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**Topic:** *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

## **Protection of Children as Victims of the Criminal Act of Human Trafficking from a Human Rights Perspective**

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**Abstract.** *Human trafficking is a form of transnational crime that has serious impacts on human rights, particularly for children as a vulnerable group. Child victims of human trafficking not only experience economic and sexual exploitation but also lose their basic rights guaranteed by the constitution, international human rights instruments, and national laws and regulations. Protection of children as victims of the criminal act of human trafficking from a human rights perspective must position child victims of human trafficking as subjects who are entitled to receive comprehensive protection, recovery, and fulfillment of rights to ensure the best interests of the child.*

**Keywords:** *Children; Human Rights; Human Trafficking; Victims.*

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### **1. Introduction**

Human trafficking is a form of transnational crime that threatens human dignity and honor. This crime not only involves physical exploitation but also constitutes a serious violation of human rights (HAM), particularly the rights to freedom, security, and protection from slavery.<sup>1</sup> Human trafficking is a violation of human rights because it is carried out through various acts, including threats, coercion, kidnapping, fraud, deception, lies, and abuse of authority. The purpose of these acts is usually to exploit people for the purposes of prostitution, pornography, violence, forced labor, slavery, or other similar forms of exploitation.<sup>2</sup>

Human trafficking is a form of crime that has evolved in complexity along with increasing human mobility, advances in information technology, and social and economic inequalities occurring in various countries. This crime is not only viewed as an ordinary criminal offense but also as a gross violation of human rights because it deprives victims of their freedom, dignity, and fundamental rights.<sup>3</sup>

Children are the most vulnerable group to becoming victims of human trafficking. This vulnerability is influenced by various factors, including poverty, low education levels, weak family supervision, social conflict, migration, and the development of digital technology that makes it easier for perpetrators to recruit victims.<sup>4</sup> Child victims of human trafficking in practice are often exploited for various purposes, such as commercial sexual exploitation, child labor, street begging, forced marriage, organ trafficking, and other forms of exploitation that threaten child development.

The phenomenon of human trafficking of children is contrary to the basic principles of human rights which affirm that every child has the right to protection, security, education, health, and the opportunity to develop optimally. Children from a human rights perspective are legal subjects who possess special rights due to their immature physical and mental condition, thus requiring greater protection than adults.<sup>5</sup>

Internationally, the protection of child victims of human trafficking has been regulated in various legal instruments, such as the Universal Declaration of Human Rights (UDHR), the Convention on the Rights of the Child (CRC), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, known as the Palermo Protocol of 2000. These various instruments affirm the obligation of states to prevent human trafficking, protect victims, and effectively prosecute perpetrators.



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<sup>1</sup> Ahmad Sahhil Dany Maulana dan Andi Aina Ilmih, "Tindak Kejahatan Perdagangan Manusia di Dunia sebagai Bentuk Pelanggaran Hak Asasi Manusia di Era Globalisasi", *ALADALAH: Jurnal Politik, Sosial, Hukum dan Humaniora*, Vol.2, No.4 (2024), p.168-175. DOI: <https://doi.org/10.59246/aladalah.v2i4.971>

<sup>2</sup> Yosia Arga Sihotang, Yoan B. Runtunuwu, dan Leidy Wendy Palempung, "Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang Sebagai Admin Judi Online", *Inovasi: Jurnal Sosial Humaniora dan Pendidikan*, Volume. 5 Nomor. 1 Januari 2026, p. 810. DOI: <https://doi.org/10.55606/inovasi.v5i1.5583>

<sup>3</sup> M. Cherif Bassiouni, *International Criminal Law*, (Leiden: Martinus Nijhoff Publishers, 2008), p. 431.

<sup>4</sup> Frank E. Hagan, *Introduction to Criminology: Theories, Methods and Criminal Behavior*, (California: Sage Publications, 2017), p. 286.

<sup>5</sup> Rhona K.M. Smith, *Textbook on International Human Rights*, (Oxford: Oxford University Press, 2016), p. 341.

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Indonesia, as a state of law that upholds human rights values, has adopted various legal instruments to protect children from human trafficking. Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia affirms that every child has the right to survival, growth, and development, and is entitled to protection from violence and discrimination. Additionally, Indonesia has ratified various regulations that specifically regulate the protection of child victims of human trafficking, including Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Human Trafficking and Law Number 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection.

