

Criminal Law Analysis of Sexual Crimes against Children

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ABSTRACT

Sexual crimes against children are crimes that have extraordinary impacts on victims, both physically, psychologically, and socially. Protection of children as the nation's next generation is a primary concern in the criminal law system in Indonesia. This article aims to analyze the application of criminal law to perpetrators of sexual crimes against children, by reviewing relevant laws and regulations such as Law Number 35 of 2014 concerning Child Protection and Law Number 17 of 2016 which regulates the increase in criminal sanctions for perpetrators. Through a normative legal approach, this article evaluates the extent to which these legal provisions are able to provide a deterrent effect, protect the rights of victims, and prevent the recurrence of similar crimes. The analysis found that although regulations have been strengthened, implementation in the field still faces challenges, such as difficult evidence processes and suboptimal victim protection. This article suggests the importance of synergy between law enforcers, child protection institutions, and the wider community in creating a comprehensive protection system for children from sexual crimes.

Keywords: Sexual Crimes, Children, Criminal Law

INTRODUCTION

Sexual crimes against children are one of the most concerning forms of violence in modern social life. Children as immature individuals are highly vulnerable to exploitation, including sexual violence that can have negative impacts physically, emotionally, and mentally. These crimes are often committed by people closest to the victim, such as family, neighbors, teachers, or trusted people, so that they not only injure physically but also destroy the victim's sense of security and trust in their social environment. This condition makes sexual crimes against children an urgent legal and social problem that must be handled seriously through a criminal law approach.

Legally, child protection has been regulated in various laws and regulations in Indonesia. Law Number 35 of 2014 concerning Child Protection is one of the main regulations that strengthens efforts to prevent and take action against all forms of violence against children, including sexual violence. In addition, legal reforms are also present through Law Number 17 of 2016 which amends several provisions in the Child Protection Law, including the affirmation of heavier criminal sanctions, such as life imprisonment and chemical castration, for perpetrators of sexual crimes against children. This shows the state's commitment to protecting children's rights to the maximum, especially from criminal acts that are very damaging to children's future.

However, in practice, law enforcement against child sexual crimes does not always run as it should. Various obstacles arise in the judicial process, ranging from the difficulty of providing evidence, the fear of victims to speak up, to the suboptimal victim protection system during the legal process. Many cases ultimately do not receive substantive justice because the perpetrators receive light sentences or are not even properly processed by law. Social, cultural, and economic factors often worsen the situation, where society still considers cases of sexual violence as a disgrace that must be hidden, not as a crime that must be exposed and processed by law.

The urgency to study more deeply the application of criminal law to child sexual crimes is very important considering the increasing number of cases from year to year. Data from the Indonesian Child Protection Commission (KPAI) and child care institutions show that Indonesian children are still in a situation vulnerable to sexual violence. Therefore, a comprehensive analysis is needed to evaluate the effectiveness of applicable laws and regulations and their implementation in the field.

This study aims to provide a comprehensive overview of how the Indonesian criminal law system responds to sexual crimes against children. By exploring the normative and applicative aspects of the criminal law that regulates these crimes, this study is expected to provide constructive recommendations for policy makers, law enforcement officers, and the wider community in building a better and more equitable legal protection system for children.

METHOD

This study uses a normative legal method, namely an approach that focuses on the study of legal norms that apply in writing, both those originating from laws and legal doctrines. This method was chosen because this study aims to analyze positive legal provisions that regulate sexual crimes against children, as well as assess their effectiveness in law enforcement practices.

The data in this study were collected through library research, which includes primary and secondary legal materials. Primary legal materials consist of:

1. Law Number 35 of 2014 concerning Child Protection,
2. Law Number 17 of 2016 concerning the Stipulation of Perppu No. 1 of 2016 as Law,

3. Criminal Code (KUHP),
4. Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP).

Secondary legal materials include child criminal law literature, scientific journal articles, court decisions, and opinions of legal experts related to the research topic. This study also utilizes data from official institutions such as the Indonesian Child Protection Commission (KPAI), the Witness and Victim Protection Agency (LPSK), and the National Commission on Violence Against Women.

The data analysis technique is carried out descriptively qualitatively, namely by describing and analyzing existing legal provisions and relevant documents, then interpreting them to answer research problems. This analysis is carried out systematically to evaluate the effectiveness of criminal law norms in providing protection for children from sexual crimes.

The results of this normative approach are expected to provide a strong conceptual and argumentative basis in assessing the implementation of criminal law on child sexual crimes, as well as providing suggestions and solutions to problems faced in practice.

DISCUSSION

1. Sexual Crimes Against Children as a Real Threat

Sexual crimes against children are one of the most serious forms of human rights violations. Children as a vulnerable group are not only physically victims, but also experience long-term psychological impacts. In the context of Indonesian law, this crime not only violates general criminal law, but also contradicts the principle of child protection as guaranteed in Article 28B paragraph (2) of the 1945 Constitution which states that every child has the right to survival, growth and development and the right to protection from violence and discrimination.

