



Criminal Law Policy in Collecting Sexual Violence Against Children

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ABSTRACT

The policy of criminal law is a series of criminal law enforcement that includes stages of policy formulation, and implementation and execution including the eradication of sexual violence against children. so that the law can provide equal justice, and certainty and its benefits in society. This study aims to determine the policy in criminal law in preventing the occurrence of sexual violence against children based on laws and regulations relating to the prevention of sexual violence. The purpose of the study is to determine the implementation or application of laws and regulations as stages of application in society in overcoming sexual violence in criminal acts against children. The method used is normative and the type of research is normative juridical which is based on the principles, principles and provisions of applicable laws and regulations with a review of library materials. The novelty or novelty with previous research focuses more on sanctions or punishments or threats of severe punishment for perpetrators of sexual violence against children, namely the application of the death penalty for the perpetrators. While the impact of the application in society in the application of sanctions in laws and regulations can minimize or reduce the occurrence of children who experience sexual violence

INTRODUCTION

Protection of citizens is the state responsibility and obligation in fulfilling their rights as stated in constitution of articles 28G and 28I of the 1945. In Article 28G, Everyone has the right to self-protection, honor and dignity which a person has is the right to protection of himself, as well as a sense of security and protection. From the threat of fear to do or not do something Thus, Article 28I states that not to be tortured and not to receive discriminatory treatment is the right of everyone From the above train it is very clear that protection is given to everyone without any differences from one another and without any non-discrimination or selective discrimination in relation to criminal acts or violence that is good in nature from the body, also because of the mental and psychological, also because of sexual desire violence . Any rights must also be given protection citizens related to in binding rules and also in writing then sexual violence in Human Rights Law Number 39 of 1999 which regulates the rights of citizens to be free from sexual violence.

The right to be free and not to be tortured or treated badly is an absolute basic right of every human being. Sexual violence is a phenomenon that is increasingly occurring and not only affects or happens to adults but also children in the neighborhood, family and school, sadly, sexual violence experienced The perpetrators, most of whom are adults and also children. come from in relationships cannot be separated from the correlation with closeness to people or closest family even those who already known by the victim, and the tendency of the victim himself to be reluctant to report due to fear, threats from the perpetrator and consequently causing depression, stress, from the victim himself. Women's commision found at least nine forms of sexual violence, consisting of nine forms, namely: forced marriage, prostitution carried out by force, sexual harassment, contraception by force, sexual exploitation, forced abortion, rape, sexual slavery, and sexual violence. torture .

LITERATURE REVIEW

Children as someone who is not yet an adult sexual violence where protection is a right to be obtained, protection from such acts has been regulated in the Child Protection Law Number 23 of 2002 which has been revised by Law Number 35 of 2014 concerning Child Protection Article 76E regarding the prohibition of committing sexual violence in the form of obscene acts which reads:

Everyone is prohibited from committing violence or threats of violence, coercing, deceiving, committing a series of lies, or persuading children to commit or allow obscene acts to be carried out .

Protection the children from all good actions in the form of whatever it is if it is a form of violence and its form then must be avoided or stopped additional that does exist violating human rights it is also a violation of other rights, and guarantees for peace and protection for children are already regulated regarding the rights as contained The implementation of restitution for child victims of crime is regulated in Government Regulation Number 43 of 2017. in Article 2 paragraph (2) point f, that children who become victims of criminal acts are often the victims are children sexual crimes, and Government Regulation Number 7 of

2018 which regulates the provision of compensation, restitution and assistance. to witnesses and victims

METHODOLOGY

Criminal law policies in overcoming sexual acts related to child protection in a penal effort already exist various laws and regulations regarding the protection of children as victims of sexual violence, in addition to the issuance of Law Number 35 of 2014 concerning children and their protection Criminal Acts. Sexual violence aims in accordance with the provisions of Article 3a, namely preventing sexual violence as an act of violence in all forms whether carried out physically or non-physically and also regulating the crime of sexual violence, one of which is based on the best interests of the victim. Comprehensive protection for victims by prioritizing and prioritizing their rights without any act of discrimination

The protection provided must be from the start and fundamental, especially when it relates to children. maximally from all acts that are inhumane acts and protection is provided with a sense of comfort, security for body soul and from free any threats including threats of sexual violence which will have an impact and result in children becoming victims. who have to bear the suffering they experience, and the protection given is from the closest person, namely family to the always guide, protect the child and supervise and not vice versa to become the perpetrator or predator of his own child .

