



Law protection towards children as victims of sexual violence

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Abstract

Sexual violence against minors is a type of violence in which the child is the target. Article 76D of Law Number 35 of 2014 prohibits the use of violence or threats of violence to coerce minors to engage in sexual activity with the perpetrator or another person. In addition to Article 76D concerning intercourse and obscene acts, Article 76E prohibits violence, threats of violence, coercion, tricks, a series of lies, and persuading a child to commit or permit obscene acts to be carried out. In Law Number 23 of 2002 regarding Child Protection, it is stated that children are a mandate and a gift from God Almighty, with inherent human dignity and worth. According to the 1945 Constitution of the Republic of Indonesia and the United Nations Convention on the Rights of the Child, all children are born with human rights. The normative juridical approach was utilized in the preparation of this study. This study aims to elucidate legal protections for child sexual violence victims. According to the findings of the study, as a legal nation, the state has entirely guaranteed legal protection for child victims of sexual violence crimes through laws and regulations. Legal protection for children is the responsibility of parents, family, society, government, and the state, and consists of a series of activities that must be carried out continuously to protect children's rights, particularly those of children who are victims of sexual violence. To ensure the growth and development of children, this succession of activities must be implemented sustainably and strategically.

Keywords: legal protection, child safety, sexual violence crime

Introduction

Children are a divine command and a gift, and they are the most valuable assets relative to other assets. According to language, children are the second generation or first progeny resulting from the union of men and women ^[1].

In Law No. 23 of 2002 regarding Child Protection, it is stated that children are a mandate and a gift from God Almighty, with inherent human dignity and worth. According to the 1945 Constitution of the Republic of Indonesia and the United Nations Convention on the Rights of the Child, all children are born with human rights ^[2].

Sexual violence against children is a form of violence in which the child is the target of the violence, or in which the child is a victim of sexual violence. Sexual violence against children, also known as "child sexual abuse," is defined as the act of forcing sexual intercourse or other sexual activity by an adult against a child, with or without violence, and can occur in a variety of locations without regard to culture, race, or literature. Victims of sexual violence against minors can be either male or female.

Sexual violence typically has a traumatic effect on victims, but cases of sexual violence frequently go unresolved due to denial of the sexual violence. This denial is extremely prevalent among juvenile victims. This is due to the fact that the juvenile victim does not realise he has become a victim of sexual violence. Victims of sexual violence are typically distrustful of others, so they conceal the occurrences of sexual violence. In addition, victims are reluctant to report the perpetrators because they feel threatened that they will endure worse repercussions if they do so, and because the events they are experiencing can damage their family's reputation ^[3].

Currently, rape is a crime that has received a great deal of attention from both the public and the government. The

target of this rape is not only adult women who are conscious, but also women who are helpless or unconscious or who are still minors, and not only women who do not consent, but also women who consent because they are under duress, because they are in a confused or erroneous state, or because they have been duped.

Article 76D of Law Number 35 of 2014 prohibits the use of violence or threats of violence to coerce minors to engage in sexual activity with the perpetrator or another person. In addition to Article 76D concerning intercourse and obscene acts, Article 76E prohibits violence, threats of violence, coercion, tricks, a series of lies, and persuading a child to commit or permit obscene acts to be carried out. In these two articles, it is expressly forbidden to commit violent acts that result in sexual acts against minors.

It is intriguing to conduct research in the form of a thesis with the title "Legal Protection of Child Victims of Sexual Violence" based on the above background information.

Research Method

This research was conducted using the Normative Juridical approach, which is a legal method involving the examination of secondary data or secondary literature ^[4] and research on legal principles, legal systematics, legal synchronisation, legal history, and legal comparisons ^[5]. The form and content of library materials have been compiled by previous researchers and can be accessed regardless of time constraints ^[6].

Results and Discussions

The concept of the rule of law is derived from the term *nomocracy*, which emerged from Western thought. *Nomocracy* is derived from the Greek words *nomos*, which means standard, and *Kratos*, which means authority. The rule of law is the concept of law-based state governance ^[7].

At this time, the concept of rule of law has become a model for countries around the world, and the concept of rule of law itself is almost universally accepted. The majority of nations employ the concept of the rule of law because it is regarded as the most ideal concept for a country. The essence of a rule-of-law state is related to the concept of the rule of law, which contrasts with the concept of the sovereignty of the people, which gave rise to the notion of democracy.

The consequence of adhering to the concept of a rule of law state is that whatever form of law is adhered to by a country, that law must be the basis for every action taken by the government and its citizens, as the law holds the topmost position in a nation. The rule of law principle gives precedence to the norms embodied in statutes and regulations.

Legal protection is the safeguarding of legal subjects by means of applicable laws and regulations, with the violation of which resulting in a sanction. Satjipto Rahardjo argued that the purpose of legal protection is to safeguard human rights that have been violated by others and that this protection is given to the community so that they may enjoy all of their legal rights^[8].