Law Number 35 of 2014 concerning Child Protection and Law Number 17 of 2016 provide reinforcement for child protection efforts, especially from sexual crimes. Criminal sanctions against perpetrators of sexual crimes against children include principal penalties, additional penalties, and special measures such as chemical castration, installation of electronic detection devices, and announcement of the perpetrator's identity. These steps are a form of progressive approach that aims to create a deterrent effect while providing maximum protection for children.

However, the implementation of these provisions still faces challenges. Some perpetrators of sexual crimes against children do not receive maximum sanctions due to various considerations, including insufficient evidence, the age of the perpetrator, or other social reasons. This shows that our criminal justice system is not yet fully responsive in handling cases of child sexual violence thoroughly and fairly.

2. Effectiveness of the Implementation of Criminal Sanctions in Cases of Child Sexual Crimes

In practice, the imposition of criminal sanctions on perpetrators of child sexual crimes still faces obstacles both in terms of legal techniques and social culture. The Criminal Code itself still provides loopholes due to limitations in regulating sexual violence crimes. Although there has been an expansion of norms through special laws, such as Law No. 17 of 2016, there are still obstacles in terms of law enforcement in the field.

Several empirical studies, such as those conducted by the National Commission on Violence Against Women and LPSK, show that most victims of child sexual violence are reluctant to report because of fear, shame, and social pressure from their surroundings. This is exacerbated by the legal process which often takes a long time, is traumatic, and does not have a victim perspective. In some cases, victims are even positioned as the guilty party or their truth is doubted by law enforcement officers. This indicates that the officers' understanding of the principles of restorative justice and child protection is still weak.

From a regulatory perspective, chemical castration punishment has been debated among academics and legal practitioners. Some experts argue that this action violates human rights, while others consider chemical castration to be a form of firm action to protect children from repeated sexual crimes. Constitutional Court Decision Number 13/PUU-XVI/2018 strengthens the position of chemical castration as a form of legitimate action in the context of Indonesian law, as long as the procedure is in accordance with the principle of proportionality and accompanied by adequate medical supervision.

3. Implementation of Restorative Justice in Handling Child Cases

Although criminal law functions as a repressive tool, in the context of children, both as perpetrators and victims, the restorative justice approach becomes important. In Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), it is emphasized that the resolution of children's cases is prioritized through a restorative justice approach with the aim of restoring the condition of the victim, perpetrator, and society. However, for cases of sexual crimes against children, this approach must be applied selectively and carefully so as not to increase the psychological burden on the victim.

Restorative justice in this context does not mean avoiding criminal sanctions, but rather prioritizing the restoration of relationships and healing of trauma. In some cases, victims who receive psychological and social support are better able to continue their lives after the incident, compared to if they only focus on punishing the perpetrator. Therefore, the involvement of child psychologists, social workers, and child protection agencies is crucial in accompanying the legal process.

4. Case Studies and Judicial Practice

Several court decisions have shown firmness in imposing maximum criminal sanctions for perpetrators of child sexual crimes. For example, the Mojokerto District Court Decision Number 134/Pid.Sus/2020/PN Mjk sentenced the perpetrator to 20 years in prison and chemical castration.

However, there are also decisions that have caused controversy because they are considered too light, for example when the perpetrator was only sentenced to 5 years in prison without additional punishment even though the victim experienced severe trauma and permanent injuries.

This non-uniformity shows the absence of specific guidelines that are consistent and binding in imposing criminal penalties in cases of sexual crimes against children. Therefore, the Supreme Court is expected to issue sentencing guidelines that can be used as a reference by judges in imposing sanctions that are fair, proportional, and in favor of the victim.

CONCLUSION

Sexual crimes against children are a very serious form of legal and moral violation, and have long-term impacts on the physical and psychological development of children. Although laws and regulations in Indonesia have undergone various updates to provide greater protection for children, implementation in the field still faces various obstacles. Criminal sanctions against perpetrators of child sexual violence, including additional penalties such as chemical castration, are normatively available, but there are still obstacles in terms of technical, social, and cultural aspects. Law enforcement officers are required to be sensitive to victims and apply an approach that supports child protection. In addition, although the restorative justice approach can be applied in juvenile criminal law, for sexual crimes against children, caution is needed so as not to increase the suffering of the victim. Inconsistencies in judges' decisions show the urgency of having special sentencing guidelines. Protection of children is not only the responsibility of the state, but also the wider community. A multidisciplinary approach is needed to overcome cases of child sexual crimes. In the future, it is important for the government to strengthen regulations, increase the capacity of officers, and ensure that justice is upheld to the maximum. Criminal law must be present as an instrument of protection, not just as a means of retaliation. Therefore, updating the juvenile criminal justice system is a strategic step that must be carried out sustainably.

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