



## Analysis of Criminal Investigation of Sexual Abuse Against Mentally Disabled Children at the Aceh Tengah Police Department

Khairul Huda Rizka \*<sup>1</sup> Fitri Rafianti \*<sup>2</sup> Mhd. Azhali Siregar \*<sup>3</sup>

<sup>123</sup> Universitas Pembangunan Panca Budi

E-mail: [hudarizka12@gmail.com](mailto:hudarizka12@gmail.com)

[fitirafianti@dosen.pancabudi.ac.id](mailto:fitirafianti@dosen.pancabudi.ac.id) [mhdazhali@dosen.pancabudi.ac.id](mailto:mhdazhali@dosen.pancabudi.ac.id)

Article Info	Abstract
<b>Article History</b> Received: 2025-08-05 Revised: 2025-08-06 Published: 2025-09-10  <b>Keywords:</b> <i>investigation, mentally retarded children, molestation, corrective justice, responsive law, Central Aceh Police.</i>	<p>This study aims to analyze the investigation process of child molestation crimes against children with mental retardation at the Central Aceh Police, as well as to identify inhibiting factors and efforts to overcome obstacles in its implementation. This study uses an empirical juridical approach with a focus on the effectiveness of the implementation of laws and regulations, such as Law Number 8 of 1981 concerning Criminal Procedure, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2014 concerning Child Protection, and Law Number 8 of 2016 concerning Persons with Disabilities. The results of the study indicate that investigations of child victims with intellectual disabilities still face various structural, technical, and cultural obstacles, including limited technical regulations, a lack of investigator competence in an inclusive approach, and the absence of supporting facilities. This leads to a distortion of justice that deviates from the principle of due process of law and the substance of juvenile justice. Within the framework of responsive legal theory and corrective justice, it is concluded that reform of investigative procedures for children with special needs is a legal and ethical necessity. Investigations must be based not only on the objective of formal evidence, but also on the imperative of protecting and respecting human dignity. Therefore, the state is required to be a real, impartial protector, not merely an enforcer of procedures.</p>

### I. INTRODUCTION

Protection of children with intellectual disabilities (mental retardation) in Indonesia is guaranteed through various national and international legal provisions. (Risawati et al. 2022) The 1945 Constitution affirms the right of equality before the law for every citizen, including people with disabilities. Article 27(1) of the 1945 Constitution "All citizens have equal standing before the law and government and are obliged to uphold the law and government without exception." and human rights that cannot be reduced under any circumstances (Article 28I) "The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be reduced under any circumstances." (State 2001)

Indonesia issued Law No. 23 of 2002 in conjunction with Law No. 35 of 2014 concerning

Child Protection, which requires state responsibility for fulfilling children's rights, including children with disabilities. Similarly, the ratification of the Convention on the Rights of Persons with Disabilities (CRPD) through Law No. 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities requires the state to guarantee the rights of persons with disabilities, which is implemented in Law No. 8 of 2016 concerning Persons with Disabilities. Law No. 8 of 2016 adopts the definition of disability according to the CRPD, stating that disability includes long-term physical, intellectual, mental and/or sensory limitations that hinder equal interaction and participation. Article 9 of Law No. 8 of 2016 even details the rights of persons with disabilities, including equal treatment before the law, recognition of legal status, and access to judicial services. (Zhafirah 2024)

In the context of juvenile criminal law, Law No. 11 of 2012 concerning the Juvenile Criminal

Justice System (SPPA) requires special treatment for children in conflict with the law—whether as perpetrators, victims, or witnesses—including consultation with community counselors, closed trials, and priority diversion. However, studies show that the SPPA Law does not explicitly regulate special mechanisms for children with intellectual disabilities, thus their rights are not fully accommodated.

Internal police policies and implementing regulations attempt to address these shortcomings. For example, Government Regulation No. 39/2020 concerning Accommodation in the Judicial Process instructs every law enforcement institution to develop internal regulations regarding appropriate accommodations for persons with disabilities during investigations, inquiries, prosecutions, and trials.(Prabowo, Panggabean, and Hutahaean 2023)Likewise, internal police guidelines require individual assessment profiles, assistance from trained investigators, and support facilities (sign language interpreters, disability-friendly facilities, etc.) when handling victims/perpetrators with disabilities. Furthermore, the Child Protection Law recognizes "children with disabilities" as a vulnerable group requiring special protection (including in Articles 59–60 of the Child Protection Law and Government Regulation No. 78/2021 concerning Special Protection for Children). Overall, this legal framework affirms the Indonesian state's obligation to protect children with mental retardation and ensure equal access to justice.

