

LAW ENFORCEMENT AGAINST CHILD PERPETRATORS AND VICTIMS OF SEXUAL HARASSMENT (Study of Medan District Court Decision No. 2068/Pid.Sus/2020/PN.Mdn)

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ABSTRACT

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 their human dignity, and receive protection from violence and discrimination. Therefore, there needs to be legal guarantees for child protection activities. The results of the study show that the factors causing the occurrence of sexual harassment crimes against children are lack of parental supervision of children, environmental factors, law enforcement factors, technological factors, vulnerability factors and of these factors, the most common are environmental factors and technological factors. Legal protection for children as victims of sexual harassment crimes is carried out in the form of protection in the investigation process in the form of investigations carried out by female police, keeping their identities secret from the community and providing assistance, monitoring and advocacy, namely finding alternatives for children to get institutions that can be used as permanent residences for children, making restitution so that the rights of children who are victims can be fully realized and realized.

1. Introduction

Children's rights are part of the human rights enshrined in the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and the United Nations Convention on the Rights of the Child. From a national and state perspective, children are the future of the nation and the next generation of the nation's ideals. Therefore, every child has the right to survive, grow, and develop, participate, and be protected from violence and discrimination, as well as civil rights and freedoms. Sexual behavior is a timeless problem, stemming from basic human potential that is not realized through relevant channels, both from a moral and humanistic perspective. The realization of erroneous instincts ultimately creates its own humanitarian problems that require solutions. One such deviant sexual behavior is child sexual abuse.

Child sexual abuse is a disturbing or demeaning behavior or action perpetrated by an individual or group of people against another party, directly related to the gender of the harassed party and perceived as degrading the dignity and self-

esteem of the harassed party. Sexual harassment is a crime in which an adult touches a minor for sexual gratification, such as rape (including sodomy).

Sexual harassment against children will undoubtedly impact the child's psychological and developmental well-being. The psychological impact on children can lead to long-term trauma, which can then lead to unhealthy attitudes, such as inferiority complexes, excessive fear, impaired mental development, and ultimately, mental retardation. This situation can potentially become a painful memory for child victims of sexual abuse. The active role of law enforcement officials in combating crimes against morality is crucial.

One of the most common and horrific forms of sexual harassment experienced by children is rape. Sexual harassment is classified as a crime in Indonesia and even globally, and perpetrators face severe criminal penalties. Sexual harassment is considered a crime with a high degree of cruelty and a profound degrading effect on human dignity.

Punishing perpetrators of sexual harassment does not alleviate the trauma suffered by children. Child victims of sexual harassment suffer not just once, but repeatedly and require serious treatment. Considering that children are the pillars and hope of their parents, and are the future generations of this nation, they must be protected and given love. However, the facts speak otherwise. The rise in cases of child sexual abuse in recent years seems to contradict the notion that children need protection. Many children are victims of violence in their families, neighborhoods, and communities today.

Children who are victims of sexual abuse often experience feelings of shame, self-loathing, and depression. To cope, they resort to excessive use of drugs and some even self-harm to express their pain. This ultimately leads to a mental disorder known as post-traumatic stress disorder. However, children as victims have the right to receive medical assistance and psychosocial rehabilitation. Psychosocial rehabilitation is assistance provided by psychologists to victims suffering from trauma or other mental health issues to restore their mental health.

2. Research Method

This research is descriptive and analytical, exploring laws and regulations related to the legal theories under study. Descriptive analysis is a method used to describe a condition or situation that is currently occurring or ongoing. The goal is to provide as accurate data as possible regarding the research object, thus exploring ideal aspects. This paper then analyzes them based on legal theory or applicable laws and regulations. This paper outlines matters concerning law enforcement against child perpetrators and victims of sexual abuse.



This research utilizes materials obtained from library research. Secondary data, including primary, secondary, and tertiary legal materials, are collected from library research. In normative research, the data required is secondary data. This secondary data has a very broad scope, encompassing personal letters, diaries, and official documents issued by the government.

The approaches used in this research are the statute approach and the legal approach. A case approach was used in analyzing the Lubuk Pakam District Court Decision Number 7/Pid.Sus-Anak/2021/PN.Lbp. The case approach was conducted by examining cases related to the legal issues at hand, which have become final and binding court decisions.

Data collection focused on the underlying issues, ensuring that the research avoided any deviations or ambiguities in the discussion. This study utilized primary and secondary data.

To obtain objective, verifiable, and accountable results, the data in this study were obtained through library research, a method used to collect data through reviewing library materials or secondary data, including primary, secondary, and reference legal materials.

