

# Legal Protection of Children as Sexual Crimes Victim

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**Abstract.** According to positive law, the idea of legal protection for children who have been the victims of sexual offenses must be based on Pancasila's efforts to offer its residents legal protection. Therefore, in a unitary state that respects the spirit of kinship in order to achieve communal welfare, this legal protection will birth the recognition and protection of human rights in their form as individual beings and social beings.. Law enforcement against child victims of sexual crimes has conceptually not harmonized the relationship of values outlined in good rules and manifests an attitude of action so that there are still traits that are not in accordance with legal norms. Legal development for the protection of child victims of sexual crimes in a progressive legal perspective that legal actors are required to prioritize honesty and sincerity in law enforcement. They must have empathy and concern for the suffering experienced by the people of this nation. The interests of the people (their welfare and happiness) must be the point of orientation and the ultimate goal of implementing the law

**Keywords:** Legal Protection of Childrem, Sexual Victim.

## 1. Introduction

Children are the next generation of the nation who need special legal protection that is different from adults in general, due to physical and mental reasons that children are not yet mature and mature[1]. Sexual violence cannot be characterized in a purely physical sense, i.e., as an act, but instead encompasses a wide range of behaviors, such as psychological abuse and humiliation. pressing and difficult [2]. Do not be shocked if many instances of sexual abuse against minors go unpunished if sexual violence is only defined narrowly as violent and oppressive behavior. ECPAT (End Child Prostitution In Asia Tourism) International defines sexual violence against children as any relationship or interaction between a child and an older or more mature child or adult, such as a stranger, sibling, or parent, in which the child is used as a sexual object of satisfaction for the needs of the perpetrator.[3–5]. Sexual violence is a problem that still occurs in our midst[6–8]. For that, we need to fight it from now on, starting with educating the public. Often found in the mass media coverage decorated by the number of sexual crimes that occurred. The news taken by journalists shows the identity of children who are victims of sexual crimes. The news has an impact on children.

An adult or older adolescent abusing a youngster for sexual excitement is known as sexual violence or sexual abuse of minors.[9]. Kid sexual abuse includes enticing or forcing a child into sexual behavior (regardless of the result), showing pornography to a child, indulging in actual sexual contact with a child, touching a child's genitalia, and viewing a child's genitalia without making physical contact. Between 5% and 15% of men and between 15% and 25% of women experience sexual abuse as children. The majority of sexual abusers are people who are familiar with their victims; about 30% are family members of the children, most frequently siblings, fathers, mothers, uncles, or cousins; about 60% are acquaintances of other friends, such as family, babysitters, or neighbors; only about 10% of cases of child sexual abuse are committed by foreigners.

That children are the assets of the nation and the state which will become the next generation. Every child has the same human rights as humans in general. Children's rights have been neatly regulated in positive laws and regulations in Indonesia in the form of protection from various crimes so that their rights are not violated, considering that there are so many criminal cases experienced by children that cause the child's psyche to be disturbed and unable to carry out their duties. their duties properly. As is constantly being reported in the mass media about cases of sexual violence against children that need attention, it is important for the law to act as soon as possible. The form of legal protection provided starts from the prevention of acts of sexual violence against children, protection of child victims of sexual violence and protection of children who are in conflict with the law (child perpetrators) of sexual violence. The law is required to be able to give special attention to the interests of children, in this case it can overcome acts of sexual violence experienced by many Indonesian children. In order to run well, it is necessary to enforce the law for perpetrators of sexual violence so that it can provide a deterrent effect and minimize acts of sexual violence against children. National child protection has obtained a juridical basis including the 1945 Constitution as the constitutional basis and Articles 21 to 24 of Law Number 23 of 2002 concerning Child Protection. The definition of a child according to Article 1 point 1 of Law Number 23 of 2002 concerning Child Protection is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. Article 17 paragraph (2) of Law Number 23 of 2002 concerning Child Protection also stipulates that "every child who is a victim or perpetrator of sexual violence or who is in conflict with the law has the right to be kept secret.

