

Implementation of Legal Protection for Children Victims of Sexual Violence in the Family Environment

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ABSTRAK

Penelitian ini membahas implementasi perlindungan hukum bagi anak korban kekerasan seksual dalam lingkungan keluarga, yang menjadi salah satu bentuk pelanggaran berat terhadap hak anak. Meskipun telah terdapat berbagai regulasi seperti Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak dan Kitab Undang-Undang Hukum Pidana, dalam praktiknya perlindungan hukum belum sepenuhnya efektif. Faktor budaya, tekanan sosial, minimnya pendampingan hukum, serta ketakutan korban dan keluarga sering menghambat proses pelaporan dan penegakan hukum. Penelitian ini menggunakan pendekatan yuridis normatif empiris untuk menganalisis sejauh mana aturan hukum berjalan di lapangan. Hasil penelitian menunjukkan bahwa peran aparat penegak hukum, lembaga perlindungan anak, dan dukungan keluarga sangat menentukan keberhasilan perlindungan bagi korban. Oleh karena itu, perlu peningkatan edukasi hukum, pendampingan psikologis, serta penguatan

sinergi antara lembaga hukum dan masyarakat dalam mencegah dan menangani kekerasan seksual terhadap anak dalam keluarga

ABSTRACT

This study discusses the implementation of legal protection for children victims of sexual violence in the family environment, which is a form of gross violation of children's rights. Although there have been various regulations such as Law Number 35 of 2014 concerning Child Protection and the Criminal Code, in practice legal protection has not been fully effective. Cultural factors, social pressure, lack of legal assistance, and fear of victims and families often hinder the reporting and enforcement process. This study uses an empirical normative juridical approach to analyze the extent to which legal rules run in the field. The results of the study show that the role of law enforcement officials, child protection institutions, and family support greatly determines the success of protection for victims. Therefore, it is necessary to increase legal education, psychological assistance, and strengthen synergy between legal institutions and the community in preventing and dealing with sexual violence against children in the family

INTRODUCTION

Sexual violence is any form of action that involves threats or coercion in a sexual context, either verbally or physically, that is carried out without the consent of one of the parties. In a broader sense, sexual violence includes all forms of deviant sexual behavior that harm the victim, as well as disrupt peace and social norms in the community. Children are often victims of these acts of violence, the effects of which are very destructive, harmful, and mentally frightening. Victims of sexual violence not only suffer physical and material harm, but also emotionally and psychologically, which can have a long-term impact on their lives in the future. Violence against children can be physical, psychological, or sexual, and all of them cause deep wounds in children's development.

Legal protection for children victims of sexual violence in the family environment is a very important issue in Indonesia. Mass media, both print and electronic, often highlight cases of sexual violence against minors, with an increasingly cruel and inhumane modus operandi. Children as victims not only suffer material losses, but also non-physical impacts such as emotional and psychological trauma, which have the potential to disrupt their future. The increase in cases of sexual violence against children both by fellow children and adults has caused widespread unrest, especially among parents, because the pattern of perpetrators and forms of violence is very worrying.

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According to article 1 letter (a) of the Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare, it is explained that child welfare is a system of life and livelihood of children that can ensure their growth and development in a reasonable manner, both born, mental, and social. Because child welfare is a comprehensive system of life and livelihood, which guarantees that children can grow and develop reasonably. This approach requires the active role of all parties in the family, society and the state to create an environment that supports the fulfillment of children's rights. So that children are able to develop optimally and are ready to face life's challenges.

Awareness of the importance of child protection is not only the responsibility of the government, but also requires the active involvement of the community and educational institutions. The role of the community is very important in creating a safe and child-friendly environment, so it is necessary to increase understanding through various educational programs. On the other hand, educational institutions have a great responsibility in instilling the values of child protection from an early age, including an understanding of children's rights and the dangers of sexual violence. Therefore, educators need to receive special training to be able to recognize the symptoms of violence in children and provide appropriate psychological treatment and support for victims.

