

Research Article

Legal Protection of Child Victims of Sexual Crimes in the Perspective of Criminal Law

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Abstract: This study examines legal protection for child victims of sexual crimes from a criminal law perspective. Using a normative approach and literature review, this study aims to determine the legal protection for child victims of sexual violence, factors that influence the occurrence of sexual violence against children, and efforts to prevent sexual violence against children. The results of this study indicate that Indonesia has a responsibility to protect child victims of crime. Law Number 23 of 2002 in conjunction with Law Number 35 of 2024 in conjunction with Law Number 17 of 2016 concerning Child Protection provides a basis for protection that includes children's rights, protection from violent crimes and discrimination, and fulfillment of their dignity and honor. Special protection is given to child victims of sexual violence through rehabilitation, protection of victim identity, guarantee of safety for victim witnesses, and accessibility to case developments. Criminal sanctions for perpetrators of sexual violence against children are regulated in the Law and the Criminal Code. In handling cases of sexual violence, the role of forensic medicine is crucial in terms of collecting the necessary evidence. The principle of diversion is also applied in handling cases of sexual violence involving minors. Serious coordination between the police, prosecutors, and judges is needed to eradicate sexual violence against children. In closing, this study presents a general overview of legal protection for child victims of sexual crimes from a criminal law perspective. Efforts continue to be made to strengthen the protection and prevention of these crimes through coordination between institutions and effective law enforcement.

Keywords: Legal Protection, Sexual Crimes, Children

1. Introduction

Background

Victims of sexual crimes are often equated with sexual harassment. From the perspective of women as victims, the two are indeed no different. According to Mayer et al., there are three important aspects in defining sexual harassment, namely the behavioral aspect (whether it is a sexual proposition), the situational aspect (whether there is a difference in where or when the behavior occurs), and the legality aspect (in the circumstances in which the behavior is declared illegal. In simple terms, sexual harassment can be interpreted as an act of sexual approach carried out by a person towards another person without the consent of the victim. This approach is not always physical contact, but it can also be sexual speech or words. Therefore, sexual harassment is generally divided into two main forms, namely verbal harassment and physical temptation. Interestingly, in various cases that occur, verbal harassment is actually found more often than physical harassment. Sexual harassment in verbal forms includes jokes or jokes that contain sexual elements, comments that are suggestive or obscene, and sexual persuasion that the victim does not want, in addition to various other forms. Meanwhile, harassment in the form of physical temptation includes more tangible acts such as attempted rape or rape itself, as well as indecent touches such as squeezing, forcible hugging, kissing without consent, and suggestive gazes at certain parts of the body, such as breasts, hips, or other areas of the body.

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Children are a vulnerable group so they receive special attention from the state and society. This concern is reflected both in national and international legal rules. Law Number 23 of 2002 Jo Law Number 35 of 2024 Jo Law Number 17 of 2016 concerning Child Protection is a special regulation that regulates children's problems. The purpose of child protection itself is stated in Article 3 of Law Number 23 of 2002 Jo Law Number 35 of 2024 Jo Law Number 17 of 2016:

Child protection aims to ensure the fulfillment of children's rights so that they can live, grow, develop, and participate optimally in accordance with the dignity and dignity of humanity, as well as receive protection from violence and discrimination, for the realization of quality, noble and prosperous Indonesian children.

It is also mentioned in Article 4 of Law No. 23 of 2002 Jo Law No. 35 of 2024 Jo Law No. 17 of 2016 concerning the rights of children which states that:

Every child has the right to be able to live, grow, develop and participate reasonably in accordance with the dignity and dignity of humanity and to be protected from violence and discrimination.

Various factors can affect children's attitudes and behaviors so that they deviate from the right path, one of which is the high use of social media, especially networking platforms such as Facebook. Kids easily share personal data and make friends with anyone without thinking about the potential negative impacts. They are often carried away by the attention they receive in cyberspace, without realizing that treatment in the real world can be different and even detrimental. This situation often leads to serious problems, including sexual harassment to rape. In the end, the one who suffers the most is the child himself, who must face shame, regret, and difficulties in recovering his honor and self-respect.

Although the goal of the state is to advance society through the advancement of science and technology, the reality on the ground shows different conditions. The rapid development of science and technology has brought positive impacts in the form of improving civilization, the quality of human resources, and increasingly advanced and modern technological advancements. However, these advances also have negative impacts, such as environmental damage and the misuse of technology to commit crimes and violence, which are increasingly common in today's social interactions. This phenomenon does not only occur in rural environments, but also evenly in slums and urban elite areas.

