only punish the perpetrator in a repressive manner, but must also ensure that the dignity of the victim and the community is respected.

Dignity justice rejects a positivistic view that places law only limited to written rules (law in the books), regardless of the human values that live in society. On the contrary, this paradigm emphasizes that the law must always be based on respect for human dignity. Law enforcement must balance legal certainty, victim protection, and respect for the dignity of children (Van Den Brink & Lynch, 2021). In the context of child murder, the application of the principle of dignified justice has a higher urgency, because children are a vulnerable group that has physical, psychological, and social limitations, so they need maximum protection from the state.

The first aspect of dignified justice is the protection of human dignity. Children as victims have the fundamental right to live, grow, develop, and obtain protection from all forms of violence as guaranteed in Article 28B paragraph (2) of the 1945 Constitution and the Convention on the Rights of the Child (Ariani, 2020) which has been ratified by Indonesia through Presidential Decree Number 36 of 1990. Child murder is thus the most serious form of violation of human dignity, because it not only takes away a person's life, but also cuts off the future, potential, and contribution that the child should be able to make to society and the state.

Article 460 of the 2023 Criminal Code, which provides a severe criminal threat for perpetrators of child murder, is actually a tangible manifestation of the state's protection of human dignity. By emphasizing that child murder is a special crime, the new Criminal Code shows its partiality towards vulnerable groups, as well as conveying a moral message that children's lives are in the highest value category that must be protected (I Made Jaya Palguna et al., 2022).

The second aspect of dignified justice is the balance between the interests of the victim, the perpetrator, and the community. In the classical criminal law paradigm, law enforcement tends to be retributive justice or retribution. However, from the perspective of dignified justice, retribution is not the main goal. Criminal law must be able to provide a balance by providing protection and respect for the rights of victims, while paying attention to the position of the perpetrator as a human being who also has the right to be treated humanely. Perpetrators are still recognized as human beings who are entitled to fair treatment, legal assistance, and opportunities for social reintegration, in line with the principles of humanity in Pancasila (Susilowati et al., 2022).

The severe criminal threat in Article 460 of the 2023 Criminal Code is indeed intended to provide a deterrent effect, both to the perpetrator and the wider community so that they do not commit similar acts. However, the law also opens up space for social recovery, for example through rehabilitation, violent deradicalization programs, and social reintegration for perpetrators after serving their sentence. This approach shows that even if the perpetrator's act constitutes a serious crime, the state must still not violate the principle of respect for the human dignity of the perpetrator, even if it has deprived the victim's dignity.

In addition, this balance is also important for the community. The existence of Article 460 of the 2023 Criminal Code provides a guarantee of security, justice, and legal certainty for the public that the state is present to protect its citizens from the threat of crimes against children. Thus, this balance reflects the function of criminal law not only as a means of deterrence, but also as a means of social reconciliation.

The third aspect is the strengthening of moral and social values. Criminal law is not only repressive, but also has educational and preventive functions (Kim et al., 2024). The special regulation regarding child murder in Article 460 of the 2023 Criminal Code provides a clear moral message to the public that children's rights must be respected and protected. This norm emphasizes that crimes against children are not only violations of the law, but also denials of human values.

Thus, the existence of this article is expected to reduce the number of crimes against children in the future, both through primary prevention (public education), secondary prevention (early intervention for high-risk families), and tertiary prevention (law enforcement against perpetrators). On the other hand, this strengthening of moral values also encourages the community to actively participate in protecting children in their environment, so that child protection is not only the responsibility of the state, but also the collective responsibility of the community.

From the perspective of dignified justice, Article 460 of the 2023 Criminal Code is not only a technical legal norm, but also a moral instrument that affirms the state's commitment to child protection. This article reflects the dual function of criminal law, namely as a tool of retribution as well as a means of education for the community.

By regulating special criminal threats against child murderers, the new Criminal Code seeks to realize justice that not only punishes the perpetrators, but also respects the dignity of the victim, maintains public order, and builds a humane legal civilization. Thus, Article 460 of the 2023 Criminal Code can be seen as a manifestation of Indonesia's legal ideals that uphold human values, justice, and civilization.

### 3.4. Comparison with International Law and Other Countries

The provisions of Article 460 of the 2023 Criminal Code are actually in line with the development of international law. The Convention on the Rights of the Child (CRC), which has been ratified by Indonesia through Presidential Decree No. 36 of 1990, emphasizes that every country is obliged to provide maximum legal protection for children, including protection from the threat of death. With this ratification, Indonesia has a moral and legal obligation to regulate specifically regarding the killing of children.

