

JURIDICAL ANALYSIS OF THE IMPLEMENTATION OF THE JUVENILE CRIMINAL JUSTICE SYSTEM (INVESTIGATION PROCESS) EXAMINATION OF CHILD VICTIMS CRIME OF ABUSE (BARELANG POLICE CASE STUDY)

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ABSTRACT

This study aims to determine and analyze the juridical implementation of the juvenile criminal justice system (investigation process) for examining child victims of sexual abuse (Case Study of Barelang Police). The research method used is normative juridical with a statutory approach. The results of the study indicate that the form of legal protection for children in the UURI Child Protection Number 35 of 2014 is by providing children's rights. Children's rights are a derivation of the various dimensions of human rights stated in the laws and regulations. The implementation of legal protection for child victims of sexual abuse in Batam City is carried out based on the mandate of the laws and regulations that govern it. In the implementation process, make every effort possible so that all rights of child victims of sexual crimes, especially obscenity, can be fulfilled. Obstacles to legal protection of children as victims of sexual abuse vary, ranging from legal instruments or legal regulations themselves, which are part of the content of the norms in the article which are still biased and have multiple interpretations.

Keyword: *Judicial System, Crime, Obscenity, Children.*

1. INTRODUCTION

In this day and age, evil can arise anywhere and anytime. It can even be said that crime occurs in almost every society, but because of its adverse, it is also natural that every organization tries to prevent and overcome the occurrence of immoral crimes; however, almost every day, people are faced with News and talks concerning the problem of corruption, which occurs in a person who does not use reason and coupled with the impulse of lust in acting, so that there is a crime that exceeds the limits such as sexual crimes or immoral [1].

Sexual crimes are now an incessantly debated issue, whether it's sexual in public places or rape, especially in cases of child abuse; the perpetrators no longer know the status, Rank, Education, position, and age of the victim. Crime and sexual violence in recent years, many cases that we often encounter in public life and mass media, about criminal acts of decency, such as abuse, adultery, rape, and others, showed a tendency to continue to increase, especially in perpetrators of abuse of minors. This crime and sexual violence, especially the crime of abuse against children, made various efforts to remove this crime from countries worldwide. Still, these efforts have only succeeded in reducing its intensity and quality. The perpetrators are usually people who know closely or live close to the victim, such as neighbors, friends, biological fathers, stepfathers, grandfathers, uncles, and brothers themselves; abuse is usually also committed by people who do not have strong faith and have superficial knowledge.

Those around them should protect children's rights. Arif Gosita argued that child protection is an effort to protect children from exercising their rights and obligations (Arif Gosita, 1989:52). This is in line with Article 1 of Law No. 35 of 2014 that a child is a person who is not yet 18 (eighteen) years old, entitled to all activities to ensure and protect children and their rights to live, grow, develop, and participate optimally by the dignity of humanity, as well as protection from violence and discrimination. Abuse or violence and discrimination [2].

Sexual abuse or violence against children is a crime that is very heinous, immoral, and despicable and violates three norms where the victims are underage girls. The offense should need more special handling because the victim is still classified as a child old with long life and noble ideals. Abuse is one of the criminal acts against decency that is growing from time to time and is one of the realities in life which requires special treatment.

This is because criminal acts against decency will cause unrest in people's lives. Therefore, various efforts are always made to overcome crime. In reality, it is tough to eradicate corruption because the offense will constantly develop along with the development of society. In Batam city itself, referring to data from the Batam City Bareleng Police Police regarding cases of sexual violence (molestation) against children handled by the women and Child Protection unit (PPA) of the Bareleng police in 2021, there were ten cases of intercourse and or obscene acts against minors of the Bareleng police in 2021/2022.

In general, the cases above can be seen in the number of criminal cases of abuse of girls handled by the PPA unit Bareleng Batam police should be placed as an object of protection for all people considering they (children) are weak both mentally, physically, and mentally. The problem of sexual violence in Indonesia, especially against children, needs more strict and intensive attention [3].

This is because there is a tendency for child victims are often overlooked by competent institutions in the criminal justice system that should provide adequate attention and protection under the law. This should not happen, considering that victims still have the right to be treated fairly and protected their rights (Mien Rukmini, 2006:1).

