

Legal Protection Against Minors Victims of Violence

Donald Willem Srianto Aronggear¹, Megawati Barthos²
{aronggear08@gmail.com}

Universitas Borobudur, Jakarta, Indonesia¹²

Abstract. This paper expects to portray the legitimate assurance for casualties of savagery against minors. The technique utilized in this article is the regulating juridical strategy, involving writing concentrates as information assortment. The consequences of the conversation observed that each youngster who is a survivor of criminal demonstrations of viciousness will get lawful assurance in the adolescent equity framework in Indonesia.

Keywords: Legal Protection; Victims of Violence; Children

1 Introduction

Youngsters are important for the more youthful age as one of the HR, are possibilities and replacements to the beliefs of the country's battle. Alluding to the Big Indonesian Dictionary (KBBI) etymologically, youngsters are characterized as people who are still little or people who are not yet adult [1]. Also, youngsters as a feature of the family, are the product of the heart, replacement, and family trust. What's more, kids are a command as well as a gift from God Almighty which we should constantly safeguard since they have inborn pride, nobility, and freedoms as individuals that should be maintained [2].

The phenomenon of acts of violence against children in Indonesia has begun to attract intense scrutiny from various circles when many private television stations broadcast it vulgarly on criminal programs, such as cases of rape committed by the victim's family or people close to the victim, cases of sodomy, trafficking of children to be exploited into commercial sex workers to murder.

The bad quality of youngster assurance in Indonesia has drawn analysis from different components of society. The inquiry that is frequently posed is the degree to which the public authority has attempted to give (lawful) assurance to youngsters so kids can get ensures for their endurance and vocation as a component of basic freedoms. In light of Article 1 20 of Law no. 23 of 2002 concerning Child Protection, the individuals who are obliged and liable for the execution of youngster assurance are the state, government, local area, family, and guardians.

As of late, there has been a regular event of criminal demonstrations concerning sexual viciousness against youngsters and the most severe crime of sexual violence is currently not only perpetrated by adults but also by children. Minors referred to here are children who are not yet 18 years old or who are under 18 years of age according to child protection laws. The phenomenon of this crime continues to increase with various modus operandi. With the existence of cases of rape against minors being carried out, this is included in a moral crime which is very worrying and creates a psychological impact on its victims who are also minors, so the handling of this crime must be handled seriously.

Sexual violence includes violence that occurs because of an element of sexual desire that is forced or results in actions by the perpetrator that are unwanted by and offensive to the victim. On the other hand, non-sexual violence is an act of the perpetrator which is also undesirable and offensive to the victim but is not accompanied by a sexual desire. The forms of sexual violence include being stared at with lustful eyes, smiling mischievously, being spoken to obscenely, being called sex, being touched by body parts, being forced to hold the perpetrator's body parts, being kissed/hugged stolen, showing genitals, showing pornographic photos/objects, being attacked for rape, and raped.

Among these forms of sexual violence, rape is the form of sexual violence that suffers the most for women. In its development, the issue of sexual violence is not personal and independent but is a social problem that has many aspects and factors that surround it [3]. Today there is a ton of savagery against youngsters, both physical, mental, and sexual viciousness, however as of recently. In light of information from the Indonesian Child Protection Commission (KPAI) and LPSK, in 2015 there were 1,726 instances of sexual savagery against kids. In the interim, as per Komnas Perempuan information, last year there were 6,439 instances of sexual brutality against ladies and kids [4].

2 Research Methods

The strategy contains significance as a method for tracking down data in an arranged and deliberate manner. The means taken should be clear and there are firm limits to keep away from too wide an understanding [5]. The exploration was led with regulating lawful examination as library research utilizing 3 (three) legitimate materials, specifically essential lawful materials, optional legitimate materials, and tertiary lawful materials. This lawful exploration centers around writing study, and that implies it will concentrate on more and inspect the current and pertinent legitimate standards. In this review, legitimate materials are required on the grounds that they will capacity to supplement and support lawful materials in library research.

There are a few methodologies, with this approach the specialist will get data from different viewpoints in regards to the issue that is being attempted to track down replies to. The methodology in this study is the state approach [6]. A regularizing concentrate on should utilize a legal methodology since what will be contemplated are different lawful standards that are the concentration and focal subject of a review.