When compared to other countries, there are similarities in terms of the imposition of punishment for child murder. In the Netherlands, child murder is regulated in the Dutch Penal Code with more severe punishments than common murder. In Germany, the Strafgesetzbuch (StGB) regulates the murder of children with a serious penalty, which can even be punishable by life. Meanwhile, in the United States (Van Den Brink & Lynch, 2021), most states apply capital punishment or the death penalty to child murder cases, especially if it is done with planning.

From this comparison, it can be concluded that the global trend is to provide special protection to children through the threat of harsher punishment. This shows that there is an international consensus that children are a group that must be protected to the maximum, because the killing of children not only harms victims and their families, but also eliminates the potential for the future of the nation.

### 3.5. Challenges of Implementing Article 460 of the 2023 Criminal Code

Although the regulation of Article 460 of the 2023 Criminal Code can be considered a progressive step, its implementation in the field is not simple. There are several challenges that must be faced. First, consistent law enforcement in the judiciary. Often in judicial practice, judges are still oriented to the text of the law alone without paying attention to the value of dignified justice (Yuherawan et al., 2024). This can result in judgments that are insensitive to child victims.

Second, there are limitations of law enforcement officials in understanding the perspective of dignified justice (Aman Santoso et al., 2025). Not all officials have a deep understanding of the importance of child protection. In fact, the criminal law approach that is oriented towards the protection of human dignity requires special sensitivity from law enforcement officials.

Third, there is still a weak legal culture in the community in respecting children's rights. Many cases of child murder occur due to social factors, such as domestic violence, poverty, narcotics abuse, and power relations in the family (Moen, 2020). This shows that in addition to legal regulation, it is also necessary to educate the public to better respect children's rights.

A concrete example can be seen in the 2021 Subang case, where a mother and her daughter were murdered victims whose enforcement process until now still causes polemics. This case shows how weak the coordination of law enforcement officials is in uncovering crimes targeting children, as well as how the judicial process is often protracted so that it ignores the protection aspect for child victims (Hardiyanti et al., 2023).

In addition, the case of the murder of a toddler in Makassar in 2022 carried out by his own parents shows the dark side of the phenomenon of child abuse that leads to the loss of children's lives. This case underlines that economic factors, psychological pressure, and weak social control of the community are often triggers for the crime of child murder ((Firda) & Suartini, 2024).

Another example is the Luwu case in 2021, where three children were allegedly victims of sexual violence as well as attempted murder. Although this case highlights more about the issue of sexual violence, it is also closely related to the issue of protecting children from the threat of loss of life. The polemic that arose in the handling of this case shows how the aspect of child protection is often left out in the law enforcement process that is more oriented towards formal evidence (Hosnah et al., 2025).

Another challenge that also needs to be observed is the resistance of some parties to the application of the death penalty. Article 460 of the 2023 Criminal Code does open the possibility of applying the death penalty for perpetrators of child murder carried out with planning. However, in practice, the death penalty is still a long debate because it is considered contrary to human rights principles. This debate can affect the consistency of the application of Article 460, because judges and prosecutors must balance justice for victims and the principle of human rights protection for perpetrators.

From this description, it can be seen that the challenge of implementing Article 460 of the 2023 Criminal Code does not only lie in the normative realm, but also in the structural and cultural realms. Consistent law enforcement, law

enforcement officials' understanding of dignified justice, and strengthening the community's legal culture are the determining factors whether this Article can really provide maximum protection for children.

#### 4. Conclusion

Article 460 of the 2023 Criminal Code presents an important breakthrough in Indonesian criminal law by providing special protection for children as victims of the crime of murder through the affirmation of children as the subject of special victims, criminal charges with heavier threats than ordinary murder, and orientation to the protection of fundamental children's rights. From the perspective of dignified justice, this provision is not only intended as a repressive instrument to punish perpetrators, but also as a moral and social instrument that emphasizes the protection of human dignity, a balance between the interests of victims, perpetrators, and society, and the strengthening of moral values in social life so that children's rights are increasingly respected. Criminal law through this article has a dual role, namely as a means of retribution for crimes as well as public education to affirm the importance of children's right to life. However, the effectiveness of the implementation of Article 460 depends heavily on the consistency of law enforcement officials in interpreting and applying it fairly, as well as public awareness in respecting the rights of children who are still weak. Therefore, in addition to strict law enforcement, it is also necessary to strengthen the legal culture, public education, and social empowerment so that child protection is truly guaranteed. Thus, Article 460 of the 2023 Criminal Code is not only a technical legal norm, but also a tangible manifestation of the state's commitment to building a modern criminal law system that is humane, just, and dignified.

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