

Protection of Children Sexual Violence Victim through Promotive, Preventive, Curative and Rehabilitative Approaches

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Abstract—State recognition of human resources starts from the recognition of children as one of the nation's valuable assets. Recognition of dignity is inherently adhered to children as their social life recognition. Children are the forerunner, potential generation to succeed the ideals of the nation's aims, having a strategic role and special characteristics and traits, that ensure the nation sustainability and development. To maintain and preserve their pride and dignity, special protection, legal protection, especially for children as perpetrators (who commit criminal acts) and children as victims, needs to be protected and acquire proper services and welfare accordingly which is regulated in various positive laws. This writing shows the problem of children sexual violence is mostly executed by the closest person. This will bring great trauma to children, which it will need for special protective effort as recovery treatment and as prevention treatment. Children who are victims of sexual violence generally do not have the developmental maturity both physically and psychologically so that they need special assistance in handling the trauma. The problem of writing focuses on the appropriate efforts for the treatment of children sexual violence, as well as the effectiveness of the implementation of government legal products in tackling sexual violence against children. To answer the problem of this writing, the Socio-Legal method approach is used with the conclusion that promotive action can be done by informing about the risks of sexual violence on children through various media, preventive measures carried out by providing sex education to children and establishing good communication with children, curative actions carried out by means of treatment activities, both physical and psychological, to reduce, control, heal, so that the quality of patients can be maintained as optimal as possible, and, rehabilitative measures carried out by returning former patients into the community so that they can normally act as members of the community. This writing also shown that the handling of children sexual abuse and violence has not optimally implemented by all related stakeholders.

Keywords— *child protection efforts, victims, child sexual violence*

I. INTRODUCTION

Child protection is covering all activities to ensure and protect children and their rights to live, grow and develop, and participate optimally and protected from violence and discrimination. Sexual abuse of children needs to attain a serious attention because the consequences of sexual violence against children will cause the child to experience prolonged trauma. Child protection efforts must start as early as possible. The portrait of sexual violence against children today is a picture that cannot be tolerated by civilization development.

Children are mandate and gift of God Almighty. Children are considered as the most valuable assets compared to other assets. Children as God's mandate must always be guarded because of inherent human dignity and rights that must be upheld.¹ Children have a very strategic position in the nation, state, society, and family. Children are the foundation of future hopes for the nation, country, society and family. Therefore, as a child, special treatment is needed in order to grow and develop naturally by physically, mentally and spiritually.

Children who are victims of a criminal act hereinafter referred to as child victims are children who are under 18 (eighteen) years old which causes the child to experience physical suffering, mental suffering, and/or economic losses caused by a crime.²

Each person will definitely believe that children are the generation that will continue the struggle and ideals of all nations in this hemisphere. They are the future which will be a new leader who is ready to face new challenges along with the times. This is clearly formulated in item "c" in consideration of Law Number 23 Year 2002 concerning Child Protection, stating that "children are budding, potential generation to succeed the ideals of the nation's aims, having a strategic role and special characteristics and traits, that ensure the nation sustainability and development."³

By enactment of Law Number 23 Year 2002 concerning Child Protection, it has substantially provided special protection for child victims of sexual violence, which is contained in Article 59 of Law Number 23 Year 2002 concerning Child Protection namely "The government and

¹ Ahmad Kamil dan Fauzan, *Hukum Perlindungan dan Pengangkatan Anak di Indonesia*, (Jakarta: PT Raja Grafindo, 2008), p.1.

² Indonesia, Undang-Undang tentang *Sistem Peradilan Pidana Anak*, UU No.11 of 2012, Pasal 1 ayat 4

³ Shanty Dellyana, *Wanita dan Anak di Mata Hukum*, Cet. Ke-1 (Yogyakarta: Liberty, 1988). p.5.

other state institutions are obliged and responsible to provide special protection to children in emergency situations, children in conflict with the law, children from minority and isolated groups, children who are economically and / or sexually exploited, children who are trafficked, children who are victims of abuse of narcotics, alcohol, psychotropic substances, and addictive substances others (drugs), child victims of abduction, sale and trafficking, children of victims of physical and / or mental abuse, children with disabilities and children of victims of mistreatment and neglect."

Article 82 of Law 23 of 2002 concerning the Protection of Children regulates: "Any person who intentionally commits violence or threat of violence, forcing, making tricks, a series of lies, or persuading children to commit or allow obscene acts, to be convicted with imprisonment a maximum of 15 (fifteen) years and a minimum of 3 (three) years and a maximum fine of Rp. 300,000,000.00 (three hundred million rupiah) and at least Rp. 60,000,000.00 (sixty million rupiah)".

