

FULFILLMENT OF FUNDAMENTAL RIGHTS FOR CHILD VICTIMS OF CRIMINAL ACTS AGAINST MORALITY

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ABSTRACT

Children as victims of sexual violence certainly feel the suffering they experience and the suffering as a result of the violence they experience as victims who are very vulnerable to violence and do not dare to put up the slightest resistance due to actions in the form of threats and even terror to victims and the perpetrators mostly come from close relatives who are supposed to provide protection to their children but instead become child predators. So children need to get legal protection. In addition to imposing sanctions on perpetrators by imposing severe penalties on perpetrators, this means that if there is more than one victim, very severe penalties for perpetrators can be given, including life imprisonment. Apart from that, it also provides legal assistance in the form of rehabilitation both medically and socially as well as recovery of children so that they return to their original condition, especially in psychosocial terms, in returning their mental state and self-esteem to a more favorable state. Good. In addition, there is compensation that is charged to the perpetrator while the child is undergoing a period of care and treatment until he recovers because it is a form of child protection in providing mental, psychological and psychological recovery so that in the future the child can organize his life better towards his future.

Keywords : criminal, enforcement, children, violence

INTRODUCTION

The phenomenon of rampant acts of sexual violence is increasing day by day and the victims are children who are very weak and vulnerable to sexual violence. Where the occurrence of sexual violence due to many factors¹ and children are the target because children always surrender and do not dare to put up a fight, especially if the perpetrators come from the closest family who often meet victims both within the family, friendships and even from neighbors in the surrounding environment can even come from educators who actually have to provide protection for children in fact what happens is that children become victims of their own sexual desires. Children as victims of acts of sexual violence

¹ Nashriani, 2014, *Perlindungan Hukum Pidana Anak Di Indonesia*, PT Rajagrafindo Persada, Jakarta. page 18

certainly cause violations of their rights because their right to live feels violated, where the impact that is often experienced by children is depression, as well as stress and greatly affects their psychology and even their mentality and as a result makes them depressed, also anxious and alone even there is a change in attitude and it is also very difficult to concentrate on studying.

Children as victims of sexual violence are often in actions or deeds in sexual crimes which have often occurred so far in the midst of life in society, more often identify men as perpetrators, and it is also very rare to find or find cases in sexual crimes by placing women as perpetrators of this crime of sexual violence against men. According to Abdul Wahid that "women have also occupied an inferior stratum as a result of their superior behavior which is shown by men because they also show strength that comes from their physique"²

Arif Gosita formulates crime in a broad sense which is a result of interaction due to the interaction between existing phenomena and which also influence each other and also the limits of victims of crime are those who suffer physically, also mentally and socially as a result of the actions committed evil of those who also want to fulfill the interests of themselves or those who also suffer³

Efforts to protect children are deemed necessary and must be carried out from the time the child is in the womb until the child is 18 years old, because it is also based on a concept of child protection which is also intact in its entirety, and also comprehensive, which in placing obligations based on the principle of non-discrimination, as well as the best interests of a child, as well as the right to life, and survival, as well as development and respect for the opinions of children.

Related to children who are also victims of sexual violence, according to Siswanto Sunarso "if a crime occurs that also brings victims, the state is also responsible to pay attention to the needs of the victim"⁴. Violence experienced by children is actually not only physical or psychological violence but sexual violence and also sexual harassment which can be interpreted as children who are vulnerable to violence need to get maximum recovery and rehabilitation in providing protection and law enforcement, where law enforcement also needs to get efforts in realizing their rights where law enforcement is certainly given severe and maximum sanctions to the perpetrators of sexual acts.

² Abdul Wahid,dkk, 2001, *Perlindungan Terhadap Korban Kekerasan Seksual, Advokasi Atas Hak Asasi Perempuan*, Refika Aditama, Bandung, page.14.

³ Siswanto Sunarso. 2012. *Viktimologi dalam Sistem Peradilan Pidana*. Cetakan ke-1, Sinar Grafika, Jakarta, page. 37

⁴ Ni Nyoman Juwita Arsawati, dkk. 2019. *Anak Korban Kekerasan Seksual Akibat Ketimpangan Gender*, Jurnal Legislasi Indonesia, 16 (2), page. 237-249

The provision of these sanctions is not only regulated in the Criminal Code (KUHP), as well as the Protection Act, the Child Welfare Act and also the Human Rights Act, in several existing rules at least there are severe and strict sanctions. for the perpetrators, besides that if the child becomes a victim in the healing effort it is carried out optimally in the sense of who is responsibility, and in what form and within what timeframe to improve recovery and rehabilitation⁵ for both psychologists and psychiatrists, including the cost of hospital care until the child experiences a victim. From the background above, the problem that will be studied is how to enforce criminal law for child victims of sexual violence.