According to data from the Ministry of Women's Empowerment and Child Protection (KemenPPPA), there has been a significant increase in cases of human trafficking crimes against children. Between 2020 and 2024, there were 1,265 children in Indonesia who became victims of human trafficking.<sup>6</sup> This increase indicates that child trafficking syndicates are a real threat and require serious attention from all parties. Throughout 2025, KPAI recorded 1,508 people accessing complaint services, with the majority of complaints submitted through online channels, covering 2,031 cases of child rights violations and 2,063 child victims. Demographically, victims consisted of 51.5% girls, 47.6% boys, and 0.9% with unspecified gender.<sup>7</sup>

Although the legal framework is available, various cases of human trafficking involving children continue to occur. Data from various institutions show that children remain a vulnerable group recruited, transported, accommodated, and exploited by trafficking networks. This condition indicates a gap between legal norms and the implementation of protection in the field.<sup>8</sup>

Given the increasing cases of child trafficking, the government needs to focus seriously on efforts to eradicate this criminal act of human trafficking. These efforts should not only take the form of preventive, repressive, and responsive law enforcement but also efforts related to the recovery or protection of children who are victims of human trafficking after the completion of the criminal justice process aimed at restoring the child's future.<sup>9</sup>

The issues that arise are not only related to law enforcement efforts against perpetrators but also concern the protection and recovery of victims' rights. Child victims of human trafficking in many cases often experience psychological trauma, social stigma, loss of access to education, and various other losses that require comprehensive human rights-based handling.<sup>10</sup> Therefore, the protection of child victims of human trafficking cannot be viewed solely as a criminal law issue but also as a state obligation to fulfill, protect, and respect human rights.

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## **2. Research Methods**

This normative legal research uses a statutory approach and a conceptual approach. The sources of legal materials consist of primary, secondary, and tertiary legal materials. Legal materials were obtained through the study of laws and regulations and literature review. The legal material analysis technique used is the descriptive-analytical method. The analysis was conducted by identifying, interpreting, and evaluating various legal provisions related to the protection of child victims of human trafficking from a human rights perspective to obtain comprehensive conclusions.

## **3. Results and Discussion**

### **3.1. Human Trafficking of Children as a Human Rights Violation**

One of the issues related to human rights in Indonesia is the criminal act of human trafficking, which is a form of recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, or abuse of power, or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. In Indonesia, human trafficking crimes take the form of trafficking for the purposes of sexual exploitation, domestic workers, migrant workers, child labor, and arranged marriages. The end result of this crime is that victims are forced to work in poor working conditions with inadequate wages.<sup>11</sup>

Human trafficking is a form of crime that directly attacks human dignity. Human trafficking from a human rights perspective is not only seen as a criminal offense that harms individual victims but also as a form of modern slavery that eliminates basic human freedoms and rights. The practice of human trafficking positions victims as commodities that can be bought and sold, exploited, and utilized for economic gain by perpetrators.<sup>12</sup>

Human trafficking is one of the most heinous acts in violating human dignity and honor. The practice of buying and selling people, especially women and children,

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<sup>11</sup> Sulistyowati Irianto, *Perempuan & Hukum*, (Jakarta: Yayasan Obor Indonesia, 2006), p. 261-262.

<sup>12</sup> Kevin Bales, *Disposable People: New Slavery in the Global Economy*, (California: University Of California Press, 2012), P. 11.

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has long occurred and has undergone changes in form and patterns of victim recruitment that are more organized and structured over time. Recently, cases of human trafficking have been deeply concerning, not only due to the increasing number of victims but also the emergence of increasingly sophisticated modus operandi.<sup>13</sup>

From a human rights perspective, the protection of victims of human trafficking does not only include prosecution of perpetrators but also the comprehensive restoration of victims' rights.<sup>14</sup> This is in line with the principles set out in the Universal Declaration of Human Rights (UDHR), the UN Convention against Transnational Organized Crime, and the Palermo Protocol, which Indonesia ratified through Law Number 14 of 2009.