Conceptually, children in conflict with the law are always treated differently from adults (restorative aspects and children's rights in the Child Protection and Child Protection Act), regardless of their disability. However, children with intellectual disabilities require additional treatment. During the investigation stage, the principles of "child investigators" (the Child Protection and Child Protection Act) remain in effect, including the obligation to seek the advice of community counselors, refrain from detaining children unless necessary, provide information on rights in plain language, and consider diversion before the trial process. Furthermore, Government Regulation 39/2020 and National Police guidelines require special accommodations for persons with disabilities: non-discriminatory services, a sense of security, effective communication, provision of information as needed, and support from specialized equipment or companions. Operationally, investigators are

required to provide companions (e.g., sign language interpreters) or other relevant personnel during interactions with children with disabilities. For example, in a child molestation investigation, a child with intellectual disabilities can be interviewed directly by an investigator or psychologist, while a child with intellectual disabilities may require a psychologist to assess their abilities or use communication aids to accurately convey information. This is important because the Criminal Procedure Code requires the presence of an expert if a child witness or victim is incompetent due to age or mental condition, so that their testimony is valid.(May 2023)

In practice, the main obstacles in investigating children with intellectual disabilities include limited communication, a lack of supporting facilities (special examination rooms, assistive devices), and stigma that can influence the assumptions of law enforcement officers. Previous studies have noted that without special procedures, cases involving children with disabilities are vulnerable to being overlooked or unresolved. Therefore, process adjustments are needed: children with disabilities should be "treated like children in general after receiving assistance" according to the principle of non-discrimination. For example, investigators from the Central Aceh Police (juvenile criminal justice system) should apply these guidelines: prioritizing victim safety, shortening examination times to avoid stress for children, and using simple language or visuals to clarify the facts. A significant operational difference is seen in the use of evidence from children with disabilities: if verbal testimony is weak, investigators must corroborate it with other evidence or expert testimony.

Thus, investigations into both normal and mentally retarded children are subject to the same child criminal laws (the Child Protection Law, the Child Protection Law, and the Criminal Procedure Code), but investigators investigating children with disabilities are required to be more sensitive: providing accessibility accommodations and facilitating assistance to ensure the child's rights and safety. The absence of explicit guidelines in the Child Protection Law often results in officers relying on general human rights principles and internal protocols. Therefore, this analysis needs to critically explore how investigative institutions (particularly the Central Aceh Police) implement the policy on protecting children with disabilities and explore the factual obstacles in the field.

Based on the description above, the problem formulation that will be discussed in this research is:

1. How is the process of carrying out investigations into criminal acts of molestation against children with mental retardation at the Central Aceh Police?
2. What are the inhibiting factors and efforts made to overcome obstacles in the implementation of investigations into criminal acts of molestation against children with mental retardation at the Central Aceh Police?

## **II. RESEARCH METHODS**

This research uses an empirical juridical approach,(Yam 2022)namely a legal research method that examines the effectiveness of legal norms in the practice of investigating criminal acts of sexual abuse against children with mental retardation in the jurisdiction of the Central Aceh Police. This approach is based on a literature study of laws and regulations such as Law Number 8 of 1981 concerning Criminal Procedure, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2014 concerning Child Protection, and Law Number 8 of 2016 concerning Persons with Disabilities, accompanied by analysis of documents and observations of normative implementation in the practice of investigative institutions. Data are analyzed qualitatively with an emphasis on identifying discrepancies between norms and practices, as well as a study of obstacles and institutional responses that arise in the context of handling children with intellectual disabilities as victims of sexual crimes.

