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The Criminal Offence of Child Maltreatment By Parents in Terms of Child Protection

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Abstract. This study aims to analyze and describe the crime of child abuse by parents in terms of child protection aspects. Current developments bring about the evils that society suffers from: violent crimes and maltreatment. One of the most common are crimes involving child victims. Such cases are known as child abuse. Two main problems arise from this declaration. That is, the regulation of criminal sanctions for criminal acts committed by parents and legal protection of children who are abused within the meaning of the Child Protection Act. This investigation uses a normative legal investigation type with a legal and conceptual approach. This research is included in normative research, which is sourced from primary legal materials. Data were collected by using literature and document study methods. The results show that. The imposition of criminal sanctions on criminal acts committed by parents if they meet the elements of Article 76C are child protection against abuse of political activities, involvement in armed conflict, involvement in social unrest, involvement in cases. From Law. Elements of violence, involvement in war and sex crimes.

Keywords: Persecution, Child Protection, Crime

INTRODUCTION

The ratio of crimes and offences of LEOs and appropriate criminal acts that occur between society and the family environment. The following gifts of globalisation are economic development, science and technology with positive and negative impacts. (Marlina, 2012). The current development brings crimes that society experiences: violent crimes and offences. One of the most common is crimes involving child victims. Such cases are known as child abuse. Two main issues arise from this declaration. That is, the regulation of criminal sanctions for criminal offences committed by parents and the legal protection of abused children within the meaning of the Child Protection Law.

The results show that. The imposition of criminal sanctions against criminal offences committed by parents if they fulfil the elements of Article 76C is the protection of children from the abuse of political activities, involvement in armed conflict, involvement in social unrest, involvement in the case. From the Law. Elements of violence, involvement in war and sex crimes.

Increasing crime rates in society to deter crime, which is one of the things that happens regularly and is lived by society is violent crime or bullying. Punitive actions are not only about harm but also hurting other people and the wider community. Violent crime or arrest has always been a burning issue in society. These problems arise and evolve, with consequences for

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themselves, for the perpetrator and even worse for the victim, possibly leading to lingering forms of physical theorising. Based on the above background, the author is interested in reviewing more deeply about 'how the criminal act of child maltreatment by parents is viewed from the aspect of child protection?' and the purpose of this research is to find out how the criminal act of child maltreatment by parents is viewed from the aspect of child protection.

LITERATURE REVIEW

1. Crime of Child Maltreatment

Children are often targeted for violence by adults because they feel older and can act as they please. In fact, perpetrators of violence against children can be prosecuted with criminal articles that apply in this country. In the KBBI, maltreatment is defined as arbitrary treatment (torture, oppression, etc.). In the Criminal Code, maltreatment is regulated in Chapter XX on maltreatment. According to the book Kitab Undang-Undang Hukum Pidana (KUHP) as well as its complete commentary article by article by R. Soesilo, the law does not provide what is defined as maltreatment. According to jurisprudence, maltreatment is defined as¹⁰ intentionally causing unpleasant feelings (suffering), pain, or injury.

Further on the criminal law in cases of violence against children, the following explanation is reported from online law. Basically, parents are obliged⁸ to provide⁴ protection to children from acts of violence and abuse. This is in accordance with the provisions of Article 13 paragraph (1) of Law Number 23 of 2002 concerning Child Protection ('Child Protection Law') as amended by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection ('Law 35/2014') which states that every child while in the care of parents, guardians, or any other party responsible for care, is entitled to protection from treatment:

- a. Discrimination;
- b. Exploitation, either economic or sexual;
- c. Neglect;
- d. Cruelty, violence and abuse;
- e. Injustice; and
- f. Other mistreatment.

According to jurisprudence, the word maltreatment means intentionally causing distress, pain or injury. Examples of such 'pain' include pinching, spanking, hitting, slapping, and so on. The article on child maltreatment is¹⁰ specifically regulated in Article

76C of Law 35/2014 which reads:

‘Every person is prohibited from placing, allowing, committing, ordering to commit, or participating in violence against children’.

