

The Criminal Act of Child Molestation Underage in the Perspective of Criminal Law

ABSTRACT

Child molestation is a violation of children's rights, and there is no argument that can justify such a crime, whether from a moral, ethical, or religious perspective, especially when the crime is committed against the defendant and a minor. The purpose of this study is to examine the criminal law perspective on child molestation. The research method used is normative legal research. Criminal law plays an important role in protecting children, imposing sanctions on perpetrators, and providing protection and rehabilitation for victims. The legal system must provide effective protection mechanisms, including legal assistance, confidentiality of identity, and accompaniment for victims throughout the legal process.

Keywords: Child Molestation, Law Criminal, Legal System

INTRODUCTION

The criminal act of child molestation is considered a serious crime because children are regarded as vulnerable individuals who do not yet have the legal capacity to give valid consent to sexual relations (Febrigi Rohalyati 2023). Child protection is essentially applied to children who come into contact with the criminal justice system as well as those who are in conflict with the law, whether as perpetrators or victims (Murtadho 2020). Protection of children within the realm of criminal law is crucial, as such acts are considered violations of children's rights to safety, protection, and proper development (Warjiyati 2018).

Criminal law is a system of norms that regulates certain actions, both those that may and may not be carried out (Hasan 2025). From the perspective of criminal law, child molestation falls under sexual crimes and is generally subject to severe penalties for the perpetrator (Hasan 2025). Criminal sanctions for

perpetrators of child molestation may include long-term imprisonment, the death penalty (in certain jurisdictions), as well as post-sentence supervision (Prisdawati and Zuhdy 2021). The purpose of such sanctions is to create a deterrent effect for the perpetrator and ensure protection for the child as the victim. Acts of molestation are highly alarming as they impact the psychological development of children and may result in lifelong trauma. One standard that may be applied by the criminal justice system in handling cases of child molestation is to strengthen detection efforts so that perpetrators can be immediately apprehended and legally processed (Aktaviani and Septaviana 2022).

Criminal law also plays a role in prevention and enforcement efforts against child molestation cases. The criminal justice system generally provides procedures through reporting to the police, investigation processes, and trials to prosecute and adjudicate the offender (Hasan 2025). In addition, rehabilitation programs are available for offenders as an effort to reform their behavior and prevent the recurrence of similar acts in the future (Sulistio and Raharjo 2020).

RESEARCH METHOD

This study employs a normative legal approach, which aims to describe and analyze the issues discussed in accordance with the scope of legal studies that have been determined. As a discipline that is both normological and practical, normative law is directly related to the implementation of law, particularly in two main aspects: the process of law formation and its application.

RESULT AND DISCUSSION

Molestation Against Children

Acts of molestation constitute a serious violation of children's rights, and there is no justification whatsoever for such actions, whether viewed from a moral, ethical, or religious perspective—especially when committed by a defendant against a minor. Molestation is not only categorized as a crime but also as a form of cruelty, both physical and psychological, since victims often experience profound fear and are at risk of enduring long-term psychological trauma throughout their lives (Naldo et al. 2024).

The criminal act of child molestation is regulated in Article 290, paragraph 2 of the Indonesian Criminal Code (KUHP), which states: *“Anyone who commits an obscene act with a person, knowing or reasonably should have suspected that the person is under fifteen years of age, or if the age is unclear, that the person is not yet of marriageable age, shall be liable to imprisonment for up to seven (7) years”* (Moeljatno 2016).

Child molestation encompasses various forms of behavior related to the sexual exploitation of minors (Yuniantoro 2018). These acts may include sexual intercourse, immoral conduct, verbal or physical sexual harassment, coercion to engage in sexual activities, and restrictions on a child's freedom within a sexual context—all of which clearly violate legal, moral, and ethical norms (Rusmiadi and Iman 2024). Children are considered a highly vulnerable group in such situations because they legally lack the capacity or authority to provide valid consent to any sexual act. Their immaturity, combined with limited knowledge and awareness of risks, psychological impacts, and long-term consequences of sexual involvement, makes them easily manipulated or coerced by adults (Annisa Amanda Putri and Fajar Utama Ritonga 2024). For this reason, the law provides special protection for children to ensure they are not victimized in situations that are harmful to their physical, mental, or emotional well-being.