Regarding public protection, Article 28D, Paragraph 1 of the 1945 Constitution states: "Everyone has the right to recognition, guarantees, protection, fair legal certainty, and equal treatment before the law." According to Phillipus M. Hadjon, legal protection for the people is a preventative and coercive government action. Preventive legal protection aims to prevent disputes from occurring, directing government actions to exercise caution when making discretionary decisions, whereas repressive legal protection aims to resolve disputes, such as through judicial intervention^[9].

Article 1 number 2 of Law No. 35 of 2014 on Child Protection defines child protection as "all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally by human dignity and worth, as well as receive protection from violence and discrimination."

Child protection is a type of business that safeguards the rights and responsibilities of children. Laws and regulations are essential to the protection of children's liberties. Even though some children encounter obstacles to their spiritual, physical, and social growth and development, the policies, efforts, and activities that ensure the protection of children's rights are predicated on the notion that children are a vulnerable group.

Child protection incorporates all efforts made to ensure that every child can exercise his rights and fulfil his responsibilities for children to develop physically, mentally, and socially. Protection is an indication of the existence of justice in society; as a result, the protection of children is pursued in a variety of spheres of state and social activity. Child protection activities have both written and unwritten legal implications. The law protects juvenile protection efforts.

Child protection is advantageous for children, their guardians, and the government; therefore, coordination of child protection cooperation is required to prevent an overall imbalance in child protection activities. Protection of children can be done either directly or indirectly. directly means that the activity is directed directly at the child targeted by direct treatment. Such activities may include

safeguarding children from external and internal threats, educating, fostering, accompanying children in various ways, providing opportunities for self-development, etc. Indirect child protection refers to activities that are not explicitly aimed at children, but rather at other individuals who carry out or participate in child protection efforts.

The state and government are obligated and responsible for providing support for the implementation of child protection facilities and infrastructure. The state and government are required to ensure the protection, maintenance, and well-being of children by taking into consideration the rights and responsibilities of parents, guardians, and other legally responsible adults. State and federal authorities oversee the implementation of child protection. The state and government ensure that children exercise their right to free expression by their age and level of intelligence. Through community role activities in the implementation of child protection, the community fulfils its obligations and responsibilities for child protection. Parents are obligated and responsible for nurturing, protecting, educating, and growing children according to their abilities, as well as preventing early marriage^[10].

To achieve the objective of protecting children, parents, families, and communities must also protect and uphold these human rights by legal obligations. Similarly, in the context of implementing child protection, the state and government are responsible for providing children with facilities and accessibility, particularly in assuring optimal and directed growth and development. The Law Number 35 of 2014 Concerning Amendments to Law Number 23 of 2002 Concerning Child Protection has emphasised that the responsibilities of parents, family, society, government, and state consist of an ongoing series of activities to protect children's rights. To ensure the growth and development of children, this sequence of activities must be conducted in a sustainable and focused manner^[11].

Legal protection for children is the collective power and efforts of all individuals and public or private institutions aimed at securing, regulating, and promoting the welfare of children. Every infant is an extremely valuable national asset as the nation's future generation and a resource that will determine Indonesia's future. The state owes every infant a sense of security and comfort, as well as legal protection, for them to develop normally and contribute to nation-building.

Child protection efforts must be implemented as early as feasible, beginning with the foetus in the womb and continuing until the child reaches the age of 18 (eighteen). Law Number 35 of 2014 Concerning Amendments to Law Number 23 of 2002 Concerning Child Protection establishes the obligation to protect children based on the following principles, which are derived from the concept of intact, comprehensive, and comprehensive child protection, as follows:

- a. Non-Discrimination
- b. Children's Best Interests
- c. Right to Life, Survival, and Development
- d. Children's Opinions Respected

Legal protection for children, according to Barda Nawawi Arief, is an effort to safeguard the law against various freedoms and human rights of children (fundamental rights and freedoms of children) as well as various child welfare-related interests^[12]. Child protection is a collaborative effort

aimed at securing, obtaining, and achieving the spiritual and physical well-being of children in their best interests and human rights^[13].

According to Article 3 of Law Number 35 of 2014 on Child Protection, the purpose of child protection is to ensure the fulfilment of children's rights so that they can live, grow, develop, and participate optimally with human dignity and dignity, and receive protection from violence. and discrimination, to realise the ideal of quality, noble, and prosperous Indonesian children^[14].

Conclusion

Legal protection for child victims of sexual violence has been entirely guaranteed by state statutes and regulations as a matter of law. Legal protection for children is the responsibility of parents, family, society, government, and the state, and consists of a series of activities that must be carried out continuously to protect children's rights, particularly those of children who are victims of sexual violence. To ensure the growth and development of children, this sequence of activities must be conducted in a sustainable and focused manner.

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