

Legal Review of the Protection of Minors as Victims of Sexual Exploitation Based on Law No. 35 of 2014 Concerning Child Protection

ABSTRACT

Cases of sexual abuse against minors in Indonesia remain a serious issue that continues to escalate annually. This phenomenon threatens the fundamental rights of minors, particularly their rights to protection and appropriate growth and development. Law Number 35 of 2014 on Child Protection serves as a legal instrument that guarantees protection for minors, including those who fall victim to sexual abuse. This study employs a normative legal research method with both statutory and case approaches. It examines the extent to which legal protection for minor victims of sexual abuse has been implemented in Indonesia, considering both existing regulations and practices encountered in reality. The findings indicate that although a legal framework specifically addressing child protection has been established, its enforcement and practical application are still far from optimal.

Keywords: Sexual Abuse, Legal Protection, Rehabilitation

INTRODUCTION

Most of the young people who experienced sexual abuse were in the age range of 5 to 11 years old. About 79% of these young people are severely traumatised by the violence experienced, even causing physical impacts such as the transmission of sexually transmitted diseases. The occurrence of this condition confirms the importance of drafting regulations for the protection of the younger generation based on the understanding that protecting the younger generation as a whole is a vital part of national development, especially to improve the quality of life of the nation and state. In line with Suryamizon's (2017) view, legal guarantees are understood as efforts to provide a sense of security for legal subjects through preventive and repressive measures, both in writing and orally. From here, legal guarantees basically reflect the main function of law, which is to bring justice, certainty, order, benefits, and tranquillity to society. The protection of the younger generation is a collective responsibility that involves all elements of society in accordance with their respective roles and positions, with the realisation that the younger generation is an important asset for the continuity of the nation in the future. As the younger generation grows physically, mentally and socially, they will replace the role of previous generations as the successor to the life of the nation.

In practice, separate legal issues often arise regarding the protection of young people, such as the high number of cases of mistreatment of young people, physical and sexual violence, and neglect. This triggers various crimes against young people, including sexual abuse, which is one of the most serious and increasingly worrying forms.

Child Sexual Abuse (CSA) is a modern crime that continues to grow in many countries. These crimes include youth prostitution, youth involvement in pornography production, trafficking of youth for sexual purposes, youth sex tourism, and early marriage practices. According to ECPAT International, sexual abuse of young people is a serious violation of young people's human rights, where adult perpetrators sexually abuse them in exchange for money or goods of economic value, so that young people are used as sexual objects and commercial commodities. Elements of this criminal offence include the

activities of buying, selling, offering, transferring, producing, or providing young people for sexual purposes. In the provisions of Law No. 23 of 2002 as well as Law No. 35 of 2014, the basic principles of protecting young people are emphasised, namely guaranteeing the rights of young people, maintaining their dignity, protecting them from all forms of violence and discrimination, and realising a moral, qualified and prosperous generation.

The phenomenon of youth prostitution is often described as an iceberg because the cases revealed are only a fraction of the actual number. ECPAT Indonesia's data based on Supreme Court decisions in 2010-2014 recorded 35 cases of youth pornography, 64 cases of youth prostitution, 46 cases of youth sex tourism, and 74 cases of youth trafficking, totalling 219 cases of youth sexual abuse. However, it is believed that these numbers only represent a fraction of the cases that occur because there are still many that are not reported or not prosecuted. This condition should be an impetus for the government to review and strengthen policies and regulations for more effective protection of the younger generation.

The results of the 2020 supervision of youth protection showed 149 cases related to criminal acts of trafficking in persons and abuse of young people, including trafficking in young people, prostitution, sexual abuse, youth labour, illegal adoption, and young people who act as pimps. In addition, the issue of youth labour in its worst forms also emerged, such as scavenger youth, prostituted youth, street youth, domestic servants, and workers in the agricultural sector. The crisis of family care and the misuse of digital technology and social media also increase the vulnerability of young people to sexual mobilisation, exploitation and abuse. This situation is of serious concern to the Indonesian Child Protection Commission (KPAI).

In the period January to April 2021, cases of trafficking and abuse of young people through prostitution did not show a significant decrease, with 83% of cases related to prostitution, 11% economic abuse, and 6% trafficking of young people, with a total of 234 young people as victims. UNICEF emphasises that every young person has the right to comprehensive protection from

violence, abuse and other threats. Protection involves social welfare support, social behaviour change and a pro-youth justice system.

Abuse and mistreatment of young people often occur through social media platforms such as WhatsApp, Facebook and Facebook Messenger. However, around 56% of young people prefer not to disclose their experiences. Those who do report are usually more comfortable reporting to friends or relatives than parents or other adults. Low reporting rates are influenced by uncertainty about whom to contact, feelings of guilt, shame, fear of not being believed, concerns about causing trouble, and anxiety about burdening the family.

A real case emerged when the police found a teenager with the initials NAT (15) who was locked up in an apartment and forced to become a commercial sex worker for a year and a half. The KPAI report recorded 45 cases of youth abuse in apartments throughout 2022 until mid-June, showing apartments as a vulnerable location for abusive practices, especially in the South, East, North Jakarta and Tangerang areas.

In the past three years, cases of youth abuse in apartments have increased, with 145 cases recorded in 2021 and the trend continuing in 2022. The perpetrator's modus operandi is usually to promise a job with a large income, then force the victim to stay and continue working under the pretext of paying off false debts. As a result, victims experience prolonged sexual and economic abuse.