Many cases found in the community show that children are involved as perpetrators of crimes with the crime of sexual violence. This incident was influenced by various factors, including economic pressure in the family, lack of attention from parents, lack of ethical education in the school curriculum, easy access to drugs that circulate freely, and easy access to pornographic content through mobile phones, the internet, and television. In addition, the rampant promiscuity in student boarding houses and the existence of prostitution spread in urban areas are also triggers. This condition is very concerning for all levels of society so that it requires immediate handling by law enforcement officials, especially the police, as well as the active role of the community. Without serious and integrated efforts, the potential for an increase in rape cases involving children will continue.

From the above explanation, there are many things that need to be studied about these problems. Therefore, the researcher is interested in researching this matter to be raised in a study entitled "Legal Protection of Children Victims of Sexual Crimes in the Perspective of Criminal Law".

Problem Formulation

From the above background description, the formulation of the problem that will be studied in this study is:

1. How is the Protection and Law Enforcement for Children Victims of Sexual Abuse?
2. How are efforts to prevent sexual abuse of children?

2. Research Methods

This research uses descriptive analytical normative research through a statutory approach (Statute Approach), normative legal research that aims to describe and analyze a legal issue based on applicable laws and regulations. This research does not use empirical data, but focuses on a literature study of existing legal norms, with the main approach in the form of a review of laws and regulations related to the legal issues being handled. The data collection technique is carried out through literature studies is a data collection technique that is carried out by examining various written sources that are relevant to the topic or problem

being researched. This technique is commonly used in normative law, social, philosophical, and other sciences that are theoretical and conceptual in nature. In normative legal research, primary legal materials are the main source that has binding legal force and is the main basis for conducting juridical analysis of the problem being studied. The primary legal materials used in this study are Law Number 23 of 2002 jo Law Number 35 of 2014 jo Law 17 Number 2016 and the Criminal Code. Secondary legal materials are legal materials that provide explanations of primary legal materials and assist researchers in understanding and analyzing the substance of the law. Secondary legal materials in this study were obtained from law books, scientific articles, research journals, academic papers, and opinions of legal experts relevant to the discussion of child protection.

3. Discussion

Protection and Law Enforcement for Children Victims of Sexual Abuse

Indonesia is a country based on the law, as affirmed in Article 1 Paragraph 3 of the 1945 Constitution. This principle is an important foundation for protecting citizens who are victims of crime. On the other hand, the principle of the rule of law also gives legitimacy to the state to impose sanctions or punishments on citizens who violate the law. However, such punishment must not exceed humanitarian limits, even if the perpetrator's actions are considered very severe or unreasonable. Therefore, the guarantee of legal protection is a fundamental element and a logical consequence of the existence of a state of law, where the state is obliged to guarantee the legal rights of every citizen.

The law places children in the position of being subject to law, namely as parties who have rights and obligations and can be treated equally with adults in the legal context. This special position of the child is based on the fact that the child, as an individual who is still undergoing biological and psychological development, does not yet have the full ability to fight for his rights independently. In addition, children are also seen as an asset of the nation's future, so the country's sustainability is highly dependent on the protection and guidance of them. Therefore, children as part of the legal system must be guaranteed protection, care, and guidance for the best interests of them. This special position of children is based on the principle that children are unable to fight alone because of the limitations inherent in them in protecting and enforcing their rights.

The protection of children who are victims of sexual abuse is part of the state's obligations contained in various national regulations and international instruments. The state is responsible for providing legal, social, and psychological protection to children as a form of respect for their rights as human beings.

Article 3 of Law 23/2002 jo Law 35/2014 jo Law 17/2026 contains important points, including: guarantee and fulfillment of children's rights, recognition of human dignity and dignity, protection of children from violence and discrimination, and the creation of quality, moral, and prosperous children. Meanwhile, the main principles in the Convention on the Rights of the Child include: non-discriminatory treatment, prioritizing the best interests of the child, the right to live and grow and develop, and respect for the opinion of the child.

