

Legal Views in Indonesia on Children with Problems with the Law



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ABSTRACT: Children are God's creations that need to be protected by anyone because of their limitations. One of the protections provided is legal protection for children who get a form of violence. Violence that children receive will have a negative impact on the child's future. This paper aims to find out the need to provide legal protection for children as victims of violence and legal protection for children as victims of violence according to statutory regulations. To find out this, normative research was carried out by studying and researching laws and regulations related to child protection. The need for normative legal research in order to know the legal protection for children as victims of violence. The problems formulated in this research are, firstly, why children who are victims of violence need to be given legal protection, and secondly, how is legal protection for children who are victims of violence according to statutory regulations. Legal protection for children is given so that children's rights are protected as stated in the laws and regulations governing child protection, namely not getting forms of violence as stated in Articles 76A to 76J Law Number 35 of 2014 and legal protection given for the justice of the child. Therefore, the state provides legal protection for all children which has been regulated to be implemented in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims and Law Number 35 of 2014 concerning child protection and the Law - Law Number 1 of 2023 concerning the Criminal Code, in order to prevent violence against children.

KEYWORDS: Legal protection, children, victims of violence

A. BACKGROUND

A child is someone who is not yet 18 (eighteen) years old, including a child who is still in the womb, as stated in Article 1 point 1 of Law Number 35 of 2014 concerning Child Protection which explains what is meant by a child. Children are gifts and award God Almighty who has been attached to himself as a human being with complete dignity and worth. All children born into this world have dignity that must be upheld by the government or anyone and every child's rights must be granted without the child being asked for by the child beforehand.¹

In a book written by John Gray entitled *Childrens are from Heavens*, it is explained that good and innocent children are born. We as humans must have a responsibility to support them so that they are attracted to their potential and talents. Therefore, children we need (meaning the people around them) to educate them or make them better. Depending on the support we provide for children to grow and develop.

John Gray's statement emphasized that children from birth have limitations because of the nature of the child so that they become helpless, and the determinant of adults is that their fate is bright or bleak and the future of the child. There are protections for children for several reasons, namely the first is that children are the successors to the nation's generation, in hand they are the future of the Indonesian nation is at stake, the two children are part of society by nature and have characteristics that must be protected so that the weak must be protected.²

In this modern era we know that humans have experienced physical development, thoughts and characteristics. The development of the mind and its nature is in a positive direction and in a different direction negative. Mind and nature negative this is the very apprehensive. Often we hear that children are affected by thoughts and traits negative somebody. One of the impacts that we often hear about is violence that occurs in children. Violence towards children is a behavior that is very inhumane that someone does considering that children are human beings who have limitations and children must get protection from all elements of society. And besides that, children must also get protection from existing laws.

Therefore, the role of the community is very important for child protection and also government policies that are realized by the existence of laws and regulations are a way to protect children from victims of violence.

¹ Rika Saraswatti, 2009, *Legal Protection Children in Indonesia*, PT Citrana Aditya Bakti, Bandung, p.1

² Anonymous, 2011, *Varia Judicial Magazine Hukum*, No 308, XXVI, July 2011, p.6

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B. PROBLEM FORMULATION

Several formulations of the problem can be formulated based on the above background:

1. Need legal protection for children who are victims of violence?
2. What is the legal view of child victims of violence according to laws and regulations?

C. PURPOSE OF WRITING

1. To know the need to provide legal protection for children who are victims of violence
2. To find out the legal protection of children as victims of violence according to statutory regulations

D. RESEARCH METHOD

The kind that used in this research is a type of normative research because it is studied and researched through written laws and regulations by looking at the forms of laws and regulations and study payload material.³ The legal materials used in this study are secondary legal materials, in the form of legal books (text books), legal journals, legal papers or the views of legal experts contained in the mass media. The need for normative legal research by reviewing and researching statutory regulations invitation withuse legal material seconds in order to find out legal protection for children as victims of violence contained in laws and regulations.