3. Results And Discussion

Results

Lack of parental supervision leads to crimes against morality, in this case sexual harassment of minors, a crime with very little evidence. Victims of sexual harassment are unaware that they have experienced sexual harassment or other immoral acts due to the child's inability to comprehend the incident or excessive fear, preventing them from reporting the incident to adults or family.

Sexual harassment and violence against children have become a common phenomenon in society, creating fear and concern for the child's development and mental well-being. While parents may feel that their child is doing well, receiving good guidance and understanding their parents' advice, sometimes the opposite is true when the child is outside the home. Therefore, when children begin to explore the outside world, socialize, and play with their friends, it is best to provide them with supervision. Children should not be allowed to socialize too widely, as their environment greatly influences their behavior. The social environment in which they socialize is crucial, especially for children who frequently leave the house without their parents knowing their social circle. Children are highly susceptible to outside influences and promises of various benefits. Children are not yet capable of discerning what is good and bad, right and wrong. They only know what is fun, which they perceive as part of a game.





The numerous cases of child sexual abuse create fear and discomfort in society and within their families. This results in a lack of a safe and peaceful environment. Sexual abuse of children is detrimental to others because it violates social and legal norms.

Therefore, perpetrators of sexual abuse are subject to criminal sanctions (punishments) in accordance with applicable laws as a form of legal policy for their crimes. Evil, immoral, and antisocial human behavior angers and irritates society, significantly harming the public. Therefore, these crimes must not be allowed to continue to develop and flourish in society. The community as a whole, together with authorized official institutions, including the police, prosecutors, courts, and even correctional institutions, is obliged to address this crime as effectively as possible.

Discussion

To effectively address the crime of sexual harassment, law enforcement against perpetrators of sexual violence is necessary by imposing penalties commensurate with the crime committed. This will serve as a deterrent and reduce the prevalence of child sexual harassment, which affects many children.

For law enforcement to run smoothly and effectively, and for crime prevention to have a positive impact, several influencing factors are involved, one of which is the legal framework for imposing criminal sanctions (punishments) on perpetrators of sexual harassment.

One crucial factor in law enforcement is the availability of facilities. Facilities are also a crucial factor in law enforcement. With adequate facilities, law enforcement can function properly, as law enforcement must be equipped with supporting resources to carry out its duties. Without these facilities, law enforcement cannot proceed expeditiously. These include, among other things, educated and skilled human resources, good organization, adequate equipment, and a sufficient budget.

The ease with which people can access information can influence perspectives, lifestyles, and culture within a given society. On the other hand, technology also has negative impacts. For example, existing technology and communications are widely used to engage in deviant behavior such as fraud, downloading pornographic websites, or uploading pornographic images or videos, which can lead to moral decline. These negative impacts significantly impact social life.

Many factors can lead to crime, but it's important to recognize that poverty is the initial trigger for the demands of life's necessities. Limitations and deficiencies





make it difficult for someone to meet their basic needs, including clothing, food, shelter, and education.

Supervision, in this case, is a form of oversight provided to the community by the authorities. Supervision must be increased in areas prone to crime. According to Aipda Kristina, Special Investigator for Child Crimes Against Morality at the Medan Police, supervision is indeed in place in the form of patrols, guard posts, and other means, but the vast area and numerous residential areas make it impossible to reach everyone.

Therefore, handling sexual violence against children requires synergy between families, communities, and the state. Furthermore, handling cases of sexual violence, particularly child sexual abuse, should be holistic and integrated. All aspects require improvement and treatment, including medical, individual, legal (which still has many weaknesses), and social support. If child sexual abuse is not addressed seriously, it can have widespread social impacts. Healing the psychological trauma caused by child sexual abuse must receive significant attention from all parties involved.

The causal factors of child sexual abuse, linked to criminological theory, can conclude that someone can become criminal through learning; in other words, crime can be learned. The differential association theory, first proposed by Edwin H. Sutherland, argues that criminal behavior is learned in a social environment. This means that all behavior can be learned in various ways. The difference between law-abiding and criminal behavior is measured by what and how it is learned. Perpetrators of sexual harassment certainly commit their crimes due to causal factors, namely factors originating from within the perpetrator (internal factors) and factors external to the perpetrator (external factors).

The victim plays a primary role in the occurrence of a crime. It can be said that there is no crime without a victim, who is the primary participant in the crime and fulfills the perpetrator's interests, resulting in the victim's suffering. The victim has the status of both a passive and active participant in a crime, playing various roles that influence the crime's occurrence. The victim's role performance is influenced by certain situations and conditions, directly or indirectly. These influences do not always have the same impact on the victim.