Meanwhile, the sanctions for people who violate the above article (perpetrators of violence/persecution) are specified in Article 80 of Law 35/2014:

- 1) Every person who violates the provisions as referred to in Article 76C, shall be punished with imprisonment of up to 3 (three) years 6 (six) months and/or a maximum fine of Rp72,000,000.00 (seventy-two million rupiah).
- 2) In the event that the Child as referred to in paragraph (1) is seriously injured, the perpetrator shall be sentenced to a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah).
- 3) In the event that the Child as referred to in paragraph (2) dies, the perpetrator shall be sentenced to a maximum imprisonment of 15 (fifteen) years and/or a maximum fine of Rp3,000,000,000.00 (three billion rupiah).
- 4) The punishment shall be increased by one third of the provisions as referred to in paragraph (1), paragraph (2), and paragraph if the perpetrator is a parent.
- 5) If the child victim is not seriously injured or dies, based on Article 80 paragraph (1) of Law 35/2014, the perpetrator is punishable with imprisonment of 3 (three) years 6 (six) months and/or a maximum fine of IDR 72 million.

2. Aspects of Child Protection

Over the past few years, the Government of Indonesia's focus on child protection implementation has had an increasing positive impact on the well-being of Indonesia's children. A key element in strengthening child protection is policy development and improvement, which must continue to be addressed to achieve child protection goals. Ensuring birth registration for every child continues to be a challenge, as does reducing violence against children. Supporting the welfare of children already living outside care remains an evolving endeavour, and child protection during disasters adds another dimension to risk reduction, preparation and response.

UNICEF is working with a range of stakeholders to support child protection efforts across Indonesia, towards the development of a comprehensive system that promotes and ensures the protection of boys and girls in all contexts. The development of these child protection related reference materials was prepared by UNICEF Indonesia's Child Protection team (Programme division). This series of documents addresses child protection risks in Indonesia, recommendations to address risks, and references to child

protection laws and policies.

⁶RESEARCH METHODS

The type of research used is normative rules research using statutory rules and factual rules. Primary sources include ⁶the 1945 Constitution of the Republic of Indonesia, the Criminal Code and Law 35 of 2014 amending Law 23 of 2002 on child protection. The methodology for collecting regulatory documents in this research was a literature and document study. The stages of analysis carried out, researchers analyse the data that has been collected and then understand and interpret in depth. Furthermore, the information from various legal materials that have been collected is described by the author to answer the problem.

RESULTS AND DISCUSSION

Conception of the Legal Definition of Maltreatment under the Penal Code Children are the next generation. The good and bad future of the nation also depends on the good and bad condition of the children at that time. In this case, it is our common obligation to treat children well, so that they can grow. For a child's life, childhood is generally considered endless, childhood development goes through several stages which of course must still receive attention from various parties, especially parents. The future ⁹of the nation and state in the future is in your hands now. Children are the centre of attention and hope for parents. Children will also be the heirs of this nation. In fact, he must be protected and loved. But the truth says otherwise. The rise of child abuse cases in recent years seems to overturn the notion that children need protection. Therefore, many children today are victims of violence from parents, the environment and society.

Increasing crime rates in society to deter crime, which is one of the things that happens regularly and is lived by society is violent crime or bullying. Punitive actions are not only about harm but also hurting other people and the wider community. Violent crime or arrest has always been a burning issue in society. These problems arise and evolve, with consequences for themselves, for the perpetrator and even worse for the victim, possibly leading to lingering forms of physical theorising. In various legal references Persecution is the term used by the Criminal Code to refer to offences against the body.

Child abuse is defined as an act committed by an individual against another person that results in physical and/or mental harm. Child abuse not only causes physical and mental harm, but also causes social problems. Criminal Sanction Arrangements Against parents who abuse their children. As a result, many incidents of violence and criminal behaviour against children

have come under the spotlight. This is seen as a sign of weak legal instruments and child protection. But it also provides judicial procedures (legal/official proceedings), compensation, selection, and victim self-protection specified in Indonesian legislation such as the Criminal Code. Legal protection for children who are subjected to maltreatment.