RESEARCH METHODS

This research is a normative juridical method in which this research is based on principles, as well as principles and even theories and opinions from experts and is also carried out by examining material from literature and also secondary material which also explains primary legal materials such as books, also articles, and journals, and the results of research, as well as papers and so on which are relevant to the problem to be studied or discussed⁶

RESULTS AND DISCUSSION

Child Victims of Sexual Violence

Victims are defined as those who experience suffering both physically and psychologically in their lives and victims are often in a weak and helpless position where perpetrators and victims are often closely related or not even very close to each other, but due to threats, and terror. even intimidation from the perpetrator and most of the victims are children who are very vulnerable to violence and due to violence in the form of sexual harassment, rape or obscene acts which are all included in the realm of decency or sexual crimes

The act of sexual exploitation and is one part of sexual violence, and in the context of violence against children, Barker also defines violence against children as not causing repeated harm both physically and emotionally to children who are dependent, through there is an urge for desire, and punishment from the body that is uncontrollable, there is degradation and also permanent ridicule or sexual violence. Apart from that, there is also an act of sexual exploitation of children, namely the use of children for sexual purposes in exchange for cash or other forms between the child, also the buyer of sex services, as well as intermediaries or agents, as well as other parties who will can

⁵ Anggar Kurniawati, 2014. *Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual Di Kota Surakarta (Studi Kasus Pelayanan Terpadu Perempuan dan Anak Surakarta)*, *Recidive Jurnal Hukum Pidana dan Penanggulangan Kejahatan*, 3 (2), page. 115-123

⁶ Peter Mahmud Marzuki. 2013. *Penelitian Hukum*. Prenada Media Group, Jakarta, page. 56

also obtain benefits from the criminal act of trafficking in the sexuality of the child⁷

The provisions of Article 15 Point f of the Child Protection Act Number 35 of 2014 that every child has the right to obtain protection from sexual crimes, in which the protection provided is carried out and carried out optimally by parents or family, educators where the child studies or go to school too the community and also of course from the State or Government in providing complete and comprehensive protection as well as maximum in providing⁸ protection for children and women, especially children. The protection given to children is an effort to realize protection for citizens where children are related to the next generation of the nation so that the protection given must always pay attention to their rights without distinguishing who the child is in accordance with the principles of child protection.

Enforcement of the Rights of Children Victims of Sexual Violence

Enforcement of children's rights is of course the concern and participation of all stakeholders where if a crime or violation occurs it is necessary to uphold their rights so that these rights are restored so that they return to their original state so that their rights and dignity are respected and respected. This right must not be violated especially regarding the right to life where children may not be subjected to torture or violence which will leave deep wounds or prolonged trauma and it is difficult to heal the child's body and psychology psychologically.

Enforcement is in line with legal protection where children who are victims of sexual violence have the right and obligation to be given legal assistance by the State where the child is accompanied by a lawyer who will assist with the recovery and healing of the child as well as statements and reports from victims being heard both during the investigation and investigation stages. In addition, legal assistance is also provided so that perpetrators receive severe punishment or sanctions commensurate with their actions, where victims are also entitled to receive appropriate compensation for child victims of sexual violence.

Compensation given to child victims of criminal acts in accordance with Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children who Become Victims of Crime means that by providing restitution for children, it is a form of law enforcement that can be carried out

⁷ Ismantoro Dwi Yuwono, 2015. *Penerapan Hukum Dalam Kasus Kekerasan Seksual Terhadap Anak*, Pustaka Yustisia, Yogyakarta, page. 19.

⁸ Ayu Intan Novelianna Setyono dkk, 2021. *Perlindungan Hukum Terhadap Anak Dari Eksploitasi Seksual*, TATOHI Jurnal Ilmu Hukum, 3 (2), page. 12-16

and carried out in restoring the child's rights to obtain appropriate compensation and fulfilling the responsibility of the state in obtaining their basic rights in providing increased child protection and its administration⁹

In order to increase the effectiveness of the implementation of child protection, the Indonesian Child Protection Commission (KPAI) was formed which has the appropriate functions and duties. with the provisions in Article 75 of the Child Protection Act, namely:

- a. Dissemination of all provisions of laws and regulations relating to child protection, collecting data and information, receiving public complaints, conducting studies, monitoring, evaluating and supervising violations of child protection
- b. Provide reports, suggestions, input and considerations to the president in the context of child protection¹⁰

Children as victims of sexual violence do not only receive compensation in the form of material things but are related to healing trauma through medical and social and psychosocial rehabilitation so that self-esteem and mentality can return and be restored so that children can forget their trauma in the past. However, in practice, sometimes there are still many obstacles in law enforcement related to children's rights in Indonesia so that children's rights can be upheld, there needs to be coordination and cooperation between all parties to get together to promote and provide protection for children's rights and to pay serious attention to improving children's rights child.