The existence of a criminal law policy in tackling sexual violence for children legislation and various other rules accompanied by the threat of sanctions that commit sexual violence against children so as to minimize criminal acts or sexual crimes by prioritizing he emphasized that the sanctions applied in providing children with protection for perpetrators is a embodiment in providing fulfillment of children's rights in the best interests of children, where the best interest is prioritized and focused on fulfilling the rights and needs of children in protection the interests of adults first. Based on the introduction above, the problem to be studied is the criminal law policy the need to combat acts of sexual violence against children

RESULTS AND DISCUSSION

Child Protection and Their Rights

Children as someone who is not yet an adult the right to do get in providing protective measures for their rights relation to the right to life and not to get violent treatment that can hinder their growth and development, the protection arrangement has been regulated in Article 1 paragraph 2 of Law Number 35 of 2014 concerning Amendments to the Law in Number 23 of 2002 concerning Child Protection states that Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and protection, and receive protection from violence and discrimination

Questioned about the rights that live in is the right to a basic need for the survival of the child's life, also to develop and grow and be able to develop his full potential. It can also always participate by providing opportunities for children to be involved in things that can affect the child's life which are the same and in according to the level of development and age, where protection aimed at preventing violence in all its forms must be reviewed in terms of age and developmental suitability so it can also be concluded that in obtaining protection for children, it is the authority and responsibility of the state and also society, as well as the central and regional governments, and even all stakeholders have the right to provide it protection .

This article emphasizes that child protection is an obligation for everyone without exception and it is intended that carried out responsibly for children and also for protection rational and useful ethics in reflecting to effort that is also effective and efficient, as well as efforts to provide children and their protection and should not lead to an initiative and creativity and lead to a dependence on others and behavior that does not have a control.

With a child aged between 8 to 18 years, a child still needs help and assistance from other people, because in such a condition he really needs protection from all forms of threats and also any violence as well as acts of discrimination and intimidation and really needs to be given especially a protection to violent sexual acts and often children become victims of these acts children will lose their rights and these rights are:

- a. For the existence of rights education, sexual violence where the victim is a minor will certainly lose their right to education and not concentrate or focus on lessons, so that children will be left behind in learning and of course will hinder children in obtaining education towards and achieving their goals, so that children need to be given protection for their rights in the field of education which is intended for the development of attitudes and personality talents, mental and physical so that can be optimal, respect for human rights, develop respect for parents, and cultural and linguistic identity as well as their own values, so that children can be responsible, and develop respect for and love for the environment.
- b. The right to health is the most important thing that is obtained and given to children according to their rights and the child is sexual and violence experienced by the victim it can result in or have an impact on the child's health and reproductive damage and can result in venereal disease or the HIV/AIDS virus. For that it is necessary guarantee children and the protection provided in the health sector in order to obtain optimal health degrees and be supported by the participation of the community, as well as the provision of special medical assistance for underprivileged families free of charge existing provisions must be implemented firmly in legislation, parents or a family that principle provides protection to the child and takes care of it since it is still in the womb, and if they are not able to carry it out, it is obligatory from the government to take care of it and provide protection

Child Sexual Violence

The notion of violence (abuse) Cruel treatment is often equated with the term violence, namely wrong and cruel treatment, not only including physical, but also mental or acts of neglect. Terry E. Lawson said or mentioned that violence experienced by children (child abuse), through child abuse, ranging from neglect that causes suffering to rape and also murder, which can still be classified as acts of emotional abuse, and also physical abuse, and also sexual abuse.

The forms Rape or molestation is referred to as a sexual act of violence, so that sexual violence itself is a form of action in the form of harassment, or there is an indication of a violation of human dignity and of course it is very detrimental and dangerous. inhumane, carried out by coercion and also accompanied by threats from the perpetrator so that sometimes the victim does not dare to report the events he experienced both to his own family, the community and even to law enforcement. Children as someone who is vulnerable to violence often get very unpleasant treatment and actions, where helpless children sometimes get treatment for sexual violence from their closest family, it can be from their father, uncle and even brother, where they should be protectors for their families instead they become predators or predators, the helplessness of children leads to depression, stress and suicide.