3 Results and Discussion

3.1 Overview of the Legal Protection Regulations Against Child Victims of Violence

Understanding children related to age limits found a lot of literature that gives different age limits for children. In this case, it can be traced based on the phases of child development that show the ability or ability of a child to act. It also results in mixed interpretations of the terms children and minors so that the size or age limit is also different [7].

Child Protection Principles:

- a. Children can't battle alone. One of the standards utilized in kid assurance is that youngsters are the fundamental capital for the endurance of people, the country, and the family, for that their privileges should be secured. Kids can't safeguard their privileges, many gatherings influence their lives. The state and society have an interest in safeguarding kids' privileges and focal subject of a review. [8].

- b. The wellbeing of the kid For kid assurance to be completed appropriately, the guideline expresses that the wellbeing of the kid should be seen as central significance (getting the most elevated need) in each choice concerning youngsters. Without this rule, the battle to safeguard youngsters will encounter many hindrances. The guideline of the wellbeing of the kid is utilized in light of the fact that generally speaking youngsters are "casualties". Brought about by obliviousness (obliviousness) on account of the period of improvement. Assuming that this guideline is disregarded, society will make far more detestable beasts later on.
- c. Life cycle approach Child insurance alludes to the comprehension that assurance should begin early and be consistent. The hatchling in the belly should be safeguarded with supplements, including great iodine and calcium through the mother. On the off chance that he has been conceived, bosom milk and essential wellbeing administrations are required by giving inoculation administrations and others, so the youngster is liberated from different potential imperfections and illnesses. Preschool and school periods need families, instructive organizations, and social or strict foundations.

Rules for the Crime of Violence against Children

According to JCT. Simorangkir, the regulation is a coercive guideline that decides human way of behaving locally climate made by approved official bodies. This legitimate definition is urgent to knowing the nature and reason for the actual law. The reason for the actual law is to get truth and equity. As per Van Apeldoorn, the motivation behind the law is to manage the relationship of existence with different people in a quiet way [9].

3.2 Legal Protection for Children Victims of Violence

Youngsters are an indistinguishable piece of the endurance of human existence and the supportability of a country and state with the goal that later they will actually want to be answerable for the manageability of the country and state. Each youngster needs to have the greatest chance to develop and grow ideally, actually, intellectually, and socially. Hence, it is important to safeguard youngsters' government assistance by giving certifications to the satisfaction of freedoms with no biased treatment.

The state maintains common liberties, including the privileges of kids, which are set apart by ensures for the assurance and satisfaction of youngsters' freedoms in the 1945 Constitution of the Republic of Indonesia and a few different regulations and guidelines, both public and global. This assurance is reinforced through the global preservation sanction of the Rights of the Child, specifically the confirmation of the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990 concerning Ratification of the Convention On The Rights Of The Child. The state, government, neighborhood government, local area, family, and guardians are obliged to give insurance and guarantee the satisfaction of youngsters' basic freedoms by their obligations and obligations [10].

Security of kids to seek treatment and open doors by their necessities in different fields of life, so that in completing endeavors to safeguard youngsters' privileges by the public authority should be founded on the standards of basic freedoms, in particular regard, satisfaction, and assurance of youngsters' freedoms [11]. As an execution of the sanction, the Government has confirmed Law Number 23 of 2002 concerning Child Protection, which has considerably directed a few matters remembering the issue of kids for struggle with the law, youngsters from minority gatherings, kids from survivors of financial and sexual double-dealing, dealt youngsters, youngsters' casualties of uproars, kids who become displaced people and youngsters

in circumstances of equipped clash. Youngster insurance is completed in light of the rule of non-segregation, the wellbeing of the kid, and the option to live, develop and create.

3.3 Legal Protection Efforts Against Child Victims of Violence

Sexual brutality is a wrongdoing that upsets the local area where the savagery disregards basic liberties, it is the public authority's obligation to give certifications to ladies to their common freedoms. Sexual viciousness against ladies has turned into a significant issue in Indonesia, the state should safeguard ladies who are casualties of basic liberties infringement, specifically survivors of sexual brutality.

Savagery is defined as:

- a. matters of a strong character,
- b. the act of a person or group of people causing physical damage or
- c. coercion.