In Article 59 of Law 23/2002 jo Law 35/2014 jo Law 17/2016, it is stated that the government and other state institutions have an obligation and responsibility to provide special protection to children in certain conditions. This coverage includes: children in emergency situations; children in conflict with the law; children of minority groups or who live in isolation; children who experience economic and/or sexual exploitation; children of trafficking victims; children who are victims of the abuse of narcotics, psychotropics, and other addictive substances (NARCOTICS); children of victims of kidnapping, sale, and trafficking; children who are victims of violence, both physical and psychological; children with disabilities; and children who experience mistreatment and neglect.

Special protection for children who are victims of criminal acts as stipulated in Article 64 paragraph (3) includes several things, namely: the implementation of rehabilitation that can be carried out inside and outside the institution; protection of children's identities from media coverage to prevent negative labeling; security guarantees for victims and expert witnesses, both physically, mentally, and socially; and providing easy access for children to obtain information related to the development of legal proceedings in their cases.

Perpetrators of sexual harassment must be punished based on applicable regulations, namely in accordance with Law 23/2002 jo Law 35/2014 jo Law 17/2016 Articles 81 and 82, Criminal Code (KUHP) Article 287. Meanwhile, forcing someone to have same-sex sexual

relations is a criminal threat of 5 (five) years in prison as stipulated in Article 292 of the Criminal Code.

Based on its provisions, Article 81 paragraph (1) of Law 23/2002 jo Law 35/2014 jo Law 17/2016 states that every person who deliberately uses violence or threats of violence to force a child to have sexual intercourse, either with himself or with another person, is subject to criminal sanctions. The punishment imposed is in the form of imprisonment with a minimum sentence of 3 (three) years and a maximum of 15 (fifteen) years, as well as fines ranging from IDR 60,000,000.00 (sixty million rupiah) to IDR 300,000,000.00 (three hundred million rupiah).

Chapter XIV of the Criminal Code (KUHP) discusses moral crimes. In handling cases of sexual violence, the role of Forensic Medicine is very important in the investigation stage, including identifying signs of sexual intercourse, detecting physical violence, estimating the age of the victim, and assessing whether the victim is fit or not to marry. Meanwhile, Article 292 of the Criminal Code stipulates that adults who commit immoral acts against the same sex that they know or reasonably suspect are minors, can be sentenced to a maximum of five years in prison. Furthermore, based on the criminal provisions in Article 81 paragraph (1) and Article 82 of the Child Protection Law, sanctions for acts of sexual violence against children are severe, both in the form of imprisonment and fines. If the perpetrator of sexual violence is a child between the ages of 14 (fourteen) and less than 18 (eighteen) years old, then based on the provisions of Law Number 11 of 2012 concerning the Child Criminal Justice System, especially Article 5 paragraph (3), the handling of the case must prioritize diversion efforts. Diversion, as explained in Article 1 number 7 of Law 11/2012, is the process of transferring the settlement of children's cases from the criminal justice channel to a settlement mechanism outside the criminal justice system.

To realize the success of law enforcement in efforts to eradicate cases of sexual violence, serious and synergistic coordination is needed between police officers, prosecutors, and judges in court. However, judges' rulings on sexual violence cases in various courts still show significant variations. There are some cases where they are only sentenced to six months in prison. This condition is understandable considering that the judge has the freedom to make decisions in accordance with the regulated range of punishment, which is between one day and twelve years in prison.

Efforts to Prevent Sexual Abuse of Children

Sexual abuse of children is a form of violence that threatens children's basic rights, especially the right to a sense of security, protection, and healthy growth and development. Prevention of these actions requires a multidimensional approach that involves the state, families, educational institutions, and society in general. In the context of social problems, prevention is defined as an effort to avoid the occurrence, development, or re-emergence of social problems. Based on this understanding, the prevention of violence against children has several functions, including:

1. Avoid the emergence of various problems of violence experienced by children. These prevention efforts can be done by disseminating information about child protection laws and children's rights, as well as providing an understanding of the impact of violence on children's physical health and personality development.
2. Prevent the problem of violence against children from developing or spreading widely in the community. Efforts should focus on handling existing social welfare problems so that they do not get worse. Examples of activities that can be carried out include the implementation of prohibitions on acts of violence against children through regulations and laws such as the Child Protection Law (UUPA), the dissemination of information about the UUPA through electronic and print media, and the implementation of guidance and counseling to the community.
3. Prevent the emergence or recurrence of the problem of violence against children. For this reason, continued coaching and continuous monitoring are needed, such as home visits, routine coaching, and the implementation of regular guidance and counseling.