According to Ricard J. Gelles, violence against children is an intentional act that causes harm or danger to children (both physically and emotionally). Forms of violence against children can be classified into physical, psychological, sexual, and social violence and have a detrimental effect on the physical and mental health of children.⁴

There are several reasons why children are often becoming targets of sexual violence, namely: children are always in a weaker and powerless position, community morality, especially perpetrators of low sexual violence, parental control and awareness in anticipating crime against children is low. Initial studies and research have shown that sexual violence against children is rarely carried out by strangers (unknown to the victim).

II. PROBLEM STATEMENT

Policies related to sexual violence in Indonesia do not only regulate punishment, there are other things that are also discussed but have never been a public concern, for example Law Number 35 of 2014 concerning Amendment to Law Number 23 of 2002 concerning Child Protection, discussing the children rights to get protection from sexual violence. All parties including education sector are obliged to fulfill that right.⁵

Local governments and state institutions also have an obligation to provide special protection for child victims of sexual violence by providing prompt treatment, including treatment, physical, social rehabilitation, assistance, social assistance, and protection in each judicial process. The various commitments mentioned above need to be strengthened by implementation and targeted intervention, because "protecting

legally" alone does not directly correlate with decreasing rates of violence against children.⁶

Children who are victims of sexual crimes have different needs from victims of other crimes in general. Some distinguishing factors, as follows: 1) The level and form of trauma experience. 2) Children are vulnerable to become victims of the attack 3) Social pressure from adults on children who are victims of crime that are helpless. 4) Social support for perpetrators of crime. Close relationships between victims and perpetrators often add to the complexity of handling cases of sexual crime in children. Various forms of special support and protection are needed to help children who are victims of sexual crimes.

The results of research have proven that sexual violence against children can have a serious impact on victims, both in the short term (while still a child) and in the long term (when becoming an adult).⁷ Sexual violence against children does not only affect mental health, but also the physical health of children. Children who experience sexual violence tend to show symptoms such as anxiety disorders, depression, PTSD (Post-Traumatic Stress Disorder), and low self-esteem. They also have a great tendency to show symptoms of behavioral disorders such as hyperactive behavior, aggressive and antisocial behavior, inappropriate sexual behavior, and problems in school. Eating disorders and health complaints are also often shown by children who are victims of sexual violence.

The symptoms of these mental and health disorders may not be immediately apparent, but can appear when the child becomes an adult. Adults who are victims of sexual violence while still children can experience mental and health disorders such as PTSD, depression, anxiety disorders, bulimia, alcohol dependence, or drug dependence. Victims will experience more severe symptoms when the culprit is a family member, when sexual contact occurs more frequently or occurs in a prolonged period of time, and when sexual activity involves penetration (vaginal, oral, or anal). From the findings presented earlier, it can be seen that each child experiences a different background, which makes him vulnerable to becoming a victim of sexual violence. Therefore, an assessment process is needed for each victim to identify the right steps in providing an intervention.

Thus, the problem raised in this paper is how promotive, preventive, curative and rehabilitative actions are appropriate for the treatment of child sexual abuse.

III. RESEARCH METHOD

To answer the problem in this study, the Social Legal Method approach is used. The Socio Legal Approach is the "Umbrella Concept" by emphasizing the Empirical Juridical approach. It covers all approaches to law, the legal process, and the legal system. In dogmatic law is essentially practical science whose products will be evaluated directly by the public. Means, in

⁴ Abu Huraerah, *Kekerasan Terhadap Anak*, (Bandung: Nuansa Cendekia, 2012), p.48.

⁵ Indonesia, Undang-Undang tentang Perubahan Atas Undang-Undang tentang Perlindungan Anak, Pasal 54

⁶ Hillis, SD, Mercy JA, Saul J, Gleckel J, Abad N, Kress H, *THRIVES: A Global Technical Package to Prevent Violence Against Children*. (Atlanta: Centers for Disease Control and Prevention, 2015), p.10

⁷ J.S. Hyde, *Half the Human Experience: The Psychology of Women 7th Edition*, (Cengage Learning, 2006).

the application of legal science cannot ignore the community views each time supplying its products to the community.

While empirical science about law such as legal sociology, legal anthropology, legal semiotics, and many more, has a role to help dogmatic jurisprudence by expressing people's responses to the contextual existence and function of law. According to Shidarta, cooperation between dogmatic legal science and empirical sciences about law will occur within the scope of internal dynamics of socio-legal studies.⁸

The identification carried out in a socio-legal study is not limited to the text, but also a deepening of the context, which includes all processes, for example from 'law making' to 'implementation of law'. The label of socio-legal studies has gradually become a general term that encompasses a group of disciplines that apply a social scientific perspective to legal studies, including legal sociology, legal anthropology, legal history, psychology and law, the study of political politics of justice, and comparative science.