Perpetrators of violence whose victims are children are generally carried out by people who have close relationships or already know the victim. Violence against children can be triggered by a lack of good family functioning or economic background. Children can become victims or perpetrators of violence with 3 (three) loci or places of violence against children, namely in the family environment, in the school environment and in the community. The most strategic target is to increase the role and empower the family as a vehicle for children to socialize and take refuge from all mistreatment of them. The family should be a place where children feel safe and provide protection for children. Physical violence that is rampant against children in the family, school and community environment shows that children are vulnerable to being victims of violence and the lack of protection for children. Children really need a friendly and safe environment for playing and expressing themselves to develop themselves, but this shows that a friendly and safe environment is still far from being a child-friendly environment. The crime that befell the victim is a violation of their human rights. Violation of human rights is an act that greatly violates a person's dignity and self-esteem. Children should have free opportunities to play and express themselves which should be directed towards educational purposes, society and the competent authorities should strive to improve the implementation of rights. The treatment and legal protection of children should receive special and serious attention because children have a bright future and are also the successors of the nation and state.

The conception of child protection for victims of sexual crimes lies in the activity of harmonizing the relationship of values that are outlined in good rules of action as a series of elaboration of values, to create, maintain and maintain peaceful social life, a conception that has a philosophical basis so that it will appear more concrete. . Legal development for the protection of child victims of sexual crimes in a progressive legal perspective is in the form of ideology and the dedication of legal actors to get the main place to make recovery. Based on the description of the background of the problem, the problems in this study can be formulated, namely : What is the Form of Child Protection Against Sexual Crime Victims?, What are the

Consequences Suffered by Sexual Crime Victims on Children in the Perspective of Progressive Law?, and 3. What are the efforts to combat sexual crimes against child victims?

## **2. Method**

This kind of investigation is done at libraries. Research that is conducted using secondary data or library resources is referred to as library research[10]. Because the data employed in this study are secondary data in the form of legal papers, library research is also involved. Additionally, primary and secondary legal resources make up the categories of secondary data. The hierarchy of laws and regulations contains primary legal elements, which are those that have binding legal effects. whereas secondary legal materials are documents that explain primary legal materials like draft laws, scientific studies, and works by legal experts

## **3. Result & Discussion**

In humans there is always a will to live which is a source of creative potentials. But along with that, in humans there is always a will to power which is the source of various acts of human destruction. It is said to be destruction, because the will to power never knows the end, never knows limits, never knows enough. Human conflicts that result in many disasters are conflicts between the will to power and other will to power. The resulting consequences become the benchmark for a crime, whether the mode of crime is in the light category or is it aggravating and causes tremendous suffering. In formal juridical terms, crime is all human actions that meet the definitive formulation of criminal law provisions which are declared as crimes. This is emphasized again by Wirjono Prodjodikoro that a criminal act means an act for which the perpetrator can be subject to criminal punishment.

Viewed from a formal point of view, crime is an act that the community (in this case the state) is given a punishment for. This kind of criminal law does not aim to protect the public but strengthens the reason or opposes the arbitrary actions of the authorities. furthermore, crime is part of the actions that are contrary to decency. Meanwhile, decency crimes or moral offenses from sexual harassment are two forms of violations of decency which are not only a national legal problem of a country, but are already a legal problem for all countries in the world or are a global problem. The first is a component that comes from or is contained in the offender, with the idea that a person's motivation for committing a crime comes from within the offender himself and is based on psychological and hereditary elements (mental illness). The second component is one that occurs from outside the perpetrator's personal self, which is based on home circumstances, as well as technology and environmental variables. It means that what motivates a person to commit a crime comes from sources other than the culprit himself.

The problem of children is not a small problem, but children are the next generation of the nation and state. Factors that support services for child victims of crime, this is emphasized again by Arif Gosita are as follows:

1. Desire to develop fair treatment of children and improve child welfare.
2. Welfare law that can support the implementation of services for child victims of crime.
3. Facilities that can be used to provide services to child victims of crime.