Victimization of crime can be caused by gender inequality. Gender is distinct from sex because gender refers to the differences between men and women in roles, functions, rights, responsibilities, and behaviors shaped by social values, culture, and customs. For some, the term "gender" may be familiar and perhaps well understood. On the other hand, some may have heard the term frequently but still question its meaning, and many still haven't heard it, let alone fully understand its meaning.



Sexual harassment is often perpetrated by someone close to the victim. Suparman Marzuki, in his opinion, stated that regarding sexual violence, there are three factors that can contribute to the crime: the perpetrator, the victim, and the situation and conditions. These three factors are inseparable, and each plays its own role in encouraging a sexual crime.

The role of the perpetrator, along with the victim's position and environmental influences, contribute to the occurrence of sexual harassment. The perpetrator is a person who fails to control their emotions and sexual instincts properly, while the victim also plays a role. As a criminogenic factor, it acts as a direct or indirect driver of sexual harassment. The perpetrator's position with the victim is also supported by the environment (the perpetrator, as his own grandfather, is only accompanied by the victim, his granddaughter, as the victim's parents work outside the district). As a result, the perpetrator has more freedom to indulge his uncontrollable desires and seek an outlet.

Children in the context of sexual harassment cannot be considered as contributing parties to the crime. Children must be protected by the law, the government, their parents, and everyone else. The cause of child sexual harassment is the perpetrator's mental state, which views the child as an object of sexual harassment. The perpetrator hopes that by making the child an object of sexual violence, his behavior will be covered up, as the child is unable to resist, is easily threatened, and does not dare to report.

Every victim has the same right under the law to justice for their experience. One of these rights is to receive protection for the safety of their person, family, and property, and to be free from threats related to testimony they will, are, or have given.

Legal protection efforts are always linked to the implementation of strict sanctions through criminal penalties. The purpose of this punishment is naturally aligned with the theory of combined punishment, which is applied to maintain the human rights of perpetrators during the execution of their sentences. Muladi stated that the purpose of punishment should produce demonstrable beneficial consequences, while the retributivist view holds that justice can only be achieved if theological goals are implemented using the principles of justice.

Protection as an effort to fulfill the rights of children as victims of sexual violence cannot be carried out solely by law enforcement. Law enforcement has the primary duty to uphold the law by imposing just sanctions on perpetrators and creating a deterrent effect so that they do not repeat the act. Meanwhile, to protect children as victims of sexual violence, law enforcement is required to coordinate with other state institutions capable of providing child protection.

Legal protection is crucial for victims, especially children, because the impact of sexual abuse on children can be categorized as physical, mental, and economic. According to Bambang Waluyo, a child victim of a crime is a child who experiences physical, psychological, sexual, or social suffering as a result of a legal violation committed by an individual, group of individuals, or a state institution.

The most significant impacts on children are psychological and physical. Psychological impacts are usually manifested in trauma resulting from the sexual abuse incident, particularly sexual abuse that involves intercourse. This trauma is not easy to face or understand. As we know, the impact of trauma can be considered abstract because it is invisible, and it is difficult to determine whether a child victim of sexual abuse is experiencing trauma. This trauma usually arises when the victim is confronted with a situation, place, object, or person related to the incident.

4. Conclusion

Factors contributing to the occurrence of sexual abuse against children include lack of parental supervision, environmental factors, law enforcement, technological factors, and vulnerability. Of these, environmental and technological factors are the most common. Low levels of education make it difficult for someone to obtain formal employment, or they find formal or informal employment with very little income, thus preventing them from meeting their basic needs. This situation often drives the involvement of child victims in crimes against morality. From an environmental perspective, people are more likely to commit violations of the law in fulfilling their living needs, which can lead to patterns of criminal behavior that often occur in the community.

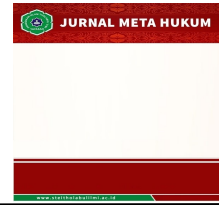
The judge's legal considerations in the Medan District Court's decision Number 2068/Pid.Sus/2020/PN.Mdn were that all elements of the article charged were fulfilled and there were no justifications or excuses, thus being found guilty. As well as aggravating and mitigating factors, the panel of judges sentenced the defendant to a sentence that had been legally and convincingly proven guilty of forcing a child to commit indecent acts. Therefore, the defendant was sentenced to 10 (ten) years in prison and a fine of Rp. 5,000,000,000.00 (five billion rupiah). If the fine is not paid by the defendant, it will be returned to the court. with imprisonment for 3 (three) months.

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