## **III. RESULTS AND DISCUSSION**

### **A. The Process of Investigating the Crime of Indecent Acts on Mentally Retarded Children at the Central Aceh Police**

Investigations into criminal acts of sexual abuse involving children as victims always require a legal approach that is not only based on formal procedures, but must also place the protection of children's rights at the core of the criminal justice system.(Daulay, Zarzani, and Aspan 2022)When the victim is a child with mental retardation, the complexity increases

because it requires inclusive legal treatment focused on fulfilling the rights of vulnerable groups. In the Central Aceh Police Department, investigations into cases of child molestation with mental retardation reflect the real challenges of enforcing the law fairly and responsively to the special needs of child victims of sexual crimes.(Iskandar et al. 2022)

Normatively, the implementation of investigations into criminal acts of indecent assault is guided by the Republic of Indonesia Law Number 8 of 1981 concerning Criminal Procedure Law, specifically Article 1 number 2 which states that: "Investigation is a series of actions by investigators in the case and according to the methods regulated in this law to seek and collect evidence with which the evidence sheds light on the crime that occurred and to find the suspect." However, the general procedures regulated in this law cannot necessarily be applied identically to every legal subject, especially if the victim is a child with an intellectual disability.

In this context, Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System is the *lex specialis* that regulates the investigation of children in conflict with the law, including children as victims. Article 1 number 4 explains that: "Child Victims are children under 18 (eighteen) years of age who experience physical, mental, and/or economic suffering caused by criminal acts." In the case at the Central Aceh Police which is the focus of this research, the victim was a child with mental retardation, so he has two vulnerable statuses at once: a child as a victim and a child with a disability.

Recognition of the special needs of children with disabilities is expressly regulated in the Republic of Indonesia Law Number 8 of 2016 concerning Persons with Disabilities. Article 5 paragraph (2) states that: "Persons with Disabilities have the right to receive equal treatment and opportunities in all aspects of life and livelihood." Meanwhile, Article 9 paragraph (1) letter f emphasizes that: "Every Person with Disabilities has the right to receive legal protection and justice through a fair and non-discriminatory legal process." Thus, the Central Aceh Police as a law enforcement officer is obliged to carry out investigations in a non-discriminatory manner, by providing appropriate accommodation for victims with disabilities.(Main 2024)

The investigation process for child victims with special needs must basically be subject to the

principles of child protection and the principle of reasonable accommodation for people with disabilities. This principle is reinforced through Government Regulation of the Republic of Indonesia Number 39 of 2020 concerning Reasonable Accommodation for Persons with Disabilities in the Judicial Process, which in Article 2 paragraph (1) states that: "Reasonable accommodation in the judicial process is a necessary and appropriate adjustment without causing an excessive burden in a particular case that is needed to ensure that Persons with Disabilities can participate effectively and equally with others in the judicial process." (Islamic 2019)

In practice, investigators at the Central Aceh Police are obligated to adapt their examination methods to suit the victim's mental state. Investigative procedures should not be conducted with approaches that cause additional trauma, let alone ignore the communication capacity of children with intellectual disabilities. In this case, investigators should be accompanied by experts such as child psychologists or social workers who understand the approach to examining children with disabilities. This is not merely an ethical matter, but a consequence of fulfilling the right to legal aid and special assistance for children with disabilities, as stipulated in Article 25 of Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection, which states: "Children who are victims or perpetrators of criminal acts have the right to receive legal assistance and psychosocial assistance according to their needs."

However, in practice, as observed by the author in a number of case files in the jurisdiction of the Central Aceh Police, the investigation process often does not fully apply the principle of legal inclusion. Examination of mentally retarded child victims is often still carried out using a conventional examination approach, without prior assessment of the child's mental condition, and without the involvement of supporting professionals such as psychologists or alternative communication experts. In fact, Article 14 letter b of the Republic of Indonesia Law Number 11 of 2012 concerning the Juvenile Criminal Justice System expressly states that children in conflict with the law have the right to: "treatment in accordance with human dignity and religious values; and to receive information and be given an explanation regarding their rights and examination procedures at every stage of the judicial process."

The absence of an accommodating examination mechanism can have direct implications for the validity of victim testimony as evidence. According to Article 184 paragraph (1) of the Criminal Procedure Code, victim testimony can be valid evidence if it is provided legally. If the victim is unable to provide testimony due to communication barriers, and the investigator does not provide facilitation such as aids or an interpreter, then the evidence can be deemed materially flawed. This is a violation of the principle of due process of law and the right to a fair trial. (Zainuddin 2022)

As part of a region that upholds sharia-based legal values, the investigation process in Central Aceh should also consider the principle of *maqashid al-sharia* in protecting the soul (*hifzh al-nafs*) and reason (*hifzh al-'aql*), especially for groups who are mentally limited. In this case, investigators must not only adhere to procedures, but must use a legal approach based on compassion and substantive justice. As emphasized by Prof. Dr. Fitri Rafianti in her writing, "The legal system must be able to transform from merely enforcing norms to becoming an instrument of protection, especially for groups unable to voice their own rights."

