

Analysis of Providing Protection to Children Who Are Victims of Sexual Violence

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Abstrak

Kejahatan yang marak terjadi akhir-akhir ini dan menjadi keprihatinan adalah kekerasan seksual. Lebih memprihatinkan lagi oleh karena mayoritas yang menjadi korban kekerasan seksual adalah anak-anak. Anak sebagai generasi penerus bangsa semestinya mendapatkan perlindungan dalam proses tumbuh kembangnya untuk menjadi generasi yang unggul. Berkaitan dengan hal tersebut, maka menjadi penting untuk menganalisis mengenai regulasi pemberian perlindungan bagi anak yang menjadi korban kekerasan seksual. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan konseptual. Hasil dari penelitian ini adalah bentuk perlindungan hukum yang diperlukan anak korban kekerasan seksual adalah bantuan hukum, rehabilitasi, pelayanan kesehatan dan jaminan sosial sesuai dengan kebutuhan fisik, mental, spiritual, dan sosial. Kendala yang terjadi dalam pemberian perlindungan kepada anak korban kekerasan seksual adalah dapat digolongkan sebagai kendala struktur, kendala substansi, kendala kultur, dan kendala sarana pra-sarana.

Kata kunci: *perlindungan, korban, kekerasan seksual*

Abstract

A crime that has been occurring recently and is a matter of concern is sexual violence. It is even more worrying because the majority of those who are victims of sexual violence are children. Children as the nation's next generation should receive protection in the process of their growth and development to become a superior generation. In this regard, it is important to analyze the regulations for providing protection for children who are victims of sexual violence. This research uses normative legal research methods with a conceptual approach. The results of this research are that the forms of legal protection that children who are victims of sexual violence need are legal assistance, rehabilitation, health services and social security in accordance with their physical, mental, spiritual and social needs. The obstacles that occur in providing protection to child victims of sexual violence can be classified as structural obstacles, substance obstacles, cultural obstacles, and infrastructure obstacles.

Keywords: *protection, victims, sexual violence*

INTRODUCTION

Children are the nation's next generation who are the hope for the nation's survival in the future. In this regard, the fulfillment of children's rights needs to be regulated in statutory regulations. Legal protection for children is generally aimed at fulfilling children's rights in order to achieve child welfare. When children's lives are prosperous, their growth and development will go well as the nation's next generation (Octaviani & Nurwati, 2021). In connection with this, it is necessary to prioritize the fulfillment of children's rights to achieve children's welfare for the continued existence of the nation in the future.

Protection of children's lives and livelihoods is still the responsibility of both parents, their families, society and the state. This protection can take the form of meeting the needs for clothing, food and shelter. Not only that, the protection given to a child can also be in the form of protection for the child's psychological or mental condition, especially his mental development (Simatupang, 2022). Protection of children is very important for their growth and development so that they will become successful and quality children in the future.

One of the protections that needs to be given to children is to prevent children from discrimination and violence. Violence that often occurs and befalls children today is sexual violence. Children who suffer sexual violence certainly experience extraordinary losses. The physical and mental losses suffered by children who are victims of sexual violence really need

attention, especially recovery (Mastur et al., 2020) Responding to the rise in criminal acts of sexual violence, the government of the Republic of Indonesia has also passed various laws and regulations. This step is a manifestation of the Indonesian Government's commitment to protect victims of sexual violence, especially children.

The rise of sexual crimes against children made the government pay attention and commit to dealing with this, until Law Number 35 of 2014 was issued concerning amendments to Law Number 23 of 2002 concerning Child Protection which was made with the aim of improving the Law. beforehand so that child victims, especially victims of sexual violence, can be better protected. The regulations relating to acts of sexual violence against children in this Law include the threat of criminal sanctions and fines against perpetrators of crimes against children, with the aim of providing a deterrent effect, as well as encouraging concrete steps to restore the child's physical, psychological and social health. victim. as an extraordinary crime.

This is because a child does not yet have physical and mental maturity, so he needs special protection and care, including appropriate legal protection, before and after birth. Violence is very close to a child's life, children's experiences of dealing with violence are very diverse both in terms of forms of violence experienced, perpetrators of violence, places of occurrence, and causes of sexual violence (Siregar & Simanjorang, 2022).

Sexual violence that befalls children can result in children experiencing trauma. Therefore, children as victims of sexual violence must receive protection so that they feel safe and that the trauma they have experienced will not happen again. So that children who experience sexual violence who have reported the incident to the police should immediately receive good treatment, both medically and psychologically, lest the process of seeking justice will become a prolonged trauma.

RESEARCH METHOD

This article was written using normative legal research methods with a statutory approach. The legislative approach is carried out by studying legal regulations related to the protection of children from sexual violence. The legal materials used in preparing this article are primary legal materials and secondary legal materials. Techniques for collecting legal materials using literature study and deductive analysis techniques for legal materials.