The serious impact of youth sexual abuse offences in the digital age is a disturbance of mindset and mental health, especially severe emotional, psychological and physical trauma. These include shame, low self-esteem, depression, and in some cases, suicide. Young people are also vulnerable to sexually transmitted diseases, difficulty making friends, and social barriers that weaken their confidence and ability to communicate, causing them to withdraw and live in isolation. However, legal regulations in Indonesia have not explicitly regulated the criminal offence of sexual abuse of young people in a specific law. The definition of youth sexual abuse in laws and regulations is

still vague, making it difficult to distinguish it from other forms of sexual violence. Therefore, it is necessary to clarify the definition and separate the elements of sexual abuse so that it is not mixed with other criminal offences.

This paper is related to previous research on young people as victims of sexual abuse, but the focus is different, namely on the fulfilment of the rights of young victims and post-incident rehabilitation. Previous research such as the work of Muthia Fadhila Khairunnisa and Nurliana Cipta Apsari examined the role of social support systems for young victims of Child Commercial Sexual Abuse as an intervention effort to reduce risk and strengthen protection. Meanwhile, Ariyadi (2019) examined the criminal offence of child sexual abuse.

The purpose of enacting Law No. 35/2014 on Child Protection is to ensure the fulfilment of the rights of the younger generation for their welfare as an important part of the continuity of society. Adults in Indonesia are obliged to protect young people from the threat of violence and sexual harassment for optimal growth and development. Despite the legal framework, reports of sexual violence against young people have not shown a significant decrease. Cases still occur frequently in villages and cities, even in supposedly safe environments such as homes and schools. Perpetrators also often come from the closest people trusted by the victim. This reality shows that sexual abuse of young people is still a serious threat to the protection of young people in Indonesia (Tuliah, 2018).

RESEARCH METHODS

This research applies a normative legal method using two approaches, namely the Statute Approach and the Case Approach. Both approaches were chosen because the topic of study focuses on legal guarantees for young people who are victims of sexual abuse as stipulated in Law No. 35/2014 on Child Protection, as well as examining cases that have relevance to the issue of sexual

abuse of young people.

According to Peter Mahmud Marzuki's view, normative legal research is a process to find rules, principles, and legal doctrines that can be used as the basis for solving certain legal problems (Marzuki Mahmud, 2008). The analysis used in this research is descriptive in nature with the aim of providing a systematic explanation of the answers to the issues studied, through the utilisation of primary legal materials in the form of Law No. 35/2014 on Child Protection.

RESULT AND DISCUSSION

This research shows that cases of child sexual abuse in Indonesia are still on the rise, despite Law No. 35/2014 on Child Protection being the main legal umbrella. Various data, including from the Indonesian Child Protection Commission (KPAI) and UNICEF, indicate that the number of cases of sexual exploitation, child prostitution, trafficking of children for sexual purposes, and the use of children in the production of pornography is still quite high.

Most victims are aged between 5 and 11 years old, and around 79% of them experience deep trauma, both physically and psychologically. This indicates that the implementation of legal protection is still not optimal due to obstacles in law enforcement, social barriers, and low reporting due to stigma, fear, and lack of trust in the justice system.

The impact experienced by victims is also serious, ranging from physical health problems such as the danger of sexually transmitted diseases and damage to reproductive organs, to psychological trauma that can trigger post-traumatic stress, depression, and decreased ability to interact socially. This requires comprehensive rehabilitation efforts, which are currently not optimally available in terms of physical, mental, social, and compensation for victims.

The results of this study are in line with normative legal theory which asserts that the existence of legal regulations must be followed by effective implementation so that protection becomes real. Suryamizon (2017) argues that legal guarantees include preventive and enforcement measures to provide a

sense of security for legal subjects, which in this context are children as victims of sexual exploitation.

Research also corroborates the importance of social support systems as one of the intervention methods to reduce risk and provide better protection to victims, as explained by Khairunnisa and Apsari. In addition, Ariyadi (2019) stated that the perspective of Islamic law can be an added value in efforts to protect children from sexual offences.

The unclear legal definition of child sexual exploitation currently makes it difficult to separate this criminal offence from other forms of sexual violence, so regulations need to be updated so that law enforcement can run more effectively. In addition, attention to victims' rights, particularly physical, mental and social rehabilitation, and compensation, is still disproportionately lacking when compared to the focus on the criminal aspects of the offence.

Today's social phenomena, including the misuse of digital technology and social media as a medium for child exploitation, require a comprehensive approach and involve various parties such as family, government, and society so that child protection can be effective.

CONCLUSION

Based on the description previously explained, it can be concluded that legal guarantees for the younger generation are a concrete manifestation of efforts to create a just life, where the younger generation has equal opportunities to experience growth and development in the community. The existence of these regulations presents significant juridical consequences, as every nation, including Indonesia, has an obligation to ensure the proper survival of the younger generation through available protective provisions.

However, the implementation of the rights of the younger generation as stipulated in the legislation has not been able to run optimally. Various serious obstacles can still be found in the resolution of cases of sexual abuse that befall the younger generation. Weaknesses in the justice system can also be seen from the increasing number of complex sexual abuse cases to be resolved, indicating that legal guarantees to the younger generation have not been implemented

efficiently.

Efforts to strengthen the rights of victims are crucial, including strengthening criminal provisions to cover all forms of sexual violence, as well as improving reporting procedures as law enforcers often do not respond proportionally to cases that arise. In this case, the government has the responsibility to carry out rehabilitation measures, both in terms of physical, mental, social, and through the provision of compensation.

Adequate facilities must be provided, especially for young people living on the streets, those from underprivileged families, or young people with mental disabilities, in order to reduce the level of discrimination and criminal acts involving young people. Programmes such as free education, shelter, protection for neglected youth, and access to proper health care are essential components of such policies.

Unfortunately, the provisions in the existing law are still considered insufficient, as they emphasise the criminal dimension of the offence, while the fulfilment of victims' rights, including physical, mental, social rehabilitation and compensation, has not received proportionate attention.

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