

Research Article

Protection Law To Child

(Based on Constitution Number 35 of 2014 concerning Change on Constitution Number 23 Year 2002 about Protection Children (“Law 35/2014”))

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Abstract: The purpose of this study is to determine the forms of violence against children and how legal protection for children as victims of crime is according to Indonesian criminal law. Legal protection for children is an important issue that requires serious attention from various parties, including the government, society, and family. Children have basic rights that must be protected to ensure they grow and develop properly. This paper discusses the concept of legal protection for children, the legal basis underlying child protection in Indonesia, and the challenges and solutions that can be applied to improve legal protection for children.

Keywords: Child Protection Act, Legal Protection for Children, Violence against Children

1. Introduction

Child protection is all activities to guarantee and protect children and their rights. their rights to live, grow, develop, and participate, optimally in accordance with human dignity and honor, and receive protection from violence and discrimination. In addition to the responsibility of the state, government and local government, this law also provides a mandate, responsibility and obligation to the community, so that the community should no longer sit idly by and be indifferent in terms of child protection, among the obligations and responsibilities of the community include carrying out community participation activities in the implementation of child protection which is carried out by involving community organizations, academics, and child observers. According to Irma Soetyowati Soemitro, what is meant by children's rights is the right to special protection, opportunities and facilities that allow children to develop healthily and naturally in a free and beneficial state.

So in this case, community organizations, academics and child observers should go directly to the field to carry out prevention by providing a lot of education in terms of child protection, so that cases of crimes against children (especially sexual crimes) that have recently haunted us can be minimized. In addition to this law giving obligations and responsibilities to the state, government, local government and society, this law also gives obligations and responsibilities to parents in terms of child protection, caring for, nurturing, educating and protecting children, developing children according to their abilities, talents and interests, preventing child marriage and providing character education and instilling moral values in children. Because in reality, parents are the closest to their children in their daily lives who directly monitor the physical and psychological growth of their children and monitor the daily

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interactions of their children. In addition to the obligations and responsibilities as above, the state, government and The regional government also guarantees the protection, care, and welfare of children by paying attention to the rights and obligations of parents, guardians, or other persons who are legally responsible for children, supervising the implementation of child protection, guaranteeing children to exercise their rights in expressing opinions according to the age and level of intelligence of the child, and the most important obligation and responsibility is to organize basic education of at least 9 (nine) years for all children and provide the widest possible opportunity for children to obtain education and provide free education costs or assistance or special services for children from underprivileged, abandoned children, and children living in remote areas. Hopefully the great mandate given by this law can be carried out by the state, government and regional government in order to realize their responsibilities and obligations towards children who are the nation's generation.

The definition of rights can be known and interpreted by several experts, including:

- Bernard Winscheid said that rights are a will that is equipped with power and which is given by legal order or the legal system to the person concerned.
- Lamarre said that rights are permission for the person concerned to do something.
- Van Apeldoorm said that rights are a power that is regulated by law.

Parameters of people's encouragement towards the ruler, If the process of counting votes The term rights can be interpreted as something that is obtained in a person absolutely since in the womb of a mother. Talking about rights certainly cannot be separated from obligations. Both have a relationship that causes the cause and effect of a problem.

The obligation referred to here is something that can be done by children to parents or vice versa parents to children. The obligation of parents to children as the main role in organizing child protection in the family. The emphasis of a parent's obligation to the rights of children in fulfilling children's rights is important for the future of children and the welfare of children who are of quality and guaranteed.

In raising and educating children, the first environment for children to grow and develop is their own parents. So parents as the first teachers in the family circle are very helpful in the process of forming the child's personality and character. With parents, children can adapt more easily to their environment to get to know the world around them and the social life in their environment. With the enactment of Law of the Republic of Indonesia Number 35 of 2014 Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection, it can help in fulfilling children's rights and can be used as a bridge as an effort to protect children from various threats that can hinder the growth and development of the child. Such as: physical violence, sexual violence, neglect, lack of guidance or teaching from parents, lack of education, lack of affection from parents which results in children being wrong in socializing, and others.