Children are the most vulnerable group in the criminal act of human trafficking. This vulnerability is caused by children's limited ability to understand risks, dependence on adults, and immature psychological conditions. Therefore, international law provides special protection for children as a group that requires greater protection than adults.<sup>15</sup>

Human trafficking of children from a human rights perspective violates various fundamental rights that every child possesses. These rights include the right to life, the right to freedom, the right to security, the right to education, the right to health, the right to grow and develop, and the right to be free from economic and sexual exploitation.<sup>16</sup>

Children as victims of human trafficking often experience various forms of layered rights violations (multiple victimization). In addition to experiencing physical and economic exploitation, victims also experience psychological pressure, sexual violence, discrimination, and loss of access to education and decent social life. Consequently, the impact of human trafficking on children is not only felt in the short term but also affects the future of the victims.<sup>17</sup> The state, as the party

<sup>13</sup> Abu Hanifah, "Perdagangan Perempuan dan Anak: Kajian Faktor Penyebab Dan Alternatif Pencegahannya", *Sosio Konsepsia: Jurnal Penelitian dan Pengembangan Kesejahteraan Sosial*, Volume 13, Nomor, 12, Tahun 2008, p. 46

<sup>14</sup> Varabella Pravangastha Lara Prameswari Dan Sujono, "Pertanggungjawaban Hukum Pidana Terhadap Pelaku Tindak Pidana Perdagangan Orang Melalui Media Elektronik Berdasarkan Undang-Undang No 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang", *LEX PROGRESSIUM: Jurnal Kajian Hukum Dan Perkembangan Hukum*, Vol.2, No.1 (2025), p. 56.

<sup>15</sup> Geraldine Van Bueren, *The International Law on the Rights of the Child* (Dordrecht: Martinus Nijhoff Publishers, 1998), p. 23.

<sup>16</sup> Rhona K.M. Smith, *Textbook on International Human Rights*, p. 343

<sup>17</sup> Marlina, *Peradilan Pidana Anak di Indonesia*, p. 71.

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obligated to respect, protect, and fulfill children's rights, because the state's failure to prevent and handle human trafficking, especially against children, can be seen as a failure in fulfilling human rights obligations.<sup>18</sup>

The eradication of the criminal act of human trafficking is one of the goals of criminal law policy (social defence), which aims to provide legal protection to society (social welfare) and must be in accordance with the ideals of the Indonesian nation, namely that the state and government must protect the entire nation, educate the nation's life, and promote general welfare.<sup>19</sup>

To improve development and community welfare, it is inseparable from how the state is able to formulate good laws and regulations, enforce the law effectively, especially by functioning criminal law as a tool to fight against abnormal acts or actions, as well as fostering and educating a dignified, moral, and ethical culture that respects human nature. As mentioned by Hart, the function of criminal law is to maintain public order and decency and to protect citizens from what is immoral or detrimental and to provide protection against exploitation by other parties, especially for weak members of society due to youth, physical weakness, and limited thought and experience.<sup>20</sup>

Jeremy Bentham in his book "The Theory of Legislation" states that the purpose of law is as a source of livelihood, prosperity, equality, and security, meaning that normatively it is greatly determined by law. With the realization of security, victims or every citizen will be guaranteed to obtain livelihood, prosperity, and equality.<sup>21</sup> Related to the function and purpose of law mentioned above, in addition to law enforcement through the imposition of imprisonment on perpetrators, law enforcement is also needed through the application or implementation of restitution for crime victims from perpetrators of criminal acts, especially for trafficking victims, without having to pursue other legal remedies to obtain their restitution rights.<sup>22</sup>

<sup>18</sup> Manfred Nowak, *Introduction to the International Human Rights Regime*, (Leiden: Brill, 2003), p. 48.

<sup>19</sup> Henny Nuraeny, *Tindak Pidana Perdagangan Orang Kebijakan Hukum Pidana dan Pencegahannya*, (Jakarta: Sinar Grafika, 2013), p. 89.

<sup>20</sup> Eddy O.S. Hiariej, *Prinsip-Prinsip Hukum Pidana*, (Yogyakarta: Cahaya Atma Pustaka, 2014), p. 28-29

<sup>21</sup> H.R.Abdussalam, *Viktimologi*, (Jakarta: PTK, 2010), p. 8-10

<sup>22</sup> Agus Takariawan dan Sherly Ayuna Putri, "Perlindungan Hukum terhadap Korban *Human Trafficking* dalam Perspektif Hak Asasi Manusia", *Jurnal Hukum IUS QUIA IUSTUM*, Nomor 2 Volume 25 Mei 2018, p. 241. DOI: <https://doi.org/10.20885/iustum.vol25.iss2.art2>

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### **3.2. Forms of Legal Protection for Child Victims of Human Trafficking**

Child protection is all efforts made to create conditions so that every child can carry out their rights and obligations for the reasonable physical, mental, and social development and growth of the child. Child protection activities have legal consequences, both in relation to written and unwritten law.<sup>23</sup> This is in line with the mandate of the Constitution of the Republic of Indonesia contained in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