Criminal Liability for Perpetrators of Child Molestation

Perpetrators of child molestation may be held criminally accountable in accordance with applicable legal provisions within a given jurisdiction (Haritsa and Moha 2022). Legal proceedings against offenders include stages of investigation by law enforcement officers, collection of relevant evidence, and filing of criminal charges in court. In the context of child molestation, the provisions regarding the definition of a child and sanctions against offenders are stipulated in Article 82 of Law Number 23 of 2002 on Child Protection. This article provides that anyone who intentionally commits violence or threats of violence, coerces, deceives, engages in a series of lies, or persuades a child to commit or allow the commission of an immoral act, may be sentenced to imprisonment for a maximum of fifteen (15) years and a minimum of three (3) years, as well as fined up to IDR 300,000,000 (three hundred million rupiah) and no less than IDR 60,000,000 (sixty million rupiah) (Isnan Istianur Arkadia et al. 2023).

Several terminologies are used to classify types of molestation, including: 1). Exhibitionism – intentionally exposing one’s genitals to others; 2) Voyeurism – deriving sexual pleasure from observing others; 3) Fondling – touching or rubbing another person’s genitals; 4) Fellatio – coercing someone to engage in oral sexual contact (Dastam et al. 2022).

Legal Protection for Child Molestation Victims

According to criminal law provisions outside the Indonesian Criminal Code (KUHP), the protection of crime victims can also be found in other laws. One such law is Law No. 13 of 2006 on the Protection of Witnesses and Victims, specifically Article 5, which emphasizes the rights and protection of witnesses and victims. This includes protection of personal security, family, and property, as well as freedom from all forms of threats related to the testimony to be given (Ariyanti, 2019). Legal protection for child molestation victims is essential to ensure justice and recovery. Several key aspects of legal protection concerning

child molestation victims include:

a. Fair Legal Process

Child molestation victims have the right to a fair and equal legal process. They are entitled to be heard, to provide testimony, and to receive adequate legal assistance during court proceedings.

b. Identity Protection

Protecting the identity of child molestation victims is crucial to maintaining their confidentiality and safety. Courts and the legal system must take appropriate measures to ensure that victims' identities remain secure and undisclosed to unauthorized parties.

c. Submission of Evidence

Victims have the right to submit evidence in criminal cases. The legal system must ensure that evidence collection is conducted sensitively and without harming the victim. Any evidence involving children should be obtained with consideration for their best interests and well-being.

d. Protection During Trial

Child molestation victims must be protected during court hearings to prevent further trauma. This may involve the use of special courtrooms, providing support services, and preventing direct contact with the offender.

e. Legal Assistance

Victims are entitled to adequate and affordable legal aid. Such assistance helps victims understand the legal process, ensures their involvement in the proceedings, and protects their rights.

f. Restriction of Contact with the Perpetrator

To protect victims, the court may order restrictions on any form of contact between the victim and the perpetrator. This may include prohibiting the

offender from approaching, communicating with, or being in the same environment as the victim.

g. Post-Trial Protection

Legal protection for victims must also extend to the post-trial stage. This includes recovery efforts, trauma healing, counseling support, and long-term measures to ensure victims' safety and well-being. Legal protection for child molestation victims must be based on the principles of justice, sensitivity to victims' needs, and prioritizing their best interests and welfare (Hafizah et al., 2024).

Implementation of Law on Child Molestation

The responsibility for addressing child molestation lies with all state institutions, particularly the Police, in carrying out their institutional functions and individual ethical duties as mandated by the 1945 Constitution of the Republic of Indonesia. Legal challenges and the implementation of law concerning child molestation involve several complex issues. The following are some of the common challenges encountered in this matter:

a. Lack of Reporting

One of the major challenges is the lack of reporting of child molestation cases. Many incidents go unreported due to factors such as fear, pressure from the perpetrator or their family, lack of awareness of victims' rights, or distrust of the legal system.