The author analyzes cases of abuse in Batam City from year to year has increased, and the author is interested in researching the case to see the legal protection provided to girls victims of abuse. Based on the background of the above problems, the authors will conduct a study on "juridical analysis of the implementation of the child criminal justice system (investigation process) examination of Child Victims Of Sexual Abuse (Research study at Bareleng Police Station)."

1.1 Formulation Of The Problem

Based on the background of the problem, it can be formulated as follows:

1. How are the juridical norms for implementing the juvenile criminal justice system (investigation process) examination of child victims of criminal acts of abuse?
2. How is the application of the juvenile criminal justice system (process
3. Investigation) examination of child victims of criminal acts of abuse?
4. What factors are the obstacles and solutions in implementing the juvenile criminal justice system (investigation process) examination of child abuse victims?

2. METHODOLOGY

Normative law research uses normative case studies as products of legal behavior, for example, reviewing the legislation. The subject of study is the law, conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. Thus, normative legal research focuses on the inventory of positive law, legal principles and doctrines, legal discoveries in cases in concreto, legal Systematics, synchronization levels, comparative law, and legal history. (Abdulkadir Muhammad, 2004: 52).

Based on the explanation above, the author decided to use the normative legal research method to research and write the discussion of this thesis as a legal research method. The use of normative research methods in research efforts and thesis writing is based on the suitability of the theory with the research methods required by the author.

Data Sources And Data Collection Tools

Primary legal materials, namely all materials / legal materials with a juridically binding position. Primary legal materials. Consists of legislation related to research and secondary legal materials, namely in the form of materials or materials relating to and explaining the problems of primary legal materials consisting of books and literature related to the juvenile criminal justice system (investigation process) examination of child victims of abuse

Data Analysis

Data analysis is an important and decisive stage in a study. Data analysis is also a stage to find the source of the problem and the answer to the issue of the research conducted (Soerjono Soekanto, 2008:251). There are two types of data analysis methods, qualitative and quantitative. Qualitative analysis is descriptive data that includes words and images obtained from interview transcripts, field notes, photographs, videotapes, personal documents, and others. Quantitative analysis is done by giving the code, number, size, and operational variables.

After the legal material is collected, an analysis is then carried out to provide a final argument in the form of an answer to the research. The data analysis techniques in this study are descriptive. The Descriptive approach is the researcher describes what it is about an event or legal condition. Not only do it in an ideal way and then in an

evaluative way that will gain a view of the pros and cons. In a way, to see. The composition of the law consists of analogy, determination, and Acontratio.

4. RESULTS AND DISCUSSION

In general, the existence of Juridical norms of positive law in Indonesia is a rule that one of the goals is to prevent crime. This means that the law also aims to protect people from becoming victims of crime before the crime occurs. Based on legal Science, the victim can claim damages or compensation against the convicted party. According to Lilik Mulyadi, 2004: 91,) regulation of victim protection in criminal law norms in Indonesia is regulated in the [4]:

Implicitly, the provisions of Article 14C paragraph (1) of the Criminal Code have protected victims of crime. The article reads:

“In the order referred to in Article 14a, except in the case of a fine, then together with the general condition that the convicted person will not commit a criminal offense, the judge may hold a special condition that the convicted person will replace the losses incurred due to the criminal offense, all or part thereof, which will be determined on order also, which is less than the probationary period.”

Obscene acts in the Criminal Code are regulated in the second book on crimes, Chapter XIV on crimes of decency (Article 281 to Article 303). For example, obscene acts committed by men-Married man or woman (Article 284) with a maximum penalty of imprisonment 9 (nine months), rape (article 285) with a maximum sentence of imprisonment 12 (twelve) years, or inducing lewd acts of minors (article 293) with a maximum penalty of imprisonment 5 (five) years.

So the form of legal protection provided by the Criminal Code for child abuse victims is a criminal liability to the perpetrator, not liability for direct and concrete losses or suffering of the victim, but more focused on personal/individual responsibility.