Trauma as a result Cases of sexual and violent violence that are often experienced by children will be very difficult to eliminate if they are not handled as soon as possible by experts, even children who experience acts of sexual violence, where the short-term impact will certainly experience very bad dreams, and excessive fear of other people, and are less able to concentrate. Decreased In the long term, when someone has entered adulthood, they will experience a phobia of sex or even worse, and will become accustomed to violence before having sex and the impact on their health will greatly affect them. It could also be that after becoming an adult, the child will follow what was done to him as a child

Sexual violence is an act that can result in acts of coercion or threats sexual activity and its activities must be able to be maintained so as not to carry out anarchic actions. The sexual activity in question is an act or actions such as touching, as well as sexual abuse and rape which can result in physical, psychological and social impacts. Sexual violence can have a bad or bad impact on the child and greatly affect the physical, and psychological, of the child itself in the form of a wound or tear of the hymen and this can also be proven by an examination from a doctor as an expert witness who can prove that there has been a crime an act or crime

Psychological impacts can cause the victim to cause mental trauma and a sense of fear when meeting with the opposite sex, namely men because it creates distrust and deep trauma for the victim and it can also be not only fear but also stress or depression and also suicide, while from the social impact is the existence of unpleasant treatment or cynical attitude from neighbors or the environment where the victim lives and the fear and worry about being involved and the

victim feels belittled and ostracized because of being a victim of the sexual violence.

Criminal Law Policy

Policy is defined as a concept or basis and even planning of a job that is made so that it can run according to or as expected while criminal law itself is a legal rule made by the government or state in providing protection to its citizens, so that it can be protected it is necessary to provide a legal rules that are firm and coercive in a codification of a regulation, both general and specific. The regulation is a guideline for citizens in acting and acting so as not to interfere with the interests of others so that a sanction or punishment is made in the regulations relating to existing articles, meaning which actions or actions taken have been carried out then there is the inclusion of articles and sanctions and is something that is written so that in its implementation it can provide a benchmark to the community and it is hoped that there will be no more actions that are contrary to the law or can disrupt order in society.

3 (Three) Stages in Criminal Law Related to the Implementation of its Policies, Namely:

1. Formulative Policy Stage, namely determining or formulating actions that can be categorized as criminal and what sanctions can be imposed by the law-making body. Determining a criminal act in addition to the existence of evidence and evidence as strong evidence there must be reports and complaints from the public also because of being caught red-handed and being called out by the public that a crime has occurred, and for the perpetrators there has been an inherent error to be able to In other words, to be able to fulfill or determine guilt for the perpetrator, the perpetrator must meet at least 3 (three) elements, namely:
 - a. there is criminal liability
 - b. intentional (dolus) and negligence (culpa)
 - c. and no excuses

In addition to the application of the error or principle of the perpetrator's error, elements of a crime must be fulfilled which determines that The perpetrator who carries out an act is included in the criteria criminal acts, which are contrary to the law and cause harm to others, meaning that there must be elements of a act criminal in determining a actions person's to punished, which includes objective and subjective elements that is :

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- a. There is a mistake, namely intentional (dolus) and negligence (culpa).
- b. Responsible is the ability to, a person who can account for his actions in a physically and mentally healthy condition, not crazy but normal and not under guardianship or care and if a person is not healthy, it must be proven by examination of expert witnesses or medicine stating that a person is not healthy with letter proof
- c. The act has been regulated in law, there are already arrangements, either in the old law or in a special law that the act is prohibited in the form of sanctions accompanied by threats imprisonment or fines.

- d. Time and also circumstances and place (locus delicti and tempus) delicti), where in determining an act the place where the act was carried out and the time is related to the day and hour and the condition of the perpetrator, namely healthy and aware in doing so and there is no threat or intimidation from other parties
2. Legislative Policy Stage, which is the stage related to laws and regulations regarding child protection, sexual violence, human rights and child welfare, against the rights of children who are victims of sexual violence will clearly violate their rights rights and the consequences caused will certainly affect the living conditions of the child as a victim, there needs to be an anticipation if the victim is still a child who later as a nation that will continue the struggle needs to be secured by providing severe punishment for the perpetrator and providing certainty for the victim, by not only giving criminal penalties but also can be done with a double track system through action sanctions. Legislation as a penal action given to the perpetrator and compensation to the victim must be regulated in a law by providing sanctions to the perpetrator with the aim of minimizing the crime committed.
3. The Drafting/Formulating Criminal Law Stage, in the preparation of a regulation 3 (three) aspects are based on sociological, namely those based on community aspects where a written regulation is indispensable as a guide in society in acting accompanied by threats of sanctions, while from the philosophical aspect, which is based on the philosophy of a nation or state and must not conflict with the philosophy or way of life of a nation and juridically in the formation of a regulation that has been made and ratified by authorized and competent institutions in its manufacture. After the criminal law policy stage in this aspect of the formulation or execution stage is carried out, it is necessary to have an application stage where a law in its application or enforcement in society is acceptable and not contradictory. The Act on the Crime of Sexual Violence Number 12 of 2022 was made with the aim of preventing all forms of Preventive prevention is very necessary and very important so that there are no more victims who can befall women and children who are very vulnerable