According to Darwan Prints that there are obstacles in an enforcement of children's rights in Indonesia which include:

- a. the implementation of the existence of law enforcement itself, where this can also be related to the ability of law enforcement officers and also the facilities and infrastructure that also support it.
- b. programs from the government which have not been fully realized yet are effectively effective and given the level of economic capacity of the majority of Indonesian society which is also still low.
- c. regulations from a law which are also very much needed to also be able to provide protection for children which are also still incomplete.
- d. lack of knowledge from the community, especially from parents about the rights of children.

⁹ Peraturan Pemerintah Nomor 43 Tahun 2017 tentang *Pelaksanaan Restitusi Bagi Anak yang Menjadi Korban Tindak Pidana*

¹⁰ Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan Undang-Undang Nomor 23 Tahun 2002 tentang *Perlindungan Anak*

- e. there is a lack of understanding from related agencies and also from the community about the existence of a provision contained in the convention on international children's rights.
- f. there is no institution that also deals with the protection of children who are specifically dealing with the problems of children who can also be treated wrongly, such as victims of acts of rape, abuse and acts of exploitation.
- g. the lack of educated and professional staff in dealing with the child's problems.
- h. coordination between or from social organizations and also from the government as well as between social organizations which are also relatively lacking.
- i. there will be cross-sectoral and international cooperation which is not well established¹¹

Prevention of Sexual Violence for Children

The act of having sexual intercourse is an act that is very contradictory and not in accordance with the values that live in society and is also not in accordance with applicable law where in its implementation causes a lot of harm and sacrifices for children and of course the impact on the physical, as well as psychological¹² as well as the psychology of the child where the child will also become silent, also moody there is a change in attitude and a very clear decrease in the quality of learning in obtaining education in schools in studying knowledge.

The increasing prevalence of sexual violence is at least a concern for all parties, especially for parents, teachers and also the community not to prioritize their interests and prioritize the interests and protection of children and always provide good and harmonious supervision for children at all times so that children do not fall prey to being the perpetrator as well as the victim, and the family as¹³ The smallest family circle at least really protects their children and doesn't become a predator or pedophile for their own flesh and blood or their descendants.

Apart from being within the family, it is also in education where the role of teachers or educators is in teaching children, namely students and female

¹¹ Junaidi, 2020. *Perlindungan Hukum Terhadap Hak Anak di Indonesia*, JOLSIC Journal of Law, Society and Islamic Civilization, 8 (1) page. 1-13

¹² Ellya Rakhmawati, Noor Rochman Hadjam, Akif Khilmayah, *The Prevention of Child Sexual Abuse through Teachers' Knowledge Enhancement in Sexual Education Implementation*, Journal of Hunan University Natural Sciences 49 (4), 2022, Page 40-49 <https://doi.org/10.55463/issn.1674-2974.49.4.5>

¹³ Chimeno, S. G., Fernández, J. D., Sánchez, S. M., Ramón, P. P., Ospina, Ó. M. S., Muñoz, M. V., & Hernández, A. G. (2020). *Domestic Violence Prevention System* page. 10–14. https://doi.org/10.1007/978-3-030-00524-5_3

students, where teachers also provide protection to students so they don't fall for it, such as providing prevention efforts by teaching or informing them to always be careful and vigilant in those actions that constitute¹⁴ act of decency or at least provide boundaries in association and must know the impact and also the factors that will occur, such as having a slogan is better to prevent than treat as much as possible should always seek prevention rather than cure.

Countermeasures in the form of prevention as well as treatment are interpreted as punishment for perpetrators and treating victims, which in this case really needs to be given recovery and rehabilitation both medically and also psychosocially so that the child can be restored to normal and also restore balance to his dignity. to be able to come back and also be able to get rid of excessive trauma so that it can return to before.

While the community can also cooperate and coordinate with law enforcement officials if they know and hear and see¹⁵ acts of violent crime that occur to children, they immediately report it as a form of concern and concern for children in providing their welfare. The state itself in providing it can also provide burdensome sanctions for perpetrators to the maximum extent possible so that they are aware of their actions and do not repeat them again and do not make children victims.

CONCLUSION

1. Law enforcement for child victims of sexual violence, namely by fulfilling their rights including punishing perpetrators or ensnaring perpetrators with maximum punishment and giving them their rights to get legal assistance and fulfilling their rights medically and psychosocially and fulfilling will get counseling and therapy.
2. Child protection and child welfare are the duties and responsibilities so that children do not become victims of sexual violence, which can be done with prevention efforts from parents, teachers, the community and the government, all of whom coordinate with each other in seeking maximum protection for the progress and welfare of the child as the next generation of the nation.

¹⁴ Probosiwi, R., & Bahransyaf, D. (2015). *Pedophilia and Sexual Violence: Problems and Child Protection*. *Sosio Informa*,1(01), page 29-40.

¹⁵ Molyneux, E. M., Kennedy, K., Dano, S., & Mulambia, Y.(2013). *Sexual Abuse of Children in Low-income Settings*. *Pediatrics and International Child Health*, 33 (1), page. 239-246

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