The definition of sexual violence can also be interpreted as an act of intimidation related to or on the other hand sexual relations completed by the culprit against the casualty by compulsion, which brings about the casualty enduring truly, substantially, intellectually, or mentally. Crimes of decency in general are acts that violate decency that intentionally damages public decency or in other words not at the will of the victim through threats of violence [12]. Sexual viciousness happens both in the homegrown and public spaces, the shortcoming of regulations overseeing sexual brutality is the fundamental variable in the ascent of sexual savagery.

The job of the public authority is especially expected to satisfy the freedoms of survivors of sexual viciousness, in addition to a method for making a move against the culprits. Instances of sexual viciousness against kids cause the most troubles in their goal, both at the phase of the examination, and indictment, and at the phase of pursuing a choice. Notwithstanding the challenges in the restrictions above, there are likewise hardships in demonstrating, for example, assault or disgusting demonstrations which are by and large did without the presence of others [13].

Sexual savagery committed against minors will unquestionably affect the mental and different improvements of the kid. Mental effect on kids will bring forth drawn out injury which can then bring forth unfortunate mentalities, like inadequacy, exorbitant dread, upset mental turn of events, and eventually mental hindrance. This present circumstance might be an awful memory for the youngster casualties of sexual maltreatment. The dynamic job of police officers in it is particularly expected to handle goodness violations.

To handle wrongdoing, a reasonable exertion is required from the local area, specifically utilizing criminal governmental issues. Strategies or endeavors to conquer wrongdoing are basically a vital piece of endeavors to safeguard the local area (social protection). Along these lines, one might say that the essential objective of criminal governmental issues is the "security of society to accomplish public government assistance"[14].

3.4 Inhibiting Factors in Legal Protection for Children Victims of Violence Factors Rule of Law and Legislation.

Investigation of criminal acts of victims of violence experienced by children is the initial step or process of law enforcement to eradicate acts of child violence as the purpose of the arrangement of regulation number 23 of 2002 as revised in regulation number 35 of 2014 concerning youngster security. In doing their obligations in researching criminal demonstrations

of savagery experienced by kids with child victims, it turns out that they often experience obstacles (Waluyadi, 2009).

There are no obstacles to the rule of law factor in legitimate assurance for kids as casualties of criminal demonstrations of youngster savagery on the grounds that the lawful principles given to kids as casualties have been explicitly directed in Law Number 35 of 2014 alterations to Law Number 23 of 2002 on Child Protection. Regulation Number 35 of 2014 concerning Child Protection has given unique standards to safeguard youngsters as casualties of criminal demonstrations of kid savagery.

The arrangement of legitimate insurance to kids as casualties depends on regulation number 23 of 2002 as altered in regulation number 35 of 2014 concerning youngster security, one of which is to force criminal approvals on culprits of the wrongdoing of misuse. Regulation number 23 of 2002 as altered in regulation number 35 of 2014 concerning kid security manages extraordinary types of insurance that can be given to youngsters who are casualties of wrongdoing, and double-dealing both monetarily or physically, truly and mentally.

Notwithstanding the show on kids' freedoms above, as a general rule, fundamental regulation 194 has managed legitimate insurance for minors, which the state ought to give full endurance against segregation and, surprisingly, sexual viciousness against youngsters. This is expressed in Article 28B Paragraph (2) of the 1945 Constitution which expresses that each youngster has the privilege to endurance, development, and advancement, and the right to insurance from sexual viciousness and segregation.

Factor Law Enforcement Apparatus

Policing are as yet a hindrance, which should be visible from the manner in which policemen give criminal approvals to culprits whose new standards ought to be at least 5 (five) years contained in Article 82 (Law Number 35 of 2014 concerning Child Protection), yet frequently cops the law gives a crook authorization of just 3 (three) years which is contained in Article 82 (Law Number 23 of 2002 concerning Child Protection). With this, the creators reason that policing don't figure out the execution of the new guidelines, specifically Law Number 35 of 2014 changes to Law Number 23 of 2002 concerning Child Protection.

Cops comprehend that with the new guidelines it is beyond the realm of possibilities for them to in any case utilize the old standards, despite the fact that it is clear in Article 82 of Law Number 35 of 2014 concerning Child Protection (Educate, Mansur, and Gultom, 2007). Catur wangsa includes the police (investigative agency), prosecutors (prosecutor), judges (judicial institutions), and lawyers or advocates. To enforce children's rights and children's law, facing legal problems that hit Indonesia, namely the limited ability of law enforcement officers who understand children's law and children's rights, the quality of education and expertise of each law enforcement officer, and the organization's ability to enforce children's law and rights.