Law No. 35 of 2014 on Child Protection is changed from Law No. 23 of 2002 on Child Protection. The basis for forming this law is to provide legal protection to children. That children are shoots, potential, and the younger generation's successor to the ideals of the nation's struggle has a strategic role, characteristics, and unique properties that must be protected from all forms of inhumane treatment resulting in human rights violations.

The number of cases of abuse in Indonesia is considered one indicator of the poor quality of child protection. The existence of children who have not been able to live independently is undoubtedly in dire need of people as a shelter. Law No. 11 of 2012 on the juvenile criminal justice system, most of which. It's about juvenile delinquency. An act is called delinquency when it is contrary to the norms in the society in which it lives, an anti-social act in which antinormative elements are contained. In Act No. 11 the year 2012, children facing the law are divided into three parts, namely [5]:

1. Children in conflict with the law,
2. Children who are victims of criminal acts,
3. Children who are witnesses to criminal acts

This problem continues to grow until now; it can be said that there has been no significant change even though the structure and culture of society are developing in the modern direction. The image of women has hardly changed. Even the world of education contributes to violence because it perpetuates the imbalance of power relations in the family, husband-wife, parent-child, teacher-student, and superior-subordinate. Despite the enactment of the law on the protection of children, in the case of sexual violence, it has not been optimally implemented by the government. There are still many cases that are not appropriately resolved. Lack of awareness of parents, communities, and institutions that play a role in making defensive efforts for children to overcome the problem of sexual violence that occurs a lot. The juvenile criminal justice system is intended to complete the investigation process in cases [6].

Victim of child abuse. Children who are witnesses of criminal acts and children who are victims of criminal acts, based on Article 1 Paragraph (2) of law no.11 of 2012 regarding SPPA. Juvenile criminal justice is a juridical process where the law is upheld by not overriding the freedom of opinion and defense, where the decision is taken with a specific motivation. Therefore, child protection must be sought as a condition where every child can exercise their rights and obligations. Wherever possible, it should be sought in various areas of State Life and society. The right of the child and the duty of this certainly includes the child who is facing the law [6].

According to the author, the form of legal protection for child victims of abuse, such as providing legal assistance, rehabilitation, and Prevention, has not been fully optimal; this can be seen from the child as a victim of abuse has not fully received legal assistance at the level of Investigation, Prosecution, to the judicial level is still

often overlooked and not accompanied by legal. Prevention is not optimally seen from the number of children who are victims of sexual violence crime from year to year increasing[7].

They were interpreted as an effort to protect the freedom and human rights of children and various interests related to the welfare of children. In this discussion, the author will examine the implementation of legal protection against child abuse victims. Before conducting further studies, the authors will describe data on sexual crimes that occurred in the period 2021/2022. The authors surveyed the Barelang Police Protection unit women and children in Batam. The authors conducted a survey assuming that the data on sexual crimes and the information needed by the authors of the investigation process can show results that can deliver the implementation of legal protection against child victims of sexual crimes, especially sexual abuse [8].

Legal protection of children in Indonesia still requires special studies on how children become victims of crime in this context, children as victims of abuse. The author explores that Indonesia upholds human rights, which are also listed in children's rights. The human rights of children are characterized by the guarantee of protection and fulfillment of children's rights. The warranty is strengthened by the ratification of the International Convention on the rights of the child, namely the ratification of the child's rights through Presidential Decree No. 36 of 1990 on the ratification of the Convention on the Rights the Child (Convention on the rights of the child) [9].

Another obstacle is that in the UURI child protection Article 59, paragraph 1 helpful article is still abstract.

And multiple interpretations that the Government, Local Governments, and other state agencies are obliged and responsible for providing special protection to children. This other state institution said that it was biased because it could not be interpreted freely and did not specifically lead to one of the state agencies or institutions that were delegated the authority to be obliged and responsible for providing special protection to children, including in terms of child exploitation as a victim of abuse. It should be unequivocal in the child protection law to call the Indonesian Child Protection Commission as a representative of state institutions whose functions and authority are responsible for protecting children, including legal protection [10].

