

Law Enforcement of Child Maltreatment Committed by Parents According to the Criminal Code

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ABSTRACT

Violence against children committed by parents according to Law Number 35 of 2014 concerning child protection originates from cases of violence against children in Indonesia from time to time, which continue to occur and increasingly take various forms. As is known, children are the successors and assets owned by the nation that will maintain, and realize the ideals of the nation. Criminal acts are behaviors that violate the law, and sanctions will be given to the perpetrators who commit them. This problem is related to the factors that cause violence against children, and violence against children is not only caused by the factor of miseducation from parents. This article aims to find out what causes violence against children by parents and ways to prevent violence against children by parents. So it can be concluded that the factors that cause violence against children committed by parents are generally due to the negligence of parents and children themselves, economic factors, and environmental factors where the role of the community is lacking in preventing violence against children committed by parents.

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I. INTRODUCTION

The Unitary State of the Republic of Indonesia (NKRI) is one of the countries based on the basis of law (rechtstaat), this has been explained in the 1945 Constitution of the Republic of Indonesia, Article 1, Paragraph 3, which discusses "The State of Indonesia is a state of law". Therefore, the Indonesian state wants the law to be enforced by all Indonesians. This means that every treatment carried out must be based on the applicable laws.¹

In the opening of the fourth paragraph of the Constitution, it states that the Government of the State of Indonesia was formed with the aim of protecting the entire Indonesian nation and the entire homeland of Indonesia and to advance the general welfare, educate the nation's life, and participate in implementing a world order based on independence, eternal peace, and social justice.

However, the facts that occur in people's lives are not in line with the goals of the Indonesian state. Currently, various kinds of legal problems have begun to emerge. Human behavior is also increasing contrary to the norms that exist in social life, so that criminal offenses or crimes often occur. Such crimes are often committed against weak people, such as children and women.

In Indonesia there are a number of facts that worry still many children who get acts of violence. In Indonesia, violence can be committed anywhere, on the streets, in schools and in homes. This can

unconsciously cause children to conflict with the law.² Victims of domestic violence are mostly women and children who need protection from the state and/or society in order to avoid and be free from violence or threat of violence, torture or degrading treatment and human dignity.³

All kinds of acts of violence committed against children must be addressed or prevented as described in the Law of the Republic of Indonesia No. 23 of 2002, which deals with the protection of children. Children should be protected and their right to grow and develop normally must be fulfilled, and children should be given the opportunity to follow in an optimal way to obtain protection from acts of violence.⁴

Previous research

1. Name of researcher: Muhammad Suwandy Hasibuan, Ismail, Irda Pratiwi (2020). Title: Juridical analysis of legal protection of children under the general law as perpetrators of criminal offences reviewed from the Law No. 35 of 2014 on child abuse. Law Protection of Children under the Age as Criminal Offenders Revised from Law No. 35 of 2014 on Child Protection and Restorative, Diversified Justice Regulations for the Legal Protection of Minor Children As Criminals.
2. Name of researcher: Gomgom TP Siregar, Irma Cesilia Syarifah Sihombing (2020). Title: Juridic Review of Parents' Violence Against Children. Problem Summary: Factors Causing Violence Against Children Perpetrated by Parents, Attempts to Combat Violence Conducted By Parents.

II. RESEARCH PROBLEMS

1. What are the factors that cause child abuse by parents?
2. How do efforts to reduce violence committed by parents against children work?

III. RESEARCH METHODS

This writing uses a normative juridical approach because the author only examines and analyzes cases that have been previously obtained either from print media, newspapers, magazines, journals, or online media, which are then analyzed using laws and regulations, legislation, and related legal theories related legal theories. This article focuses on the legal protection of children in cases of violence in Indonesia.

IV. RESULT AND DISCUSSION

1. Factors that cause child abuse caused by parents

Sanford Kadish defines violence as: "Violence or violence refers to behavior that is contrary to the law and has the consequences of both physical injury or damage to property or death of a person..⁵

Violence against children has a reason why this violation of the law can occur, according to Suharto, violence against children is due to several factors, internal and external factors.⁶ cause are as follows:

- a. Economic factors such as family poverty, insufficient income, having a lot of children and unemployed people.
- b. A family having a divorce.
- c. Early marriage or a family that is not psychologically mature makes it unknown how to educate children or children born outside marriage.
- d. Mental disorders experienced by parents can also be the cause of acts of violence against children.
- e. The fate that a parent accepts when childhood is abandoned tends to do wrong to his child.
- f. Bad environmental conditions.⁷

According to Terry E. Lawson, a child psychiatrist, classifies violence against children into four forms, namely: emotional abuse, verbal violence, physical abuse and sexual abuse. This form of child abuse can be described as follows:

1. Emotional abuse (emotional violence) occurs when parents / caregivers and child guardians after knowing their child asks for attention, ignore the child.
2. Verbal abuse is usually a verbal behavior in which the perpetrator performs communication patterns that contain insults, or words that harass the child.
3. Physical abuse (physical violence), including torture, beating and persecution of children.
4. Sexual abuse (sexual violence) is the treatment of pre-sexual contact between a child and an adult (pictures, touches, etc.) or direct sexual contact.