The police themselves have applied several articles of indictment against other forms of sexual abuse of minors, be it rape or obscenity. The article is contained in Regulation Number 23 of 2002 as changed in Law Number 35 of 2014 concerning Child Protection. The prosecuted articles are typically Article 76 E related to Article 82 (1) of Law Number 35 of 2014 concerning alterations to Law Number 23 of 2002 concerning Child Protection, Article 76 D related to Article 81 (2) of Law Number 35 of 2014 concerning corrections to the Act Number 23 of 2002 concerning Child Protection, Article 76 D related to Article 81 passage (1) of Law Number 35 of 2014 concerning revisions to Law Number 23 of 2002 concerning Child Protection, and Article 76 E related to Article 82 (1) of the Law Number 35 of 2014 concerning changes to Law Number 23 of 2002 concerning Child Protection.

In addition to the Police and Advocates, in terms of child protection, the government establishes other law enforcers to help carry out legal protection, namely the Indonesian Child Protection Commission as stipulated in Article 74 paragraph (1) of Law No. 35 of 2014 that to increase the effectiveness of supervision of the implementation of the fulfillment of children's rights, with this law an independent Indonesian Child Protection Commission is established. Article 76 also stipulates that the Indonesian Child Protection Commission in protecting child victims of criminal acts of domestic violence starts from the investigation process by the police until after the completion of the court process.

The law enforcement system is also greatly influenced by law enforcers who according to the law we know as law enforcement officers are the police, prosecutors, and judges. In addition to these three apparatus, informally, a lawyer can also be seen as a law enforcement officer because his duties are to accompany or become a person's power of attorney to obtain legal services.

One of the factors that play an important role in law enforcement on child protection is the law enforcement factor itself. Ideally, the Indonesian nation already has several basic provisions related to the role of law enforcement in maintaining public stability and security, such as the State Police Act, the Prosecutor's Basic Law, and also regarding the power of the Judiciary. Unfortunately, most of the cases raised regarding violence against children are only cases that have previously been heavily exposed by the print and electronic media, where the influence of "interest groups" as well as "public opinion" is very strong here.

The reality that exists in our country is that there are thousands and even millions of cases involving violence and discrimination against children which are completely untouched by the law. For this reason, it is very necessary to have an active role not only from the community but also the main thing is extra attention from law enforcement officers, so that it will create safe conditions, especially for the children of this nation's successors.

Cultural Factor

Culture is always diverse and changing. The number of cultures that tend to be "negative" results in criminal acts of crime, a culture that is often carried out by people who are not by the rule of law can cause new problems. Culture has a very influential function in human daily life because culture is one of the habits that people always develop. The author concludes that society does not pay attention to the crime of sexual abuse committed by the same sex. Because society assumes that everyone is said to have committed obscenity if the act is committed between a man and a woman (Soekanto, 1986).

Legal culture includes the values that underlie applicable law, and which values are abstract conceptions of what is considered good so that it deserves to be obeyed and what is considered bad and should be avoided. In law enforcement, the cultural values mentioned above can be described in rules and views that are solid in attitudes and actions as a series of final values to create a social reform (Law as a tool of social engineering), maintain and maintain social control to create peace. in social life. (Zaini Munawir, et al, M.Y.A Syaputra, et al Maswandi, et al & Ari Kartika, et al, 2019).

With this, Indonesian legal culture still considers that children are the full authority and responsibility of parents. He can do anything, even violence against children because it is the parent's full right, parents think that children are like personal belongings that are owned so they can be treated whatever they want. Not to mention the factor of inheriting the parenting pattern of previous parents, who unwittingly have committed acts of violence on children or that is the way he educates his children, and other people should not interfere. So that other parties can't

do much let alone intervene, especially when parents are tired, under pressure, or facing problems, children are vulnerable to being targeted by their parents' anger.