Article 1 paragraph (1) of the Republic of Indonesia Law Number 35 of 2014 Amendment to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection explains that children who are not yet 18 years old are the responsibility and obligation of parents to protect and care for them so that they can grow and develop properly. However, if there are no parents, or the whereabouts of the parents are unknown, or for some reason, they cannot carry out their obligations and responsibilities, then the obligations and responsibilities can be transferred to the family in accordance with the provisions of applicable laws and regulations. Child protection is implemented in accordance with existing laws and regulations in a rational, responsible and beneficial manner, effectively and efficiently.

Articles related to children's rights Article Number Article Article 4 "Every child has the right to live, grow, develop, and participate fairly in accordance with human dignity and honor, and to receive protection from violence and discrimination." Article 5 "Every child has the right to a name as a self-identity and citizenship status." Article 6 "Every child has the right to worship according to his/her religion, to think, and express himself/herself according to his/her level of intelligence and age under the guidance of his/her parents or guardian." Article 7 (1) "Every child has the right to know his/her parents, to be raised, and cared for by his/her own parents." (2) "In the event that for some reason the parents cannot guarantee the child's growth and development, or the child is neglected, the child has the right to be

cared for or adopted as a foster child or child adopted by others in accordance with the provisions of applicable laws and regulations.” Article 8 “Every child has the right to obtain health services and social security in accordance with their physical, mental, spiritual, and social needs.” “Every child has the right to obtain education and teaching in the context of their personal development and level of intelligence in accordance with their interests and talents.” Article 10 “Every child has the right to express and have their opinions heard, to receive, seek, and provide information in accordance with their level of intelligence and age for the sake of their self-development in accordance with moral and propriety values. Article 11 “Every child has the right to rest and use their free time, socialize with children of the same age, play, recreate, and be creative in accordance with their interests, talents, and level of intelligence for the sake of self-development.” Article 12 “Every child with disabilities has the right to obtain rehabilitation, social assistance, and maintenance of social welfare levels.” Article 13 “Every child while in the care of parents, guardians, or any other party responsible for care, has the right to receive protection from: a. discrimination b. exploitation, both economic and sexual c. neglect d. cruelty, violence, and abuse e. injustice f. other mistreatment Article 14 (1) “Every child has the right to be cared for by his/her own parents, unless there are valid reasons and/or legal regulations that show that the separation is in the best interests of the child and is a final consideration.” (2) In the event of separation as referred to in paragraph (1), the child still has the right to: a) meet directly and have regular personal contact with both parents b) receive care, maintenance, education and protection for the growth and development process from both parents in accordance with his/her abilities, talents, and interests c) receive living expenses from both parents d) receive other child rights Article 15 “Every child has the right to receive protection from:” a. abuse in political activities; b. involvement in armed conflict c. involvement in social unrest involvement in events containing elements of violence e. involvement in war f. sexual crimes Article 16 (1) “Every child has the right to receive protection from being the target of abuse, torture, or inhumane punishment.” (2) “Every child has the right to obtain freedom in accordance with the law.” (3) “The arrest, detention, or criminal imprisonment of a child shall only be carried out in accordance with applicable law and may only be carried out as a last resort.” Article 17 (1) “Every child whose freedom is deprived has the right to:” a. receive humane treatment and be placed separately from adults b. receive legal assistance or other assistance effectively in every stage of applicable legal efforts c. defend themselves and obtain justice before an objective and impartial children's court in a closed trial for the public (2) “Every child who is a victim or perpetrator of sexual violence or who is in conflict with the law has the right to confidentiality.” Article 18 “Every child who is a victim or perpetrator of a crime has the right to receive legal assistance and other assistance.” c. defend themselves and obtain justice before an objective and impartial children's court in a closed trial for the public (2) “Every child who is a victim or perpetrator of sexual violence or who is in conflict with the law has the right to confidentiality.” Article 18 “Every child who is a victim or perpetrator of a crime has the right to receive legal aid and other assistance.”

2. Discussion

Child Protection According to Law.