1. Children who are victims of violence need to be given legal protection

Children must be protected or get legal protection so that children do not become victims of the actions of anyone (individuals or groups, private organizations or government) either directly or indirectly. nor indirect. What is

meant by a child being a victim is a child who suffers a loss (mental, physical or social), due to the active or passive actions of another person or group (private or government), either directly or indirectly. There is also the possibility of becoming a victim of oneself. Situations and conditions that are detrimental to oneself, as a result of the attitudes and actions of other people or other groups.

Legal protection is given so that children do not become victims because they are sacrificed for certain goals and interests by certain people or groups (private and government). Children are referred to as victims because they have suffered, or experienced mental, physical, or social losses because of other people who commit violence against children.⁴

God, who must be respected and guaranteed legal protection. So in a contrary If basic human rights, including the rights of the child, are violated, what will happen is that society will not be good or it can be said that the authorities are not carrying out their duties properly.⁵

This illustrates that law must be oriented towards realizing the value of justice in order to achieve public order. Law aims to achieve a peaceful and just social order. Public order must become legal order because it contains justice, so that it is supported by the community as a legal subject. If public order must be a legal order, then public order must be a just order. So, justice is the substance and order of law and public order, so it is not an exaggeration to emphasize that the main function of legal protection is ultimately to realize justice.

In the Geneva Declaration on the Rights of the Child (The Geneva Declaration Of The Rights Of The Child) is the first international document that makes "men and women of all nations" accept the obligation which demands that "children must be given the facilities necessary for normal development, both materially and spiritually. In development at the end decades 1980-an, Convention The Rights of the Child (International Convention on the Rights of the Child) introduces 4 (four) rights that children have, namely the right to life (survival rights), the child's right to protection (protection rights), the child's right to grow and develop (development rights) and children's rights to participate (participation rights). This convention was later ratified by Indonesia through presidential decree Number 36 of 1990.⁶

In Legislation in Indonesia, the obligation to provide legal protection for children has actually been realized and outlined in the constitution, namely in the 1945 Constitution of the Republic of Indonesia, namely in Chapter XA on Human Rights and set forth in articles 28A to 28J. as for children's rights

regulated in article 28B paragraph (2) which states that "every child has the right to survival, growth and development and has the right to protection from violence and discrimination received by children".⁷

In addition, children are given legal protection against children as victims of violence found in Article 1 paragraph (2) Law Number 35 of 2014 concerning Child Protection and Law Number 1 of 2023 concerning the Criminal Law Act, namely that the child receives protection and his rights as a child are also protected, namely the right to live, grow and develop and participate optimally in accordance with dignity. and human dignity, as well as legal protection is given in order to get protection from violence

³ Soerjono Soekanto, 1986, Introduction to Legal Research, UI-Press, Jakarta, h. 15

⁴ Arif Gosita, 1985, Child Protection Issues, Akademika Pressindo, Jakarta, h. 35

⁵ Tini Rusmini Gorda, 2017, Law for the Protection of Child Victims of Pedophilia, Setara Press, Malang, h. 76

⁶ Nyoman Mas Aryani, 2016, Legal Protection of Children as Victims Violence Sexuality in the Province of Bali, Journal of Kertha Patrika, Vol 38/ No. 1, p. 24

⁷ Tini Rusmini Gorda, op. cit, h. 77

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and discrimination that will befall children. Legal protection for children as victims is also regulated in Articles 76A to 76J which contain forms of violence which if committed by persons or groups against children will be subject to imprisonment and fines as in Articles 77 to 89 of Law Number 35 of 2014 concerning Child protection and Repeal part of article 81 (1) to become article 473 of the Law Law Number 1 of 2023 concerning Law- Criminal Law Act.

In the context of child protection, it can be ensured that from a regulatory perspective, the articles have formulated the protection of children's rights. The problem is that the values of justice set forth in laws and regulations are often stipulated as purely positive law. The eye originates from the inclined human mind characteristic compromising, so that in such circumstances there may be a risk that the norms of justice in the formulation conflict with the law positive others.⁸

The law protects a person's interests, including children, by allocating a power to him in a measurable manner, in the sense that it is determined by its breadth and depth, to act in the context of his interests, which are referred to as rights.