Legal protection of children as victims of crime repressively by imposing sanctions on perpetrators of abuse, one of the things that have been discussed is castration for perpetrators of crimes. Only the issue of castration punishment can not necessarily be accommodated in the legislation because it is still in a position of pros and cons. Based on the author's research, this issue is not agreed upon by several figures known as observers of children and komnas Perempuan. Komnas Perempuan regrets that the castration and death penalty remains as a form of punishment for abusers, especially when Indonesia has ratified the Convention Against Torture through UURI No. 5 of 1998, which prohibits all forms of Cruel, inhuman, and degrading punishment. The death penalty and the castration penalty are included in this form of punishment.

Several steps must be taken to overcome the constraints of the application of legal protection against children as perpetrators of criminal acts are [11]:

1. It is necessary to improve coordination and cooperation between the police, the Penitentiary, District Attorney, District Court, and the government in handling cases or cases related to child abuse.
2. Improve Infrastructure Provision
3. Conduct regular socialization. Can we know from the description above that, several steps can overcome the constraints of applying the law against child abuse victims by cooperating with government agencies, providing facilities, and socialization

4. CONCLUSIONS

From the above discussion, the authors draw some conclusions:

1. The form of legal protection for children in the Child Protection Law Number 35 of 2014 is by providing children's rights. Children's rights derive from the various dimensions of Human Rights contained in the rules of legislation. Regarding the rights of children as victims in terms of access to the fulfillment of the right to obtain health services and Social Security. By the physical, mental, spiritual, and social needs to restore the condition of children as victims of sexual violence who have long-term trauma. The right for children to get legal protection from abuse victims is to provide legal assistance, rehabilitation, and Prevention. The form of legal protection against child abuse victims is regulated in the:
 - a. Law No. 35 of 2014 on amendments to law No.23 Of 2002 On Child Protection
 - b. Law No. 31 Of 2014 On Amendments To Law Number 13 Of 2006 On Witness and Victim Protection
 - c. Law No. 23 of 2004 on the elimination of domestic violence
 - d. Law No. 11 Of 2012 On The Juvenile Criminal Justice System

2. Implementation of legal protection against child abuse victims in Batam city, implemented based on the mandate of the legislation governing it. In the process of implementation, all parties play an active role in carrying out various duties and responsibilities to be able to protect children. Victim of abuse. Batam City, a district worthy of children, strives as much as possible so that all the rights of victims of sexual crimes, especially sexual abuse, can be met.
3. That the constraints of the legal protection of children as victims of abuse vary, ranging from legal instruments or legal regulations themselves that some of the norms in the article are still biased and multi-interpreted, and there is no coherence between each legislation between the child protection law and social Minister Regulation No. 9 of 2015 concerning guidelines for social rehabilitation of children who face the direction by Social Welfare Institutions. There is disharmony between institutions or institutions related to children in this implementation regulation that has not regulated more technical and specific in terms of how the position and role, as well as sanctions that are still classified as standard for repressive law enforcement and protection efforts. Factors that are obstacles to providing legal protection for children victims of abuse are the substance of the law, legal structure, legal culture, and infrastructure that has not been running optimally. Government efforts in overcoming obstacles. The application of legal protection to children as perpetrators of criminal acts is the business and activities of all levels of society in various positions and roles, which are well aware of the importance of children. Children will mature physically, mentally, and socially; then, it is time to replace the previous generation. Child protection is a manifestation of justice in society; thus, the protection of children as perpetrators of abuse against minors is sought in various fields of state and social life. Cooperation of government agencies, such as the District Court, Police, Penitentiaries, and other agencies provide facilities, and the government conducts socialization.

5. SUGGESTIONS

Based on the results of the study, the following suggestions can be submitted:

1. For us to strengthen Shiite beliefs, it is necessary that we substantiate these beliefs scientifically, separating them from superstitions and illusions. An early and virtuous, noble character can prevent social deviations that children will do.
2. So if the accountability of parents, families, communities, and state government is a series of continuous, integrated, and coordinated activities between institutions that have the authority to fulfill children's rights, especially children victims of abuse for the protection of children's rights.
3. For the legal protection of children, especially children as victims of abuse, to run effectively and efficiently, it is necessary to change the legislation by existing legal needs.

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