Sexual violence against children is often committed by people known to the victim closely, such as relatives or family members themselves. This makes children more vulnerable because the trust that has been given is actually abused. After becoming a victim, children often face rejection and stigma from the surrounding environment, which in turn worsens their mental and emotional state and makes the recovery process more difficult. Children basically do not have the physical or emotional ability to resist the forms of violence and exploitation they experience. Many of them are trapped in situations they have no control over, such as poverty, social pressure, or manipulation from irresponsible adults. Although in some cases the violence seems hidden or indirect, still the children are victims who must be protected and defended.

It is very important for all communities to build a protection system that is responsive and on the side of victims, including easily accessible reporting mechanisms, psychological assistance services, and strict law enforcement against perpetrators of sexual violence against children. In addition, the role of the family as a child's first environment cannot be ignored, parents must be equipped with understanding and skills in detecting signs of violence and creating open communication with children so that they feel safe to tell stories. These efforts must be carried out in a sustainable manner to create an environment that truly protects the rights, dignity, and future of children.

Incidents of sexual violence against children are a very serious legal issue and need special attention, because the impact can be very heavy for the victim, both psychologically and physically. Many children who are victims choose to remain silent because they feel afraid, receive threats from perpetrators, or are worried that they will receive negative stigma from society that considers them to have been tainted. This fear makes victims reluctant to report to child protection institutions or law enforcement officials, so that justice is difficult to achieve and the perpetrators remain free to roam. Therefore, it is important for society and the state to create a safe and supportive environment for victims, so that they dare to speak out and obtain proper protection and recovery.

The handling of sexual violence against children cannot be separated from the juridical aspects that regulate legal protection for victims. Laws in Indonesia have provided a legal umbrella for child protection, but their implementation still faces various challenges, especially in terms of firm law enforcement, sustainable victim assistance, and effective prevention mechanisms. Therefore, the study of legal protection for child victims of sexual violence, especially in the family sphere, is very important to be carried out as a form of scientific contribution in a more comprehensive child protection effort.

RESEACH METHODS

Data analysis is a process carried out by researchers to examine research findings or process data with reference to pre-existing theories. In this study, data analysis was carried out with a normative-empirical approach. This analysis technique is a combination of a normative approach, which is to analyze data based on applicable legal norms or moral principles, and an empirical approach, which is to use actual data or information obtained from the results of observation and direct interviews in the field. This approach aims to provide a comprehensive picture of the problem being studied, taking into account the compatibility between ideal norms and the reality that occurs in society. This method is widely used in various fields such as law, public service, and social sciences to assess the extent to which the application of rules is in line with practices that occur in the field. Thus, the results of the analysis can be a strong basis in formulating applicable solutions or recommendations.

RESULT AND DISCUSSION

Child protection is a reflection of efforts to realize justice in society, both through direct implementation and through regulations in the laws and regulations of a country. The existence of legal certainty contained in regulations is an important element to prevent irregularities that can have a negative impact on children. However, this protection must be carried out selectively and proportionately, because providing excessive and inadequate protection both risk inhibiting children's growth and development and rights.

Indonesia is a country that upholds legal principles, where laws and regulations direct the behavior of the community and the government not to act arbitrarily and prevent individuals from acting as they please. One of the important elements in the principle of the rule of law is the recognition of human rights that must be guaranteed by the state. As a sovereign country, Indonesia has an obligation to provide compensation to victims of sexual violence committed by adults and ensure the protection of the rights of child victims.

Children are an integral part of the life of the nation and state, which is inherent in the dignity and dignity of a whole human being. Every child has the right to have opportunities to grow and develop, both physically, mentally, and socially. In addition, children also have the right to protection, attention, and guarantees of the fulfillment of their rights in order to achieve decent welfare according to their age.

Legal protection efforts for children who are victims of sexual violence within the family are still a serious problem in Indonesia. This is due to the high number of cases and the complexity of the background that causes this to happen. The protection is not only based on legal provisions alone, but must also pay attention to the real needs of the victim to obtain justice, psychological recovery, and protection of their rights as children. In the field, many cases of sexual violence in the family are difficult to reveal due to the power imbalance between the perpetrator and the victim, pressure from the social environment, and the victim's fear of stigma or threats that often come from the perpetrator who is the closest person.