As the investigators, the Central Aceh Police are obligated to translate this spirit of legal protection into concrete action. In cases of child molestation with mental retardation, crucial steps that should be implemented include:

1. Initial medical and psychological examination to assess the child's condition and determine the appropriate examination method.
2. Accompaniment by a child psychologist or disability counselor from the start of the examination process.
3. Adjustment of questioning methods by investigators to suit the child's understanding capacity.
4. Provision of child-friendly and intimidation-free facilities in the examination room.
5. Cross-sector coordination with the Social Services, Women and Children Protection Unit (PPA), and LPSK if necessary.

In many cases, failure to implement the above steps casts doubt on the validity of the child's testimony as a victim and increases the risk of secondary trauma, which can worsen the victim's psychological condition. This contradicts the principles of corrective and restorative justice,



which should be the primary focus of juvenile criminal law.

Furthermore, law enforcement in cases like this involves not only handling the perpetrators, but also the state's obligation to ensure the recovery of child victims. Inhumane, disability-insensitive, and non-protective investigations will undermine public trust in law enforcement agencies.

Taking into account all of these norms, principles, and practices, it can be concluded that the investigation of sexual abuse of children with mental retardation at the Central Aceh Police Department still requires serious strengthening in procedural, institutional, and cultural aspects. Special training for investigators, strengthening of internal regulations governing special procedures for children with disabilities, and the integration of a legal approach based on substantial justice are required. Within the framework of a state based on the rule of law that upholds human dignity, the investigation of children with disabilities is not merely an administrative matter but also a benchmark for the quality of justice in Indonesia.

#### **B. Inhibiting Factors and Efforts to Overcome Obstacles in the Implementation of Investigations into Criminal Acts of Child Molestation with Mental Retardation at the Central Aceh Police**

The investigation of sexual abuse of mentally retarded children at the Central Aceh Police Department faces various structural, technical, and cultural challenges that could potentially hinder the fulfillment of the principles of justice and legal protection for victims. These obstacles, if not addressed systematically, will degrade the quality of substantive justice and erode public trust in the juvenile criminal justice system. Therefore, this study goes beyond identifying obstacles but also explores possible solutions to address these obstacles constructively and in accordance with established legal principles. (Sani 2015)

In general, the factors inhibiting investigations into cases of child molestation with mental retardation can be grouped into three, namely: (1) regulatory obstacles and internal institutional policies; (2) technical obstacles at the operational level of investigations; and (3) sociocultural obstacles and the limited capacity of victims to provide valid legal information.

First, from a regulatory perspective, despite the existence of Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities, Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection, and Government Regulation of the Republic of Indonesia Number 39 of 2020 concerning Reasonable Accommodation in the Judicial Process, the implementation of these regulations has not been fully effective at the regional law enforcement level. The absence of technical regulations that specifically regulate the investigation mechanism for victims of intellectual disabilities leaves investigators with a very broad discretionary policy space. When technical instructions are not yet available or not fully understood by officials, the implementation of investigations tends to revert to general patterns that are not accommodating for children with disabilities.

Second, technical barriers arise from a lack of infrastructure and competent human resources to handle children with special needs. Limited psychologists, the unavailability of sign language interpreters or alternative communication facilitators, and minimal training for investigators on communication methods with children with special needs are real-world facts. Unfriendly examination rooms for children and the lack of dedicated support rooms also indicate weak institutional preparedness to respond to victims from this vulnerable group.

Third, sociocultural barriers are still an element that hinders the optimal investigation process. Many investigators are, unconsciously, still trapped in the stigma of children with mental retardation as subjects who are not credible in providing legal testimony. In fact, the doctrine of criminal law and the principle of equality before the law in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that: "All citizens have equal status before the law and government and are obliged to uphold the law and government without exception." In other words, there is no legal reason for officials to doubt or ignore the value of a child with disabilities' testimony simply because of their mental limitations, as long as it can be proven through an expert approach and appropriate communication methods.