b. Victim Protection

Protecting victims of child molestation is essential but often difficult to ensure their safety and well-being. Some victims face ongoing risks, especially if the perpetrator has close ties with them or there are threats of retaliation. Establishing an effective protection system involving multiple institutions and

stakeholders remains a significant challenge.

c. Evidence Collection and Legal Limitations

Collecting evidence in child molestation cases can be complicated and requires a sensitive approach. Since the victims are often children, they may struggle to provide detailed and clear testimony. Furthermore, certain jurisdictions may impose legal limitations, such as time constraints for investigation and prosecution, which hinder effective case handling.

d. Victim Testimony and Legal Safeguards

In legal proceedings, child molestation victims often face challenges when testifying in court. They may experience psychological pressure, intimidation, or coercion, making it difficult for them to provide accurate testimony. Legal safeguards and victim-centered approaches are essential to ensure that they can deliver credible and reliable testimony.

e. Awareness and Education

Another challenge is raising public awareness about child molestation, its impacts, and the importance of reporting such cases. Broad-based educational efforts are required to change societal attitudes and behaviors toward this issue, thereby encouraging communities to support victims, report suspicious actions, and strengthen law enforcement.

f. Interagency Coordination

Implementing laws on child molestation requires cooperation among various institutions, such as the police, prosecutors, courts, and child protection agencies. Effective coordination among these bodies is crucial to address cases comprehensively and ensure that victims' rights are properly protected (Kasmita et al., 2024).

Sustained efforts are necessary to address these challenges through improvements in the legal system, better training for law enforcement officers, continuous public awareness campaigns, and stronger collaboration among institutions and stakeholders.

The Role of Society in Preventing Child Sexual Abuse

To prevent cases of child sexual abuse, families and all levels of society must actively participate in observing, protecting, and safeguarding children from acts such as discrimination, exploitation, neglect, cruelty, and injustice (Solehati et al., 2023). The role of society is crucial in preventing child sexual abuse. The following are some roles that society can play in prevention efforts:

a. Education and Awareness

Society needs to be provided with adequate education and awareness regarding the issue of child sexual abuse, including warning signs to look out for and how to report suspected cases. This education can be carried out through campaigns, seminars, lectures, and training for parents, educators, and community members in general.

b. Strengthening Positive Values

Society must work together to promote positive values such as respect for children's rights, respect for others, gender equality, and justice. Strengthening these values helps create an environment that protects and respects children, while fostering collective responsibility to safeguard them.

c. Enhanced Supervision

Communities can contribute by increasing supervision of environments that may pose risks to children, such as schools, places of worship, children's activity centers, and other public spaces. Society should actively report suspicious behavior and engage in community monitoring initiatives.

d. Reporting and Community Engagement

Society needs to support and encourage the reporting of child sexual abuse. This includes ensuring that there are safe and reliable channels for reporting cases and guaranteeing that such reports are taken seriously by the relevant authorities.

e. Support and Protection for Victims

Communities must provide moral and emotional support to victims of child sexual abuse. This includes listening to them, respecting their privacy and integrity, and providing guidance to access professional assistance and necessary rehabilitation services.

f. Collaboration with Institutions and Related Agencies

Communities should cooperate with institutions and related agencies, such as child protection agencies, the police, and educational institutions, to strengthen the child protection system and support prevention efforts. This collaboration may include providing training, participating in prevention programs, and sharing relevant information.

g. The Role of Parents and Families

Parents and families play a vital role in preventing child sexual abuse. They need to provide proper supervision, deliver positive sexual education, and help children develop the skills and knowledge necessary to protect themselves.

Through active participation and collective awareness, society can contribute to preventing child sexual abuse and creating a safe and supportive environment for children (Hawa et al., 2022).

CONCLUSION

Child molestation is a serious crime that violates the fundamental rights of children. Criminal law plays a vital role in protecting children, imposing sanctions on perpetrators, and providing protection and rehabilitation for victims. Effective implementation of the law and active community participation are essential to prevent child molestation, uphold justice, and create a safe environment for children. Protecting victims of child molestation must remain a primary concern in law enforcement. The legal system should provide effective protection mechanisms, including legal assistance, confidentiality of identity, and safeguarding victims throughout the legal process.

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