The principle of the best interest of the child emphasizes that in every policy, action, or decision involving children, whether by the government, society, legislative institutions, or judicial institutions, the main consideration that must be prioritized is the protection and fulfillment of children's rights to the maximum. Meanwhile, the principle of the right to life, survival, and development refers to human rights that are essential and inherent in every child from birth, which must be guaranteed and protected by the state, government, society, and the smallest unit, namely the family and parents, in order to ensure the complete and sustainable growth and development of children.

Sexual violence against children is influenced by various interrelated factors, one of which is the family environment. Families that are not harmonious, full of pressure, or lack of supervision can be a fertile ground for sexual violence against children. In addition, economic factors also play a role, where difficult economic conditions often encourage exploitation or instability in the household that negatively affects children. Children's social environment is also one of the factors that occur Sexual violence, when children associate in a bad or unhealthy environment, they become more vulnerable to various forms of crime, including sexual violence. Psychological factors of the perpetrator, such as psychiatric disorders or past trauma, can encourage the emergence of deviant behavior that leads to violence against children. These four factors are intertwined and require serious attention in efforts to prevent and handle cases of sexual violence against children.

To overcome the various factors that cause sexual violence against children, a comprehensive and integrated approach is needed from various parties, both families, communities, educational institutions, and the government. The family as a child's immediate environment has an important role in creating a safe, affectionate atmosphere, and building open communication between parents and children. Parents also need to be equipped with knowledge about proper parenting and early signs of sexual violence so that they can prevent it from an early age. On the other hand, the community needs to increase concern and courage to report if they find indications of violence, as well as support a healthy social environment for children's growth and development.

The government must also strengthen the child protection system through strict regulations, consistent law enforcement, and the provision of psychological assistance and rehabilitation services for victims. In addition, it is also important to conduct massive education about the dangers of sexual violence in schools and public media so that children have the knowledge and courage to protect themselves. This effort also needs to be accompanied by improving the economic welfare of the community so that economic factors are no longer the main trigger for violence. With the synergy of all parties, it is hoped that cases of sexual violence against children can be significantly suppressed and Indonesian children can grow up in a safe and secure environment.

Article 59 paragraph (1) of Law Number 35 of 2014 concerning Child Protection explains that the Government, Regional Governments, and other state institutions are obliged and responsible to provide

special protection to Children. This special protection includes efforts to prevent, mentor, handle, and recover children who are in vulnerable conditions, such as children who are victims of sexual violence, exploitation, neglect, and other mistreatment. This emphasizes that the state has a central role in ensuring the fulfillment of children's rights to grow and develop safely, with dignity, and free from all forms of threats.

The protection of children from various forms of violence, especially sexual violence, is an important part of the state's efforts to ensure the rights of children to grow and develop in a reasonable, safe, and dignified manner. Considering that children are a vulnerable group to harassment, strong and comprehensive regulations are needed so that all forms of sexual violence can be prevented and dealt with firmly. The state has a responsibility to not only provide physical protection, but also strict legal protection through laws and regulations. Therefore, within this framework, Law Number 17 of 2016 as an amendment to Law Number 23 of 2002 is an important instrument in strengthening the child protection system, especially against acts of sexual violence.

Law Number 17 of 2016 which is the second amendment to Law Number 23 of 2002 concerning Child Protection is present as a legal basis that provides comprehensive protection guarantees for children as parties who are vulnerable to various forms of violence, including sexual violence. Article 76D states that everyone is prohibited from having intercourse with him or with another person. This provision normatively reflects substantial protection of children from sexual crimes. Furthermore, Article 81 regulates the threat of severe sanctions, namely imprisonment for a minimum of 5 years and a maximum of 15 years, as well as a maximum fine of Rp 5,000,000,000.00 These sanctions show the state's strong commitment to take firm action against perpetrators and provide a proper sense of justice for victims.