Based on the philosophy of written legal methodology, there are two main issues in the philosophical study of law. The two main issues analysed are: historical issues, namely ideological struggles in the school of legal philosophy relating to law throughout human civilisation; thematic issues, namely the study of differences in views on the main topics of legal philosophy. (Atmadja et al., 2019). Protection from oppressive laws. Repressive legal protection is a last resort in the form of sanctions such as fines, imprisonment, and additional penalties given in the event of a dispute or offence. (Muchsin, 2018).

Legal Sanctions Against Parents Who Commit Maltreatment against their children according to the Child Protection Law Gisulti Ni Philipus M. Hadjon, ingon niini: Legal remedies. In this careful legal defence, legal entities are given the opportunity to protest or express opinions before the government's decision is final. The aim is to avoid conflict. Preventive legal protection is important for government action based on freedom of action, as it is preventive legal protection. Indonesia does not have specific provisions on preventive protection (Hadjon, 1987).

Means of protection against repressive laws. Repressive legal protections to resolve disputes. Attitudes towards legal protection by the general courts and state administrative courts in Indonesia fall into this category of legal protection. The principle of legal protection against government actions is based on and derived from the concept of recognition of human rights and human rights, because in Western history, visionary rights are intertwined with visionary rights. Application of public rights. The bond of language. The second principle, on which the legal protection of public administration is based, is the rule of law. Recognition and protection of human rights The central position of recognition and protection of human rights and the purpose of the rule of law (Hadjon, 1987). There is a legal basis for national child protection. The 1945 Constitution of the Republic of Indonesia is the basic constitution, and the Criminal Code contains provisions that guarantee the right to child protection. The Indonesian government has also enacted various laws and regulations regarding victimisation to protect children. These laws include: Law. Together with Law No. 13 of 2006. Law No. 31 on Witness and Victim Protection of 2014. Law No. 11 of 2012 on the Juvenile Criminal Justice System. With the abolition of domestic violence, Law No. 23 of 2004, Human Rights Law of 1999, No. 39 and laws that specifically regulate the legal protection of children, in particular

⁷ Law No. 35 of 2014, 2002 Law No. 23. Law No. 17 of 2016 on Child Protection.

There are at least two aspects to child protection activities. Child protection policy states the first aspect refers to laws and regulations. The second aspect relates to the implementation of these policies and regulations. The difference between these grids is that the first is the existence of legal provisions governing child protection, and the second is the implementation of these laws. (Nashriana, 2019). It is interesting to study the criminal offence of child abuse, especially criminal offences committed by biological parents, because every parent has the responsibility to protect their children, but in reality this is inversely proportional to the perpetrators of violence against children. More harm occurs when abuse is committed by biological parents. The harsh actions of parents towards their children should have a negative impact on the child, as well as on their development and future. Children who should have a good relationship with their parents and make them their home do not have this right. Children will be psychologically disturbed and ashamed of being trafficked because their parents are abusive to them. It is not uncommon for a child to become lonely and withdrawn in relation to their friends. It is believed that a child in a state of stress, instability and fear will eventually develop a mental disorder (psychoneurosis) or commonly called sub-stress (psychiatry) then (Nashriana, 2019).

The term "sanction" is widely used in society, including in the Criminal Code (CPC). Therefore, the application of Criminal Sanctions at the level of Criminal Law is often referred to as Criminal Sanctions or simply Criminal Sanctions (punishment). Criminal detention is a threat of torture. Criminal sanctions essentially guarantee the restoration of the behaviour of the perpetrators of these crimes, but rarely are criminal sanctions a threat to human freedom itself. The existence of legal theory, taking into account the views of Bagli and COX Genis with the method of coverage of legal theory lawyers (lawyers). The axis of legal analysis is abstract and transcends all legal theoretical considerations and creates a legal bridge between law and dogmatism. Legal research is limited to positive law in the legal order of a particular country. Therefore, legal theory has an "intermediate role" in the discipline of legal theory. The following is the history, origin, and subject matter of the "intermediate role" of legal theory in bridging the gap between legal philosophy and dogmatic law. ¹ Kung nag-una ka sa pag-ayo. (Atmadja et al., 2018). Criminal detention is the silence or stillness of a person who is punished by an angel prohibited by criminal law. This sanya is expected to deter people from committing crimes. (Ali, 2015). Henry Campbell Black's Dictionary of Black Law criminal penalties include fines, probation, and penalties (e.g., fines, criminal supervision, and arrest-related offences). (Ali, 2015).