Protection for children who are victims of human trafficking (child trafficking) based on the mandate of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection states that child victims of human trafficking receive special protection that must be provided by the Government, Regional Governments, and other State Institutions.<sup>24</sup>

Regarding the protection of children who are victims of human trafficking (child trafficking), it is regulated in several articles in Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Human Trafficking (UU PTPPO). Regarding child adoption for exploitation, Article 5 of the UU PTPPO states that every person who adopts a child by promising or giving something with the intention of exploitation shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp120,000,000.00 (one hundred twenty million rupiah) and at most Rp600,000,000.00 (six hundred million rupiah). Article 6 of the UU PTPPO also states that every person who sends a child into or outside the country in any way that results in the child being exploited shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp120,000,000.00 (one hundred twenty million rupiah) and at most Rp600,000,000.00 (six hundred million rupiah). Even if the criminal act of human trafficking is committed against a child, the criminal penalty is increased by one-third, in accordance with Article 17 of the UU PTPPO.

Articles 5 and 6 of the UU PTPPO, as explained above, explicitly state that there are 2 (two) modus operandi of human trafficking crimes, namely through child adoption by promising or giving something with the intention of exploitation and sending children into or outside the country legally or illegally with the purpose of exploiting the child. Specifically in the field, the modus operandi of human

<sup>23</sup> Maidin Gultom, *Perlindungan Hukum terhadap Anak dalam Sistem Peradilan Anak di Indonesia*, (Bandung: Refika Utama, 2010), p.33

<sup>24</sup> Pasal 59 Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak

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trafficking crimes that make children victims could continue to develop and use increasingly sophisticated and unpredictable methods, similar to the modus operandi of narcotics crimes which increasingly find new modus operandi that can deceive law enforcement officers.<sup>25</sup>

At the stages of investigation, prosecution, and trial in court for human trafficking cases, if the victim is a child, according to the provisions of Article 38 of the UU PTPPO, it is carried out by paying attention to the best interests of the child without wearing robes or official uniforms. Article 39 paragraph (1) of the UU PTPPO explains that if the trial for the criminal act of human trafficking examines witnesses and/or child victims, it is conducted in a closed session.

Legal protection for child victims of human trafficking can be divided into preventive, repressive, and rehabilitative protection. Preventive protection is an effort to prevent the occurrence of the criminal act of human trafficking. These forms of protection include community education, improving family welfare, migration supervision, strengthening the population administration system, and anti-human trafficking campaigns. Prevention is an important aspect because most victims of human trafficking come from community groups with low levels of education and weak economic conditions. Community economic empowerment efforts are an integral part of the human trafficking prevention strategy.<sup>26</sup>

Repressive protection is carried out through the process of law enforcement against perpetrators of human trafficking. The state is obligated to ensure that perpetrators are legally processed, given appropriate sanctions, and do not profit from the proceeds of their crimes.<sup>27</sup> Law enforcement officials in this context must prioritize a victim-centered approach. Child victims of human trafficking must not be treated as offenders or parties who are complicit in the crime, but rather as victims in need of special protection..<sup>28</sup>

Human trafficking often causes severe physical and psychological trauma. Rehabilitative protection is a very important part of victim recovery. Rehabilitation includes physical health recovery, psychological support, education, social

<sup>25</sup> Nelsa Fadhila, "Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang, p. 88.

<sup>26</sup> Farhana, *Aspek Hukum Perdagangan Orang di Indonesia*, p. 96.

<sup>27</sup> Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana* (Jakarta: Kencana, 2010), p. 78

<sup>28</sup> Didik M. Arief Mansur dan Elisatris Gultom, *Urgensi Perlindungan Korban Kejahatan* (Jakarta: RajaGrafindo Persada, 2008), p. 124.

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reintegration, and provision of job skills for victims. The main goal of rehabilitation is to restore the victim's condition so that they can live a normal and dignified life.<sup>29</sup>

### **3.3. Recovery of Children as Victims of the Criminal Act of Human Trafficking from a Human Rights Perspective**

Discussing human trafficking in relation to human rights means discussing the dimensions of human life. Human rights and their protection exist not because they are given by society or the goodwill of the state, but based on human dignity. Recognition of human existence signifies that humans as living beings are creations of God Almighty and deserve positive appreciation.<sup>30</sup>

In the current era, human rights issues have become a global issue alongside democracy and environmental issues, and have even become a demand that requires serious attention from the state to respect, protect, defend, and guarantee the human rights of citizens and residents without discrimination.<sup>31</sup> Article 1 number 1 of Law Number 39 of 1999 concerning Human Rights states that human rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His gift that must be respected, upheld, and protected by the state, law, government, and every individual for the honor and protection of human dignity.