According to the Law of the Republic of Indonesia No. 23 of 2002 on the Protection of Children, a child is a person who has not reached the age of 18 (eighteen) years, including a child who is still in the

womb. UNICEF defines “child protection” as a measurable means of preventing and combating violence, exploitation, inappropriate treatment of children including sexual exploitation for commercial purposes, child trafficking, child labour and harmful traditions such as women’s circumcision and child marriage. In this context, it is clear that child violence is reflected in various aspects of child protection in accordance with the definition of UNICEF.

According to the Children’s Protection Chamber, violence against children is caused by:

- 1) Family, the occurrence of violence involving both father, mother and other brothers and sisters.
- 2) Parents who don’t go as they should.
- 3) Economic factors caused by economic impasse, making high levels of stress in which the child becomes impaired
- 4) A misguided view of the child’s position in the family by letting the child and not meeting his needs.
- 5) A background that aims to make the child respect the parents and do all the words the parents say.

The impact of child violence, which is constantly committed by parents to their child, can cause the child to suffer from serious psychological disorders. It can be known that children can remember in their subconscious all the acts of violence they have ever experienced. such unpleasant treatment will be brought up to adulthood even continuously throughout their lives.

In reality, the child is unable to protect himself from various actions that cause mental, physical, social losses in the sphere of life and subsistence. Children should be helped by others in protecting themselves, taking into account their situation and circumstances. Children need to be protected so that they do not suffer any loss, whether mental, physical or social.

2. Efforts to overcome violence committed by parents against children?

Children’s rights are defined as human rights (HAM) in the Basic Law of the Republic of Indonesia of 1945. (UUD 1945). Seed from the side of life and the country of the child is part of the intergral of a country, the child also becomes a simple generation that will continue and realize the ideals of the nation. To ensure that children have the right to life, to grow, to develop and to enjoy their right to protection from all kinds of acts of violence.⁸

Indonesia is a country that upholds its high human rights (HAM) and has been regulated in the Law No. In addition to this, it is also regulated by the Act No. 39. In 2002, the law addressed human rights and protection for children that were substantially sufficient to accommodate the rights of the child. In order for the protection of children to be successfully carried out in accordance with Law No. 23 of 2001, the legal protection for the life of children has the following conditions:

- a. Cultural values for the development of children.
- b. Solidarity is built by each individual.
- c. Economic and social factors.⁹

Violence against children may occur if a person commits an act of gender-based violence and lack of responsibility that results in suffering and endangers the health and development of the child in the public sphere as well as in private life. In fact, two out of three Indonesian children aged 13-17 say they have experienced sexual violence, emotional violence, and physical violence. The consequences of child abuse are complex:

1. the transmission;
2. threat to independence;
3. The physical injury;
4. psychological trauma;
5. unwanted pregnancy, and

Sexually transmitted diseases.

Child protection efforts should be carried out as soon as possible, apart from the concept of child protection aimed at ensuring the fulfillment of the right of the child to remain alive, grow, develop, and participate in an optimal manner in accordance with human dignity and dignity, and to be protected from violence and discrimination in order to realize the quality, noble nature and well-being of Indonesian children.¹⁰ Preventive measures can be done such as:

1. gender equality in the family;
2. Parenting based on child rights;

3. the community; and
4. Increased role of religious figures, indigenous figures, schools, and; MediaIf you are a victim, it is necessary to:
 1. processing of complaints;
 2. the health services;
 3. the legal aid;
 4. Social rehabilitation; and
 5. Social Reintegration and Return

In order to fulfill the rights of children, the government established a child protection agency, namely the Indonesian Commission for the Protection of Children. (KPAI). The agency is the only agency mandated by law to improve the effectiveness of child protection maintenance. The legal basis for the KPAI's establishment is the decision of the President. No. 77 of 2003 on the Commission for the Protection of Indonesian Children as the implementation of the mandate under Articles 74, 75, 76 of the Law No. 2002 on the protection of children.

V. CONCLUSION

With the development of crimes or criminal acts, more and more appear, for example, acts of violence against children. Nowadays, parents who have a role in protecting children have no meaning anymore, even nowadays parents are the perpetrators of violence against their own children. there are several reasons why parents are no longer so protective for children, including economic factors, a family that is not harmonious and mental trouble experienced by parents. Violence committed to a child has some impact like the child becomes disrupted in his education, the child gets aggressive to death due to the physical damage experienced by the child.

Child protection efforts should be carried out as soon as possible, apart from the concept of child protection aimed at ensuring the fulfillment of the right of the child to remain alive, grow, develop, and participate in an optimal manner in accordance with human dignity and dignity, and to be protected from violence and discrimination in order to realize the quality, noble nature and well-being of Indonesian children

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