Therefore, it is an obligation for the previous generation to guarantee, maintain, and secure the interests of children. The maintenance, guarantee, and security of these interests should be carried out by the parties who take care of them, namely the family. Judging from the theory of legal protection, child protection is an effort that provides situations and conditions that allow

the implementation of children's rights and obligations in a humane manner. The implementation of legal protection for children as victims has not been maximized as provided by law. Although it is not maximized, there are several forms of legal protection that have been given to children as victims according to Law no. 35 of 2014 contained in Article 64 paragraph (3), that children as victims get:

1. Rehabilitation both inside and outside the institution
2. Efforts to protect and announce identity through mass media to avoid labeling
3. Providing safety guarantees for victim witnesses and expert witnesses, both physically, mentally and socially
4. Providing accessibility to obtain information regarding the development of the case

The legal system does not only refer to the rules (codes of rules) and regulations (regulations), but covers a broad field, including the structure, and institutions of the process (procedure) that fill it in relation to the law that lives in society (living law) and legal culture (legal structure). According to Lawrence M Friedman, the elements of the legal system consist of legal structure, legal substance, and legal culture. The main function of law, namely regulating order, is a basic condition for the existence of a society, the need for order is a fact and an objective need for every human society. The purpose of the law is to bring about justice. The law exists or is enforced to regulate and create a balance or harmonization of human interests, these three objectives are often expressed separately and are considered as a process that determines each other, namely: certainty, order, order, and justice. Order cannot exist without certainty and one cannot question justice in disorder. In its function, the law as the protection of human interests, the law has a purpose. In another sense, the law is in charge of dividing rights and obligations between individuals in society, dividing authority and regulating how to solve legal problems, and maintaining legal certainty. There are many shortcomings in the laws and regulations which separately regulate the protection of witnesses and victims, which legally, many parties should be witnesses without being witnesses. This is because he feels that his life and family are threatened by what is conveyed, both at the investigation level to the Court. Even those who were originally witnesses were eventually named as suspects. Therefore, both victim witnesses and reporters in child cases must receive legal protection and assistance. The implementation of the Child Protection Law (UUPA) in Indonesia is still considered very difficult to be implemented seriously and is still an obstacle. The reason is none other than the many who also become consumers or users of child sex workers.

Additionally, Satjipto Raharjo claims that ineffective law enforcement is primarily the upholding of ideals or notions of fairness, accuracy, and societal advantages. The goal of law enforcement is to bring ideas from thoughts into actuality. The two concepts of law enforcement and legal application are distinct. Enforcing the law is not the same as employing it; one can enforce the law to accomplish justice, but one can also enforce the law to further other interests or aims. Black's Law Dictionary defines law enforcement as an effort to uphold both the standards of the legal regulations and the ideals that underpin them. Law enforcement officials need to have a solid understanding of the legal principles underlying the laws they are tasked with upholding, as well as the many dynamics involved in the creation of laws..

Given that cases of violence against children are usually more common among children from the lower classes, for example, the police will generally be lazy to handle them. Therefore, the cases of these children cannot be used as land to earn money. On the other hand, if the perpetrators of violence are from the rich, who can afford the police, prosecutors and judges, the perpetrators will be released easily and properly. In the context of the State of Indonesia, the justice to be realized is in accordance with what is stated in the 3rd principle of Pancasila. Social

justice for all the people of Indonesia. Thus, the system is not only to convict the perpetrators but to bring about justice for victims of crime and to humanize humans in accordance with the goals of progressive law.

#### **4. Conclusion**

According to positive law, the idea of legal protection for children who have been the victims of sexual offenses must be based on Pancasila's efforts to offer its residents legal protection. Therefore, in a unitary state that respects the spirit of kinship in order to achieve communal welfare, this legal protection will birth the recognition and protection of human rights in their form as individual beings and social beings..

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