Protection of children is the development of truth, justice and child welfare on the philosophical basis of Pancasila and is carried out in accordance with professional ethics according to the juridical basis of the 1945 Constitution and various other applicable laws and regulations, with the application of integrative, namely the integrated application of regulations legislation from various related legal fields, which are shown to be in the best interests of the child.

In the positive criminal law currently in effect, at the fact is there has been protection in abstracto indirectly against various legal interests and human rights of victims. So with the existence of sanctions contained in various formulations of criminal acts of violence against children in the Act Law Number 35 of 2014 concerning child protection, if applied to perpetrators who do violence against children is seen as a form of legal protection for children as victims of violence.⁹

2. Legal protection for children as victims of violence according to laws and regulations

Protection is a guarantee given for the welfare, peace, security, and peace from all the dangers that a person threatens both children, adults and parents. Legal protection is an act of protecting according to applicable law in Indonesia.¹⁰

crimes of serious persecution such as those mentioned in Article 6 Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims.¹¹

As stated by I.B Wyasa Putra and Lili Rasjidi, law can function not only to create certainty, but also guaranteed protection and a balance that is flexible and adaptive in nature, but also predictive and anticipatory. In particular the distribution of resources, both at structural and individual levels¹²

Every legal protection given to citizens without exception is in accordance with the provisions of the laws and regulations in force in the Republic of Indonesia. All Indonesian citizens have the right to be given protection by the government, both adults and children. Even more attention is given to the protection of children because children are vulnerable to becoming victims of violence. Legal protection for children is an effort made so that every child gets rights and obligations before the law for the sake of the child's physical, mental and social growth. Legal protection for children has a lot of benefits for parents and their children, so in the legal protection of children, cooperation needs to be held in order to prevent an imbalance in child protection activities as a whole. Abdul Hakim Garuda Nusantara said that the issue of legal protection for children is an approach to children Indonesia is protected.¹³

Child protection, namely the support of an effort so that the rights and obligations of a child are obtained and maintained the right to develop and grow in life in a balanced and positive way, so that they get fair treatment.¹⁴

E. CONCLUSION AND RECOMMENDATIONS

The knot

1. Legal protection for children is actually given so that children's rights are protected, one of which is not getting violence and legal protection is given for justice for the child. The provision of legal protection to children as victims of violence is also regulated in international law and national law. On law international can be seen on Convention Rights of the Child (International Convention on the Rights of the Child), one of which is introduced to provide legal protection for children. Likewise, national law children are very concerned, one of which is the child's right to get legal protection in the event of violence against children. This is regulated in the 1945 Constitution, Law Number 39 of 1999 and Law Number 35 of 2014.
2. To prevent violence against children, the state provides legal protection for all children so that it can prevent children from arbitrary parental actions. Legal protection for children refers to Article 1 and Article 6 mentioning protection as well as Article

⁸ Ibid⁹ Ibid, h.78¹⁰ Ibid, h.80

⁹ Ibid, h. 84

¹⁰ Abintorono Prakoso, 2016, Law Protecting Child, Cet I, LaksBang PRESSindo, Yogyakarta, h. 4

¹¹ Maidina Gultoni, 2008, Child Protection Law Against Domestic System Juvenile Court in Indonesia, Cet I, PT Refiikama Aditamana, Bandung, p.33

¹² Abintoro Prakoso, op. cit, h. 5

¹³ Maidin Gulton, op. cit, h. 34

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1 point 2 which supports the implementation of children's rights and obligations to receive present treatment and avoid all threats of violence.

Suggestion

1. The important role of the government is to provide legal protection for children as victims of violence so that children get their rights, namely to receive protection from any form of violence and to get justice for children who are victims of violence.
2. The legal protection for victims of violence that has been made by the government is very good when viewed from article by article in the legislation concerning victims of violence, especially children. It would be nice if all people knew about the laws and regulations regarding the protection of victims of violence against children, so that later if the community saw violence against children, they could immediately help the child to get their rights which would be given by the authorities to the child.

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