Article 44 paragraph 2 of the Criminal Code stipulates that judges cannot be prosecuted due to mental illness or mental illness for up to one year. The Child Protection Clause is contained in Article 80 of Law Number 35 Year 2014 and provides sanctions against perpetrators of criminal offences against children.

If the perpetrator is a parent, one-third of the provisions of paragraphs (1), (2) and (3) are added to the sentence. According to Articles 35-59 of the Child Protection Act of 2014, the government, non-governmental organisations and other state institutions have the obligation and responsibility to provide special protection for children in emergencies, including those who break the law. In addition, Article 64 of the Child Protection Law regulates the protection of children who break the law and become victims of criminal offences. According to Article 20 of the State Child Protection Law Number 35 of 2014, the government, local government, family community, parents or guardians are responsible for the protection of child victims of violence.

The obligations and responsibilities of the state and government in the field of child protection according to Law Number 23 of 2002, Law Number 35 of 2014. Prohibitions and sanctions are also regulated in Law No. 35 of 2014, Articles 76A-89. Violence against children (child abuse) without realising it is often committed by parents. In fact, parents have the duty to protect and optimise children's growth and development. Sadly, a survey revealed that female parents (mothers) are 60% more likely to commit violence against children than male parents (fathers). There are several factors that underlie why parents, especially mothers, commit acts of violence against children, including; stress factors, past trauma, etc. The consequences of these acts of violence can be physical, physical, and psychological. The consequences of these violent acts can be physical or psychological and even death. The most dangerous consequence is long-term trauma, which is feared to have the potential to repeat the violence experienced as a child to their children after becoming parents. Statutory law takes firm action against perpetrators of violence who are found guilty, even if it is their own biological parents. Several recommendations were raised to stop violence against children.

CONCLUSIONS AND SUGGESTIONS

From the above statement, the author can draw conclusions to answer the questions contained in this scientific research. When the factors of Article 76 are satisfied, the criminal sanctions for crimes committed by parents are subject to the sanctions of Article 35, it is included from the perspective of protection. That is, as follows:

1. Violation of the provisions referenced in Article 76 million, has been sentenced to three months of truth three months and / or 72 million (72 million Rupiah). For children, as seriously mentioned in Section 1(1), up to 5 years of the offender, and/or a maximum of IDR 100 million (10 million) imprisonment. For children mentioned in (2), the offender is sought up to 15 years (1.5 billion) or the largest forecast, and a fine of up to 300 million euros (3 billion rupiah). This is three thirds of the penal provisions and the second term, one third of paragraph 2 and the paragraph, parental abuse. The legal protection for children described in Article 15 of the Child Protection Act will have the ¹abuse of political activities, responsibility in armed conflict, responsibility in social uncertainty, social commitment, and violent elements have the right to protect.
2. Participation in war and sexual description. The law is sustainable to protect the rights of children. The scope of activities should be sustainable and designed. This behaviour is for children who are expected to succeed the country, have a competent, resilient, noble personality, and nationalism imbued with the values of Pancasila, and are willing to maintain unity and integrity, aiming to live the best life. State and country.

After discussing the discussion in the previous chapter, the author provides the following suggestions.

1. The government is obliged to carry out socialisation in the sense of an education programme for all levels of society in terms of the prevention of crimes against children as well as actions and punishments for perpetrators. Socialisation should be conducted on a large scale and continuously. The government is obliged to pay attention to the rehabilitation of child victims, especially psychological support to heal the mental wounds and traumatic experiences of children. The community is expected to be more sensitive to signs of violence against children, and to increase awareness of the prevention and reporting of violence against children, the community also has knowledge about violent behaviour against children. The form of prevention is to increase supervision and care to prevent children from violence at the hands of those around them, both at school and in the community.
2. Parents are expected to talk more often with their children both about the various things they experience in their daily lives and what they experience at school and in the neighbourhood. It hurts the child mentally. Establishing good communication between children and parents builds a strong internal relationship between children and parents, resolves conflicts of interest through active communication, and avoids violence against children in the family.

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