Child Protection According to the Republic of Indonesia Law Number 35 of 2014 and the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, it has been explained and explained in detail regarding what are included in children's rights that must be fulfilled as much as possible. As stated in Article 20 of the Republic of Indonesia Law Number 35 of 2014 Amendment to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection which reads:²⁶ “The state, government, regional government, community, family, and parents or guardians are obliged and responsible for the implementation of child protection.” This has been clarified that not only parents as the main role in implementing child protection within the family in carrying out obligations towards children but the surrounding community who play a supporting role must participate in protecting children and fulfilling children's rights. As regulated in Article 26 of the Republic of Indonesia Law Number 35 of 2014 Amendment to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, including the following:

- Parents are obliged and responsible for: a. raising, nurturing, educating, and protecting children b. developing children according to their abilities, talents, and interests c. preventing marriage at a young age d. providing character education and instilling moral values in children.
- In the event that parents are absent, or their whereabouts are unknown, or for some reason are unable to carry out their obligations and responsibilities, the obligations and responsibilities as referred to in paragraph (1) may be transferred to the family, which will be carried out in accordance with the provisions of statutory regulations. 5

By getting guidance, education from parents, both formally and informally, in order to get useful knowledge, and useful for the progress of their child's future life. In Article 9 of the Republic of Indonesia Law Number 4 of 1979 concerning Child Welfare, it states that "Parents are the first to be responsible for realizing the welfare of children, both spiritually, physically, and socially.

Children are valuable assets for the future of a nation. Therefore, protection of their rights is very important. Legal protection for children covers various aspects, from protection against violence and exploitation to the fulfillment of basic rights such as education and health. Children as creatures of God Almighty and social beings, from the womb to birth have the right to life and freedom and receive protection from parents, family, society, nation and state. Parents, families and society are also responsible for maintaining and preserving these human rights in accordance with the obligations imposed by law. Likewise, in the context of implementing child protection, the state and government are responsible for providing facilities and accessibility for children, especially in ensuring their growth and development optimally and in a targeted manner. Legal protection for children is an effort to ensure that every child obtains their rights without discrimination. This includes protection against physical and psychological violence, child trafficking, child labor, and other forms of exploitation. In addition, children also have the right to receive adequate education, health services, and welfare.

So that each child is able to shoulder this responsibility, he or she needs to be given the widest possible opportunity to grow and develop optimally, both physically, mentally and socially. and have good morals, it is necessary to make efforts to protect and realize the welfare of children by providing guarantees for the fulfillment of their rights and the existence of non-discriminatory treatment. To realize the protection and welfare of children, institutional support and laws and regulations are needed that can guarantee their implementation. Various laws only regulate certain matters concerning children and have not specifically regulated all aspects related to child protection. Based on these considerations, it is necessary to stipulate a Law on Child Protection;

The legal basis for this law is: Article 20, Article 20A paragraph (1), Article 21, Article 28B paragraph (2), and Article 34 of the 1945 Constitution of the Republic of Indonesia; Law Number 4 of 1979 concerning Child Welfare; Law Number 7 of 1984 concerning the Elimination of All Forms of Discrimination against Women; Law Number 3 of 1997 concerning Juvenile Courts; Law Number 4 of 1997 concerning Persons with Disabilities; Law Number 20 of 1999 concerning Ratification of ILO Convention No. 138 Concerning Minimum Age for Admission to Employment; Law Number 39 of 1999 concerning Human Rights and Law Number 1 of 2000 concerning Ratification of ILO Convention No. 182 Concerning The Prohibition and Immediate Action for The Elimination of The Worst Forms of Child Labor (ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of The Worst Forms of Child Labor). The child protection law, Article 28B paragraph (2) of the 1945 Constitution states that every child has the right to survival, growth, and development and has the right to protection from violence and discrimination. Law No. 23 of 2002 concerning Child Protection: This law is the main basis for child protection in Indonesia. This law has undergone several changes and improvements to adapt to the times.

Convention on the Rights of the Child: Indonesia has ratified the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990, which affirms Indonesia's commitment to protecting children's rights.

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