Child Victims of Sexual Violence and Prevention Efforts

Countermeasures are related to criminalization policies in society against efforts made in order to restore to their original conditions or conditions, countermeasures are also included in criminal policies after the existence of criminal law policies related to sanctions or regulations that have been made by institutions relating to sexual violence. Children so that with these rules there is a response or public reaction to the policy. Combating crime with criminal law is more focused on repressive efforts, namely actions or actions that are carried out after the crime has occurred by enforcing the law and imposing penalties on actions or criminal acts that have occurred or have been committed by the perpetrator .

Efforts to overcome violence against children as victims of course get protection for their rights including in Protection for children in the provisions of the rules states that they should receive special attention and regular supervision as victims leave prolonged trauma in other words the impact left is very deep and difficult to overcome. Forgotten by the victim, there needs to be efforts to handle and seriousness in giving special attention to children, at least there is an effort to recover for children as victims

In providing legal channels which constitute special assistance, it is the state that is responsible. aid, rehabilitation or other rights related to victims' recovery. In the middle of the twentieth century, violence against children has increasingly become victims of sexual violence and the existence of victims Considered as violation their basic rights, especially their physical safety and psychological security and well-being

According to the report from WHO, in recommending the main steps in the process to reduce and also prevent the occurrence or occurrence of acts of violence, namely:

- a. Gather as much knowledge as possible about the phenomenon of violence at local, national, and international levels
 - b. Investigate the causes of violence
 - c. Look for ways to prevent violence by designing and implementing and monitoring and even evaluating interventions
- Impact of sexual violence on children with handling and efforts, namely:
- a. Knowledge of Education about reproduction from health, understanding of religion and its values, and also morality along with ethics, and morals
 - b. The need for social rehabilitation
 - c. During the treatment period until recovery there is psychosocial assistance
 - d. Protection and assistance at every stage of the examination starting from the beginning of the investigation, as well as prosecution, until the court stage is given

In Law no. 23 of 2002 Article 88 stipulates the existence of criminal provisions for anyone who exploits the economy or sexually of children with the intention of benefiting themselves or others, shall be punished with imprisonment for a maximum of 10 years and/or a fine of a maximum of Rp. 200,000,000.00 (two hundred million rupiah), while Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) article 90 stipulates that children as victims have the right to receive rehabilitation from institutions and outside institutions Social rehabilitation is an integrated process of recovery activities, both physical, mental and social. So that the victim's child, and or the witness's child can return to carrying out social functions in life in society

The child's suffering as a result of sexual violence means that the child in the sense of suffering has the right to receive his rights are also basic rights by restoring children's conditions to normal where there are parties from witness and victim protection agencies who also provide assistance in forms such as physical and psychological assistance, namely security and escort. Given so that the victim gets a sense of security and comfort, placement in a safe house without

terror or threats from the perpetrator or someone who is considered the victim will threaten his sense of security, get a new identity.

The existence of medical assistance or treatment provided to victims without having to appear directly in court and psycho-social rehabilitation assistance. With The form of protection for victims in obtaining their rights as referred to in legal protection is the existence of respect related to dignity and honor, as well as a sense of security, as well as justice, and also the absence of discriminatory actions, as well as legal certainty for the parties, namely for witnesses and victims who both receive peace. Law on the Crime of Sexual Violence Number 12 of 2022 that victims have the right to receive treatment, protection and recovery that are obtained and used and enjoyed by victims in accordance with the provisions of Article 1 point 16. In addition, there are arrangements for restitution carried out by parents or guardians, where children as victims of sexual violence get their rights as stated in Government

Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children who are Victims of Crimes where in Article 2 point f, children who become victims of crimes sexual crimes are entitled to restitution and restitution as referred to in the provisions of Article 3 includes compensation provided by the state for loss of property, as well as suffering resulting from criminal acts, and reimbursement of medical and/or psychological costs

CONCLUSION AND RECOMMENDATION

Child sexual violence children whose rights have been violated demeans dignity and humanity because it violates the principles of child protection in accordance with their human rights, namely the right to live to get comfort and security and avoid violence.

FUTHER STUDY

This research still has delays, so further research related to the topic of Criminal Law Policy in Collecting Sexual Violence Against Children needs to be conducted to enhance this research and provide insights for the readers.

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