Measures to prevent child sexual abuse are crucial in building a safe environment and ensuring protection for children. This prevention must be carried out in an integrated manner and involve various parties, both families, schools, communities, and the government. Some forms of preventive measures that can be applied include:

1) Age-Appropriate Sexual Education and Counseling

Providing appropriate and age-appropriate education to children about their physical boundaries and rights is essential to prevent sexual abuse. Children need to be taught to recognize body parts that should not be touched by others and trained to be brave to report when experiencing discomfort.

2) Strengthening the Role of the Family in Supervision and Communication

The family as the first social unit must build open and harmonious communication with children. Supervision of children's activities and associations needs to be carried out so that children avoid risky situations. The family must be a safe place for children to express their grievances without fear.

3) Training for Teachers and Education Personnel

Teachers and education staff need to be given special training to recognize the signs of sexual harassment and how to handle victim reports sensitively and professionally. Thus, school can be a safer environment for children.

4) Establishment of Child Protection Policies and Protocols in Schools

Schools should have clear anti-harassment policies and reporting mechanisms that are easily accessible to students. Handling procedures must be prompt, fair, and guarantee the confidentiality of victims so that they feel protected.

5) Firm and Open Law Enforcement

Legal handling of perpetrators of sexual harassment must be carried out in a firm, transparent, and victim-protected manner in order to create a deterrent effect as well as public trust in the justice system. The legal system and related institutions must ensure that there is an easily accessible and child-friendly mechanism for reporting cases of sexual harassment. Efforts to prevent sexual abuse of children must be comprehensive and involve all elements of the state, family, school, society, and technology. Prevention is not only sufficient through the law, but also through education, cultural change, and strengthening of reporting and protection systems. Effective prevention will ensure that children can grow up in a safe, secure, and dignified environment.

4. Cover

Conclusion

1. The protection and enforcement of the law against children who are victims of sexual abuse is a crucial aspect in a justice system with a child's perspective. Based on Law Number 23 of 2002 jo Law Number 35 of 2014 jo Law Number 17 of 2016 concerning Child Protection, the state is obliged to guarantee legal, social, and psychological protection for children, including through rehabilitation efforts, identity guarantees, and equal access to justice. The results show that although regulations have been comprehensively available, their implementation at the practical level still faces various challenges. Weak coordination between law enforcement officials, low public awareness, and stigma against victims are obstacles to optimal protection efforts. Therefore, synergy is needed between the government, law enforcement officials, social institutions, and the community to create a protection system that is holistic and responsive to the needs of victims' children. Law enforcement against perpetrators of sexual abuse of children must be carried out firmly and proportionately to uphold justice and provide a deterrent effect. In addition, family empowerment and moral values education in the social environment are important parts of long-term prevention strategies against sexual crimes against children.
2. Efforts to prevent acts of sexual abuse against children are a strategic and fundamental step in ensuring the fulfillment of children's basic rights to a sense of security, protection, and optimal growth and development. This prevention requires a holistic and multidisciplinary approach, involving various social elements, ranging from the family, educational institutions, the community, to the active role of the state through regulation and law enforcement. Age-appropriate sexual education, strengthening the role of the family, training for educators, drafting school policies that are in favor of child protection, and strict law enforcement are the main pillars in preventing sexual violence against

children. Prevention strategies must also be accompanied by information dissemination, continuous coaching, and strengthening an easy, safe, and child-friendly reporting system. With collaboration between various parties and continuous commitment, prevention efforts are not only able to reduce the incidence of sexual violence against children, but also create a social environment that is more caring, responsive, and protects the future of children as the nation's next generation.

Suggestion

Based on the results of the discussion on the legal protection of children victims of sexual crimes from the perspective of criminal law, the author gives the following suggestions:

1. Law enforcement officials, especially investigators, prosecutors, and judges, need to prioritize an approach that favors child victims. The legal process must avoid revictimization, namely by creating a child-friendly examination atmosphere, minimizing trauma, and ensuring the confidentiality of children's identities.
2. The implementation of the Child Protection Law and criminal sanctions in Law No. 17 of 2016 needs to be carried out consistently. The application of additional penalties such as chemical castration and the installation of electronic chips must be accompanied by clear operational standards, procedures and special training for the medical personnel and officials involved.
3. Capacity building of law enforcement officials through training that focuses on handling cases of sexual violence against children must be a priority. This is important so that the authorities have a deep understanding of child psychology, child criminal law, and child protection principles.

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