4 Conclusion

- a. Sexual savagery is a wrongdoing that upsets the local area where the brutality disregards common liberties, the public authority should give assurances to ladies to their basic freedoms. Sexual brutality against ladies has turned into a significant issue in Indonesia, the state should safeguard ladies who are survivors of basic liberties infringement, to be specific: casualties of sexual viciousness. Violence is defined as:
 - 1) Matters of a strong character,
 - 2) The act of a person or group of people causing physical or property damage,
 - 3) Coercion. The definition of sexual violence can also be interpreted as an act of intimidation related to intimacy for sexual relations did by the culprit against the casualty by intimidation, which brings about the casualty enduring genuinely, tangibly, intellectually, or mentally. Crimes of decency, in general, are acts that violate decency that intentionally damages public decency or in other words not at the will of the victim through threats of violence. Efforts to protect victims of sexual violence as regulated in article 6 paragraph (1) of law no. 31 of 2014 concerning the protection of witnesses and victims are as follows: "victims of serious human rights violations, victims of criminal acts of terrorism, victims of criminal acts of trafficking in persons, victims of criminal acts of torture, victims of criminal acts of sexual violence, and victims of severe persecution, in addition to the rights as referred to in article 5, are also entitled to medical assistance, psychosocial and psychological rehabilitation assistance."
- b. Criminal acts of sexual violence that occur in society today are rife everywhere. This crime can be experienced by everyone, especially women, both underage and adults. The crime of sexual violence against women is a very inhuman act, especially an act of rape. Given the magnitude of the danger of sexual harassment, the Indonesian government applies the rule of law and includes criminal law. Sexual violence itself is not something foreign to the ears of the Indonesian people. Sexual violence is a crime that can affect and have an impact on physical and mental damage to the victim. The punishment given to perpetrators of sexual violence against children is given with the aim of; 1) So that the suspect admits to a bad act or a series of evil acts that are suspected of him. 2). As punishment for convicts in general who have been proven to have committed a crime. 3). As a deterrent effect for the convict, it is hoped that they will no longer commit crimes in the future. 4). As a deterrent effect for community members to be afraid of committing similar crimes, and others.

References

- [1] W.J.S. Poerwadarminta, kamus besar Bahasa Indonesia. Amirko: Balai Pustaka, 1984.
- [2] Angger Sigit Pramukti, Sistem Peradilan Pidana Anak. Yogyakarta: Pustaka Yudisia, 2015.
- [3] Anna Marie Wattie, "Kekerasan Terhadap Perempuan di Ruang Publik; Fakta, Penanganan dan Rekomendasi.," PPK dan Ford Foundation. 2002.
- [4] "http://megapolitan.kompas.com/read/2016/06/22/21545111/lpsk.kasus.keke_rasan.seksual.terhadap.anak.banyak.yang.te rbengkalai, diakases pada tanggal 18 maret 2016." .
- [5] S. S. dan Sri and Mamudi, Penelitian Hukum Normatif. Jakarta: CV. Rajawali, 1986.
- [6] Peter Mahmud Marzuki, Penelitian Hukum. Jakarta: Kencana Prenada Media, 2014.
- [7] I. Ghazali, Hikma Penciptaan Makhluq. Yogyakarta: Lenteras., 1998.
- [8] S. Soeaidy, Dasar Hukum Perlindungan Anak. Jakarta: CV. Novindo Pustaka Mandiri., 1990.

- [9] et al. Simorangkir, J. C. T., Kamus Hukum. Jakarta: Sinar Grafika, 2008.
- [10] S. & M. Lubis, M. Syahputra, Hidayani, "Kajian Hukum Terhadap Anak Berhadapan Hukum Dalam Tindak Pidana Pencurian Menurut Undang-Undang No. 11 Tahun 2012 Tentang Pengadilan Anak (Studi Putusan No. 67/Pid.Sus-Anak/2017/PN.Mdn). JUNCTO, 1(1) 2019: 100-112," 2019.
- [11] W. Indrasari, "Peranan Komisi Perlindungan Anak Indonesia Menurut Undang-Undang No.23 Tahun 2002 tentang Perlindungan Anak", makalah tidak dipublikasikan.,” 2002.
- [12] Sudarsono, Kenakalan Remaja. Jakarta: Rineka Cipta, 1997.
- [13] Leden Marpaung, Kejahatan Terhadap Kesusilaan Dan Masalah Prevensinya. Jakarta: Sinar Grafika, 1996.
- [14] Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana. Bandung: Citra Aditya Bakti, 2002.