To address these obstacles, two legal theories can be used as analytical tools. The first is the Responsive Theory, as developed by Philippe Nonet and Philip Selznick. This theory emphasizes the importance of law that relies not only on legal

certainty but also on substantive justice and a response to the social needs of the community. In this context, investigations into children with disabilities should not merely pursue procedural formalities but must adapt to the complexity and vulnerability of the victims. Therefore, responsive legal implementation means making investigations not merely legalistic mechanisms but also active instruments of social protection. (Muslih 2017)

The second theory is the Theory of Corrective Justice, which originated with Aristotle and has been further developed by modern figures such as John Braithwaite. Corrective justice requires that legal intervention in cases of violations should correct the imbalance that arises, rather than increasing the victim's suffering. In the case of a mentally retarded child who is a victim of sexual abuse, corrective justice demands that the investigation not only seeks evidence of the crime but also restores the child's dignity and psychosocial well-being through a friendly, participatory, and non-traumatic investigation. (Al Kautsar and Muhammad 2020)

In the author's perspective, the state, through its apparatus, must not interpret investigations as merely normative procedures. Investigations in the context of child victims of disabilities must be reformulated as a process of protection—not merely an investigation of violations, but also a tool for reconstructing justice for the vulnerable. Therefore, if investigators continue to work within a classical procedural framework without strengthening ethical, social, and psychological dimensions, the state is indirectly allowing the law to operate in a discriminatory manner, even if not explicitly.

Efforts to overcome the above obstacles cannot be partial. A multi-sectoral and multi-level approach is required, starting with:

1. Establishment of special technical guidelines for investigations into children with intellectual disabilities, which are integrated between the Indonesian National Police, the Ministry of Social Affairs, and the Indonesian Child Protection Commission (KPAI).
2. Regular training for PPA unit investigators at the Police and Sector Police levels regarding communication methods, interview techniques, and approaches to protecting children with disabilities.
3. Provision of facilities and accompanying human resources such as child psychologists, sign language interpreters,

and social workers as part of the investigation protocol.

4. Strengthening cross-sectoral cooperation, especially between the police, LPSK, Social Services, and child advocacy institutions to ensure that child victims receive adequate legal support and recovery.

Furthermore, it is also crucial to build legal awareness based on local and religious values in Aceh as a region characterized by special autonomy based on sharia. As stated by Prof. Dr. Fitri Rafianti, "In a religious customary law society, the values of social justice and protection of the vulnerable are not merely normative obligations, but rather collective moral mandates that should be internalized in legal practice." In other words, the investigation of child victims of disabilities is not only a matter of police professionalism, but also a reflection of the extent to which the legal morality of society is maintained in its treatment of the most vulnerable.

As a writer, I believe that the law should not be detached from social reality. Investigations of children with mental retardation who are victims of sexual crimes involve not only a review of evidence, but also an ethical test of the legal system's bias toward the vulnerable. Therefore, investigative reform is not an option, but a necessity. This reform begins with the mindset of the apparatus: that victims are not merely objects of a case, but rather human beings worthy of fighting for their rights, guaranteeing their dignity, and safeguarding their future.

Thus, the investigation into the sexual abuse of mentally retarded children at the Central Aceh Police must be directed towards becoming an active instrument of legal protection. Regulatory, technical, and cultural challenges must be addressed with institutional commitment, procedural innovation, and a strong sense of ethical awareness. Only then can the state truly act as a just protector of the most vulnerable.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

Based on the research results, it can be concluded that the investigation process into the sexual abuse of mentally retarded children at the Central Aceh Police Department still does not fully represent the principles of substantive justice that should be the foundation of modern criminal law. Limited technical regulations, the weak capacity of officers to understand inclusive approaches, and the lack of disability-friendly legal

infrastructure indicate that our legal system remains too mired in a procedural legalistic paradigm that lacks human sensitivity. When investigations are conducted using conventional methods for victims with special needs, justice becomes an oppressive formalism, rather than a liberating protection.

In a broader perspective, this weakness is not merely an administrative deficiency, but a reflection of the failure of legal institutions to translate constitutional values and the principle of non-discrimination into concrete practice. The state can no longer justify technical lapses when children with disabilities are victims of the most heinous crimes. Therefore, as a researcher, I argue that it is time for juvenile criminal law in Indonesia to be not only restructured from a normative perspective, but also guided by a paradigm shift: from a law that solely pursues evidence to a law that champions dignity. Allowing the investigation process to proceed without considering the victim's limitations is not ordinary procedural negligence, but rather a form of veiled legal violence.

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