The effectiveness of the provisions in Article 76D and Article 81 of the Child Protection Law can be seen from several important aspects that strengthen efforts to protect children from sexual violence:

1. The scope of protection provided is universal, meaning that it does not discriminate against the sex of the child so that every child has the same right to protection without discrimination.
2. The existence of a firm and severe criminal threat has a dual function, namely as a preventive effort to prevent crime and as a repressive step to provide appropriate punishment to the perpetrators.
3. The law also provides for additional sanctions in the form of the revocation of certain rights for perpetrators, such as a ban on working in educational settings or fields involving children, thereby providing ongoing protection and preventing the potential recurrence of similar crimes.

Although normatively the provisions in the Child Protection Law have been designed quite strongly, in practice the effectiveness of the implementation of these articles still faces various complex challenges. One of the main obstacles is the low reporting rate of cases of sexual violence against children. Many cases are not revealed because the victim and his family choose to remain silent due to fear, shame, or pressure from the social environment.

In the investigation, investigators actually have an important role to ensure that the rights of children as victims are protected throughout the legal process. This includes the need for investigators to provide assistance from parents or guardians, ensure legal protection from all forms of actions that can harm the victim, and respect the psychological condition of the child by not forcing him or her to give information. The investigation stage is the most important part of the integrated criminal justice system because it is at this stage that suspects can be identified and legal accountability of the perpetrators can be formulated before the case proceeds to the prosecution and trial stages.

This fear is often triggered by negative stigma towards the victim, concerns about social impacts, and pressure from perpetrators who may be close to or in power. Victims and their families also often experience difficulties in accessing adequate legal assistance and psychological services. Limited resources, both in terms of the number of professionals and service facilities, make the process of victim recovery and law enforcement hampered. As a result, the protection that should be given comprehensively to children is not optimal in the implementation in the field.

To overcome these obstacles, more integrative and collaborative efforts are needed between the government, law enforcement agencies, child protection agencies, and the community at large. The government needs to strengthen the reporting and protection system through the provision of integrated services that are easily accessible, safe, and child-friendly. In addition, increasing the capacity of law enforcement officials and accompanying personnel in handling cases of sexual violence against children is very important so that the legal process runs fairly. Socialization and education to the community must also be intensified, this aims to remove stigma against victims and encourage a culture of reporting. With this

comprehensive approach, it is hoped that the implementation of the Child Protection Law can run more effectively, so that the protection of children is truly realized in daily life.

Cases of sexual violence against children, especially those committed by biological parents, are a form of gross violation of children's rights as well as moral and legal values. In case Number 175/Pid.Sus/2024/PN SKB, which occurred in Sukabumi City, it shows how complex and serious sexual crimes committed by fathers are against their own biological children. The following is a description of the victim's statement explaining the chronology of the incident in detail based on his first-hand experience:

In case Number 175/pid.sus/2024/PN SKB, the case of child molestation by the biological father against the biological child that occurred in the city of Sukabumi, the incident occurred on Friday, April 26, 2024, at the defendant's house. Starting from the victim's child who was going to go to the house of his grandmother and friend, then the defendant asked the victim's child how the victim's child could shop online and go play while the family's economic condition was in crisis, the defendant accused the victim of selling himself and finally the victim's child admitted to selling himself on one of the applications. The victim's child also pleaded with the defendant not to tell anyone that the victim's child had sold himself on the application, but the defendant increasingly threatened the victim's child. At that time, the victim's child was silent and did not give an answer until finally the victim's child obeyed the Defendant's wishes out of fear, so the victim's child fulfilled the Defendant's request and until the end. The victim's child was by the Defendant 1 (one) time.

The victim's child was by the Defendant by inviting the Defendant to the middle room and at that time the Defendant immediately locked the door of the room. The Defendant immediately took off the clothes he was wearing until he was completely naked, then the Defendant told the victim's child to take off and at that moment the victim's child took off the clothes he was wearing until he was completely naked, then the Defendant immediately approached the victim's child and put the victim's child to sleep in a supine position. Then the Defendant pressed the Victim's child's body from the top while playing with the victim's child's two breasts and after that the Defendant had licked the victim's child's genitals for approximately 5 (five) minutes and the Defendant told the Victim's child by saying: "this licked me" then the victim's child refused to lick the Defendant's genitals and after that the Defendant inserted his genitals/penis into the victim's child's genitals/vagina, then the defendant moved his genitals in a back and forth motion for approximately 5 (five) minutes. At that time the Victim's Child and the Defendant heard a knock on the door so the Defendant ended his act and immediately put on clothes while saying: "Don't tell anyone!" then the Defendant left the room, while the Victim's Child was silent first and immediately put on clothes, then had a chance to meet a guest who came to the house, where the guest was the grandfather of the Victim's Child with his wife and after that the Victim's Child left the house:

After returning home at around 17.00 WIB, the victim's child immediately entered the bedroom, but at around 20.00 WIB, the Defendant entered the room and invited to have sex again and at that time the victim's child immediately refused and immediately rested. Then the victim's child slept in the front room, but the defendant followed the victim's child to the front room. At that time, the victim's child was asleep but still awake to see the Defendant masturbating, the Defendant was lying facing the victim's child, while the victim's child was facing the victim's child with his back to the Defendant to protect himself using a blanket. The victim's child did not dare to tell anyone, including her own mother, for fear of being found out by the Defendant and exposing disgrace to everyone, but the victim's mother found out that the victim's child had been by the Defendant on Monday, May 6, 2024, at around 13.00 WIB, because initially the victim's mother asked the victim's child "have you ever sold yourself?" then the victim's child replied: "Yes, once my mother and I have also used sarma daddy". At that time, the victim's son replied while crying. That the mother of the victim's child felt strange with the Defendant's attitude towards the victim's child who was her own biological child, from the way she spoke not like a father to the child, but like to the boyfriend by calling the Victim's Child "YOU", "ME", "AYANG" or "BEBZ". That as far as the victim's child remembers when he was still in the 3rd grade of elementary school when he slept together, suddenly the Defendant approached the victim's child and then buttoned the victim's child's clothes open, the victim's child felt that the victim's genitals/vital organs were being held, and the mother was suspicious of the Defendant by saying: "Don't do that to the child!".

The defendant's actions not only hurt the victim's child physically and psychologically, but also damaged the basic function of the family as a place of protection, affection, and moral guidance. The disclosure of this case stems from the victim's courage to admit the tragic events she experienced, even under the pressure of fear and deep trauma. The victim's mother's suspicion of the defendant's unnatural attitude was also the key to the revelation of this case, which shows the importance of parental vigilance in observing changes in the behavior of children and partners. This case not only demands strict law enforcement against the perpetrators, but also serves as a mirror for the importance of strengthening child protection education, recovery of victims' psychological trauma, and a child-friendly reporting system. The

state, family, and community must work together so that similar incidents do not happen again and every child can grow up in a safe and dignified environment.

The implementation of legal protection for children who are victims of sexual violence in the family environment requires a holistic and integrated system. Law enforcement against the perpetrator must be carried out firmly and without compromise, considering that such acts not only violate legal norms, but also damage children's basic rights to a sense of security, affection, and protection in the family environment. Law enforcement, from the police, prosecutor's office, to the courts, must prioritize an approach that favors the best interest of the child and ensures that the legal process does not add trauma to the victim.

In addition to the aspect of law enforcement, efforts to restore the physical and psychological condition of the victims must be the main concern. Children who are victims of sexual violence need long-term psychological assistance, re-education about self-worth, and a guarantee of security so that they do not continue to live in fear and pressure. The role of the family, especially the mother or guardian who is not involved in violence, must be strengthened as a key pillar of the child's emotional recovery. The community must also be involved in creating a supportive environment and not judging victims, so that children can return to undergoing the growth and development process in a reasonable manner. Thus, legal protection does not only stop at the sanction process, but also includes continuous recovery and prevention.

CONCLUSION

It can be concluded that the implementation of legal protection for children victims of sexual violence in the family environment requires a comprehensive approach, including strict law enforcement against perpetrators, protection during legal processes, and psychological and social recovery for victims. The state, law enforcement officials, families, and communities have the same responsibility in creating a protection system that is in the best interests of children. This protection is not only interpreted as a reaction to a criminal act, but also as a preventive and rehabilitative effort so that children can grow up in a safe, dignified, and free environment from all forms of violence.

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