RESULT AND DISCUSSION

The handling of sexual crimes against children in the Indonesian criminal law system still tends to highlight crimes from the perspective of the perpetrator. Of course, this is less balanced if the child's perspective as a victim is ignored. However, the elements that cause crime would not occur if there were no victims. Victims and perpetrators are two elements of a crime. Therefore, protection of children as victims of sexual violence crimes is very important. Children as victims receive little attention, so far they are only represented by the state as recipients of suffering, who will retaliate against the perpetrators, which are implemented with criminal sanctions that are regulated by law. Punishment of perpetrators of sexual crimes does not necessarily give children a sense of security as victims. Many victims have not received justice and the victims have returned to society due to trauma (Noviana, 2015). There is a need for laws that can provide justice for victims of what the perpetrators of crimes do. So it is not enough to implement the revenge system that is needed to resolve this case.

The concept of recognizing the protection of human rights provides the content, while the rechtsstaat and the rule of law create the means, thus the recognition and protection of human rights will flourish within the framework of the "rechtsstaat" and "the rule of law" Article 1 point 6 of Law Number 31 of 2014 concerning Protection of Witnesses and Victims, states "Protection is all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims which must be implemented by the Witness and Victim Protection Agency or other institutions in accordance with provisions of this Law" (Ni Made Swandari et al., 2022). Legal protection for the Indonesian people is an implementation of the principle of recognition and

protection of human dignity which is based on Pancasila and principles. There are several articles that can be charged with forms of sexual violence against minors, whether rape or molestation.

Sexual violence against children can be punished according to applicable regulations. Protection of children in Indonesia from the threat of sexual violence can be seen from the enactment of the child protection law. Specifically, Article 81 paragraph 2 of Law Number 35 of 2014 contains provisions for a minimum prison sentence of five years and a maximum of fifteen years as well as a maximum fine of five hundred billion rupiah for someone who uses violence or threats of violence to force a child to have sexual intercourse with him or another person. Apart from that, someone who knows and allows obscene acts can also be punished, not only those who commit obscene acts based on the provisions of Article 82 of Perpu Number 17 of 2016 jo. Article 76E of Law Number 35 of 2014. In the Child Protection Law, the articles charged are usually Article 76 D j.o Article 81 paragraph (1), Article 76 D j.o Article 81 (2), and Article 76 E j.o Article 82 (1). The existence of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection is a legal tool that is able to protect children in various criminal acts, especially sexual harassment (Syahri & Putri, 2022). This law states that sexual violence against children is a criminal offense so that the perpetrator can be brought to the police with the assistance of related parties.

The rights of children who are victims of sexual crimes, namely legal assistance to victims of criminal acts, is very necessary, especially for children who are victims of sexual crimes. Because a child who encounters law enforcement, for example an investigator, prosecutor or judge, will likely feel afraid to reveal all the things they experienced as a victim. Legal assistance to victims of crime must be provided, whether requested or not. This is important to do because the level of legal awareness of the majority of victims who suffer from this violence is still low. The attitude of allowing crime victims not to receive appropriate legal assistance can result in the condition of crime victims getting worse (Mozin & Sunge, 2021).

However, children who are victims of crime specifically have the right to receive legal assistance. even though their interests have been represented by the prosecutor. It is very rare for child victims of sexual crimes to be accompanied by a legal advisor, but all victims during the examination process still receive assistance and the judge presiding over the trial always asks questions, both to the public prosecutor and also to the victim, the judge often even postpones the trial if the victim's companion is not present.

Repressive legal protection in the form of providing restitution and compensation aims to restore the losses experienced by victims, both physical and psychological, as regulated in Articles 98 to 101 of the Criminal Procedure Code. Counseling is provided to children who are victims of sexual crimes who are experiencing trauma in the form of rehabilitation. Victims of crimes of sexual violence usually not only cause/incur physical injuries but also suffer psychological stress, so apart from physical recovery, they also need psychological recovery by providing counseling guidance until the child recovers. Implementation of Rehabilitation is regulated in the Regulation of the Minister of Social Affairs (Permensos) of the Republic of Indonesia Number 09 of 2015 concerning Guidelines for Social Rehabilitation of Children in Conflict with the Law by Social Welfare Organizing Institutions

CONCLUSION

In the form of legal protection for children victims of sexual crimes are legal assistance, rehabilitation, health services and social security in accordance with physical, mental, spiritual and social needs as an effort to restore the condition of children victims of sexual violence who have long-term trauma. Obstacles in providing legal protection for child victims of sexual crimes are legal substance, legal structure, legal culture, as well as facilities and infrastructure that are not yet operating optimally. Obstacles in providing legal protection for child victims of sexual crimes are legal substance, legal structure, legal culture, as well as facilities and infrastructure that are not yet operating optimally.

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