With the development and progress of the world in the current era of globalization, the respect for human rights that should be respected, upheld, and protected by the state, either through actions or through law, is not implemented or is neglected, one of which is human rights violations in the form of human trafficking, especially against children. The criminal act of human trafficking is a violation of human rights. In the considering clause letter b of the UU PTPPO, it is stated that human trafficking, especially of women and children, is an act contrary to human dignity and honor and violates human rights, and therefore must be eradicated. Furthermore, in letter c, it is stated that human trafficking has spread in the form of organized and unorganized criminal networks, both transnational and domestic, thus becoming a threat to society, the nation, and the state, as well as to the norms of life based on respect for human rights.

<sup>29</sup> Arif Gosita, *Masalah Korban Kejahatan* (Jakarta: Akademika Pressindo, 2004), p. 98.

<sup>30</sup> Majd El-Muhtaj, *Hak Asasi Manusia dalam Konstitusi Indonesia Dari UUD 1945 sampai dengan Amandemen UUD 1955 Tahun 2002*, (Jakarta: Kencana Prenada Media Group, 2009), p. 1.

<sup>31</sup> Koesparmono Irsanm, *Hukum dan Hak Asasi Manusia*, (Jakarta: Yayasan Brata Bhakti, 2009), p. 1.

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Legal protection for society can be achieved well if carried out through integrated and effective law enforcement. This legal protection is the same as legal protection for victims of the criminal act of human trafficking, especially for children as victims. Human trafficking is a form of human rights violation against children, because it involves elements of threats, persecution, torture, sexual violence, and treating humans as commodities that can be bought and sold. All of these are human rights violations, and when they are trafficked, their rights continue to be violated because they are continuously abused and forced to work both domestically and abroad.<sup>32</sup>

Children who are victims of human trafficking crimes cannot be simply equated with adults. Children who become victims of a crime are certain to experience disturbances in their growth and development, especially their psychological condition. All forms of treatment that interfere with and damage their basic rights in various forms of inhuman exploitation and utilization should be stopped immediately without exception.<sup>33</sup>

The human rights approach emphasizes that child victims of human trafficking must be treated as rights holders, not merely objects of protection. The state has an obligation to ensure that all victims' rights can be effectively restored.<sup>34</sup> The principle of the best interests of the child must be the basis for every policy and action related to victims. All legal processes and recovery programs must consider the physical, psychological, social, and educational needs of the child. Furthermore, victim recovery must be carried out sustainably. Protection is not sufficient only during the judicial process but must include the victim's social reintegration and long-term empowerment.<sup>35</sup>

Recovery for child victims of the Criminal Act of Human Trafficking (TPPO) is carried out holistically, including medical, psychosocial, and mental rehabilitation. In addition, recovery includes the provision of restitution (compensation), legal aid, social reintegration into the family or community, and long-term assistance so that children can become independent and return to school.

<sup>32</sup> Adelia Elvizar Ramadhani dan Herma Setiasih, "Perlindungan Hukum Korban Perdagangan Perempuan dan Anak Menurut Undang-Undang Nomor 21 Tahun 2007", *JUDICIARY: Jurnal Hukum dan Keadilan*, Vol. 12 Issue. 2, 2023, p. 35. DOI: <https://doi.org/10.56943/judiciary.v12i2.211>

<sup>33</sup> Andi Jefri Ardin dan Beniharmoni Harefa, "Pemenuhan Hak Anak Korban Tindak Pidana Perdagangan Orang", *Jurnal Suara Hukum*, Vol. 3, No. 1, Maret 2021, p. 180. DOI: <https://doi.org/10.26740/jsh.v3n1.p174-196>

<sup>34</sup> Rhona K.M. Smith, *Textbook on International Human Rights*, p. 347.

<sup>35</sup> Geraldine Van Bueren, *The International Law on the Rights of the Child*, p. 55.

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#### **4. Conclusion**

Human trafficking of children constitutes a serious violation of human rights because it deprives children of their freedom, dignity, and various fundamental rights. Children as victims of human trafficking from a human rights perspective must be viewed as legal subjects who have the right to protection, recovery, and justice. To this end, there is a future need for strengthening victim-oriented policies, enhancing the capacity of law enforcement officials, optimizing restitution and rehabilitation mechanisms, and strengthening cross-sectoral cooperation to ensure the comprehensive fulfillment of the rights of child victims of human trafficking in accordance with human rights principles.

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