This research uses primary and secondary data. Secondary data were obtained from literature studies, in the form of primary, secondary and tertiary legal materials. Primary legal materials were obtained from the main sources of research as well as the main legal materials that bind to this research such as Law Number 35 Year 2014 concerning Child Protection and Law Number 23 Year 2004 concerning the Elimination of Domestic Violence. While secondary legal materials will be supplemented from supplementary sources such as book references, literacy, which are used in this study. Whereas tertiary legal material is supporting material for primary and secondary law such as encyclopedias dictionaries and others.

IV. RESULT AND DISCUSSION

The most prominent legal products in protecting children who have not been well socialized are the 5 (five) laws that regulate children, namely:

1. Law Number 4 of 1979 concerning Child Welfare;
2. Law Number 3 of 1997 concerning Juvenile Courts;
3. Law Number 20 of 1999 concerning Ratification of ILO Convention Number 138 Regarding Minimum Age for Being Permitted to Work;
4. Law Number 1 of 2000 concerning Ratification of ILO Convention Number 182 Concerning the Prohibition and Immediate Action of Eliminating the Worst Forms of Child Labor; and,
5. Law Number 23 of 2002 concerning Child Protection; besides the Act there is Presidential Decree Number 36 of 1990 concerning the Ratification of the 1986 Convention on the Rights of the Child.

From these five laws in general it can be said, that in quantitative terms there are already enough laws and regulations that provide protection for children in line with Law Number 39 of 1999 concerning Human Rights. Quantitatively the existence of laws that provide protection to children is quite a lot, but in the implementation of these laws

and regulations not yet fully implemented. This is caused by, among others:

1. The establishment of the Indonesian Child Protection Commission (KPAI) based on Law Number 23 of 2002 concerning Child Protection has not been realized yet;
2. Law Enforcement efforts are still experiencing difficulties;
3. Harmonization of various laws that provide protection to children faced with various obstacles;
4. Socialization and dissemination of laws and regulations to the public cannot be fully carried out properly.

The increasing cases of sexual violence against children in various regions in Indonesia, it is necessary to overcome various efforts to combat child sexual violence. Efforts to deal with criminal acts are essentially part of criminal politics or criminal policy. This criminal policy can be interpreted in the narrow sense, broad meaning and broadest meaning.

In a narrow sense, criminal policy is defined as the whole of the principles and methods that form the basis of reactions to criminal violations in the form of crime. In a broad sense, criminal policy is the overall function of law enforcement officials, including the workings of the police and the court. In the broadest sense, criminal policy is the entire policy carried out through legislation and official bodies and has the aim of enforcing central norms in society. The enforcement of these central norms can be interpreted as tackling crime.⁹

To solve the problem of sexual crimes against children, an effort or policy is needed to prevent and deal with crime. Efforts or policies to prevent and deal with crime include the field of "criminal policy". Even this criminal policy cannot be separated from broader policies, namely "social policy" which consists of "social welfare policy" and "social defense policy".

Thus, if crime prevention policies (criminal politics) are carried out using "penal" (criminal law) means, "criminal law policies" ("penal policy") especially at the judicial / applicative policy stage (enforcement of criminal law *in concreto*) must pay attention and lead to the achievement of the objectives of social policy, in the form of "social welfare" and "social defense".¹⁰

Bambang Poernomo stated that according to criminal law, the handling of criminal acts can be reviewed from 2 (two) aspects as follows:

1. Preventive countermeasures, which are actions taken to expedite the entry into force of the law before the actual act of violating the law. Can be done using legal and non-legal means (sociological, psychological, criminological, etc.)
2. Repressive countermeasures, namely the actions of legal officers against someone's actions committed after violations of the law. The handling of this criminal act starts from the investigation and provision of evidence by the police, the prosecution by the prosecutor, then

⁸ Sidharta, *Hukum Penalaran dan Penalaran Hukum, Buku 1: Akar Filosofis*. (Yogyakarta: Genta Publishing, 2013).

⁹ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, (Bandung: PT Citra Aditya Bakti, 2005), p. 1.

¹⁰ Moh Hatta, *Kebijakan Politik Kriminal*, (Yogyakarta: Pustaka Pelajar, 2010), p. 37.

proceeding with the trial examination by the judge who prioritizes the analysis of events that result in violation (major) and the rule of law (minor) concerned to obtain the judge's decision (conclusion) and ends with the implementation of the decision.¹¹

From the explanation above regarding efforts or policies on crime prevention and handling, it is must clearly support the objectives namely, community welfare and community protection. Both of these are very necessary for the community, especially for victims of sexual crimes in children.

1. Promotive Efforts, can be done through a series of activities that consistently and continuously inform about the dangers of sexual violence on children through various media. In this case, a campaign / promotion or anti-sexual violence against children is needed, which is continuously disseminated through various mass media. It aims to make the community more educated and more aware of cases of sexual violence against children. In this campaign/program, the role of government and other institutions/organizations is actively needed.
2. Preventive efforts, can be done through a series of activities to prevent the treatment of sexual violence against children. This should start from within the smallest environment, the family, by providing sex education to children and building good communication with children. More broadly, the community environment must continuously conduct counseling in the form of sex education, and the inculcation of moral values, as well as faith and morals.
3. Curative efforts, can be done through a series of treatment activities, both physical and psychological, to reduce, control, heal, so that the quality of patients can be maintained as optimal as possible. Child victims of sexual violence certainly need a different treatment. Here the involvement of experienced parties such as psychologists, child observers, specialist doctors is needed in the process of physical and psychological treatment in children. In fact, it takes a counseling agency and a call center for complaints in handling cases of sexual violence against children.
4. Rehabilitative efforts, can be done through a series of activities to return former patients into the community so that they can function again as members of the community that are useful for themselves and the community as much as possible according to their abilities. This will greatly require the participation of families and communities especially, so that victims of child sexual violence can feel accepted and not alienated or used as gossip. In addition, related institutions involved in the role of child sexual violence can create various rehabilitation programs that can be followed by victims of post-traumatic children.

However, in terms of the implementation of these efforts, from a number of studies of cases of sexual

violence against children, we are still encountered some problem and weakness as follows:

1. In promoting effort it was found that there were lack of information systems that can be accepted directly to children, that there should be no sexual violence against children and the danger of sexual violence is not only felt by the child who is actually the victim, and without realizing he has become a perpetrator and there are others child victims.
2. In a preventive effort it was found that there were deficiencies in the delivery of systematic and integral actions to all parties, especially family as the main gate for child sexual abuse protection.
3. In a curative effort it was found that in some cases it should be taken seriously, adult offenders who have sexual relations with children are sexual violence and are serious crimes, but there are still perpetrators who are totally unlawful and still around the victims' children. Cases that have finally been revealed have only been taken seriously.
4. In rehabilitative efforts it was found that there were several victims of sexual abuse in children who did not get comprehensive rehabilitation. This is due to various constraints, one of which is the lack of rehabilitation supporting facilities.

V. CONCLUSION

Promotive, preventive, curative and rehabilitative actions must be carried out systematically and continuously. Sexual violence in children, especially in early childhood should not occur. In general, the incidence of violence against children is often a well-known person. For families who have problems such as being a parent at a very young age, children with problems, economic problems, the head of the family does not have a job, inadequate housing, parents who abuse certain substances, children left behind by parents, children who are health problems, then the root of the problem must be solved first by healing or improving the situation and problems itself.

Prevention of sexual violence against children can be done earlier by giving children an understanding of gradual sex according to the child's development. Communication about sex education must begin with respect so that children do not underestimate the questions or words that are spoken. If parents give examples of how to say the words "sensitive" with respect, then the child imitates this attitude. They will not feel ashamed or pressured to talk about things that are still considered as shaming or taboo for some people. Another way, honest self-disclosure is important so that parents get accurate information about children. Besides making the children more feel relieve, parents are also finally able to get information about their children.

Barriers to family communication are one of the factors causing child neglect. Usually the cause is a busy parent. Parents should make time even though how busy they are to communicate with their children. Another communication barrier is the cultural factor of respecting and listening to parents when talking. Children who are not

¹¹ Bambang Poernomo, *Orientasi Hukum Acara Pidana*, (Yogyakarta: Amarta Buku, 1984), p. 88-90.

allowed to intervene when parents speak, make children reluctant to communicate.

In addition, the use of social media that is not appropriate may create negative influences. Parents must create openness in communication so they can define and detect earlier what is felt by their children. Besides, mutual respect and respect between parents and children so as to create a harmonious atmosphere in communication. Supporting attitude also needs to be performed by parents to children in communication so that children are eager to tell stories, able to distinguish between right and wrong, and increase children's confidence.

Violence against women and children is impossible to overcome properly if each related institution is left to handle it alone without active participation from family, community and related institutions. The handling of violence against women and children needs to be performed comprehensively both for victims and perpetrators of violence.

With involvement in all sectors and fields, the role of the family, community and the State in the prevention of child sexual abuse is carried out comprehensively through promotive, curative and rehabilitative rehabilitation which will result in effectiveness in the implementation of government legal products as instruments for handling sexual abuse of child victims. At this stage, these efforts are still being carried out but have not been able to reduce the number of cases of child sexual abuse that have occurred, which we may conclude that the implementation has not been running optimally.

The phenomenon of sexual violence tends to receive more serious attention than other forms of crime because of its serious impact on the victim, and causes moral panic in the community. Therefore, the Government and its stakeholders need to identify effective measures for the benefit of victims and the community, considering the specific circumstances of the perpetrators. Policies made to respond to the phenomenon of sexual violence against children must be thought comprehensively based on evidence, and not be seen as a legal reaction to a violation of law or crime, and with a comprehensive solution.

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