

IMPLEMENTATION OF LEGAL PROTECTION OF CHILDREN AND WOMEN AS VICTIMS OF SEXUAL CRIMES

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Abstract

This research explores the multifaceted nature of sexuality, emphasizing its significance in human survival and development within the context of Indonesian society. The study delves into the negative aspects associated with sexuality, particularly sexual abuse, which manifests in various forms such as harassment, exploitation, and violence. Alarming levels of sexual abuse among adolescents are highlighted, with contributing factors ranging from the circulation of pornographic content to a lack of understanding of religious values and inadequate sex education. The patriarchal domination theory is introduced to underscore the unequal power dynamics that contribute to crimes against women and children. The empirical juridical method is employed to examine the legal protection afforded to children and women in the face of sexual crimes, encompassing both preventive and repressive measures. The Child Protection Law and related regulations serve as the legal framework for this protection. The research identifies factors influencing sexual crimes, including internal factors such as psychological and mental states, external factors like economic conditions and societal influences, and the role of victims. The study concludes by emphasizing the importance of legal education and appropriate sanctions to address and prevent sexual crimes in the future.

Keywords: *Crime, Sexual, Legal Protection of Children and Women*

To cite this paper (in APA style):

Weldon Manurung. (2023). Title. *International Journal of Scientific Research*, 01(02), 80-86. DOI: xxxxxx

INTRODUCTION

Sexuality based on Article 1 number 21 of the Draft Law on the Elimination of Sexual Violence, is defined as the main element of human beings for the survival of their entire lives including sex, gender identity and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction experienced and expressed in

various thoughts, fantasies, desires, beliefs, attitudes, values, behaviors, practices, roles, and relationships between individuals, which are influenced by the attraction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, and spiritual factors (Rizqian, 2021) (Restia & Arifin, 2020) (Jamaludin, 2021).

As an important part of the development of human civilization, sexuality has been seen as sacred in various religious teachings and people's beliefs. Sexuality in the development of human civilization cannot be separated from negative aspects in social life. Sexuality in social life is seen as a deviation so that it is not in line with the nature or the true meaning of true sexuality.

Sexual abuse can be defined as sexual violence (Alsabi, 2022). Forms of sexual violence can include sexual harassment, sexual control, rape, sexual exploitation, sexual torture, other inhuman treatment or punishment of the body and sexuality leading to reproductive organs (Nurisman, 2022). Problems related to sexual deviance in Indonesia include problems regarding free sex, underage sex. Based on the results of the Indonesian Adolescent Reproductive Health (SKRRI) survey in 2017 published in September 2018, 0.9% of vulnerable adolescent girls aged 15 to 19 years or equivalent to a sample of 6,750 stated that they had had premarital sexual intercourse. As many as 2.6% or equivalent to the total sample of 3,221 vulnerable adolescent girls aged 20 to 24 years have had premarital sexual intercourse. Vulnerable adolescent boys aged 15 to 19 years, the percentage of 3.6% or with a sample of 7,713 have had sexual intercourse. As many as 14.0% or 4,899 vulnerable adolescent boys aged 20 to 24 years had sexual relations before entering into marriage (RAMADANI, 2020).

Various reasons teenagers have sexual relations before the marriage bond, ranging from curiosity, because of mutual love, just walking, economic factors, social influences. Sexual abuse has been at an alarming level. Sexual abuse among adolescents is caused by factors such as the

circulation of pornographic images and / or videos, low understanding of religious values, confusion in the meaning of love, lack of knowledge of adolescents about sexuality, and the absence of sex education in schools (Saraswati, 2015). If the understanding of sexuality is low and considered as something natural, it will affect coercion which leads to rape.

Sexual abuse is an act related to sexuality that is not appropriate at the time and place. Like a teenager who is underage is not yet time to have sex, or a married couple who have sex in public is a deviation or can be said to be sexual abuse. Sexual abuse is a form of action contrary to the moral values of society that are the source of the contributors to world civilization (Malarek, 2008) (Feronika, Warsah, & Nafriah, 2022).

The theory of patriarchal domination focuses on sexual crimes directed at women or children as victims of sexual crimes. The domination of men in patriarchal societies has an impact on crimes against women (Uswatina et al., 2021). The difference in power between men and women positions women as weak and vulnerable to crimes against women, as in the case of prostitution. Rape is another form of sexual abuse. Sexual harassment can take the form of dating rape and domestic rape to domestic violence. Rape is another form of sexual abuse. Sexual harassment can take the form of dating rape and domestic rape to domestic violence. Rape is another form of sexual abuse (Kusumawati, Shaluhiyah, & Suryoputro, 2014). Sexual harassment can take the form of dating rape and domestic rape to domestic violence.

METHOD

The type of legal research used in this study is empirical juridical by viewing law as a reality that includes social reality, cultural reality and others (reviewing law in action) (Yuliantini, 2014). This study is qualitative descriptive which aims to describe the legal protection of children and women and its legal implementation. Data sources used in the form of secondary data are data obtained indirectly or through other sources that researchers get, namely data obtained from literature studies in the form of literature, scientific papers, research results, laws and regulations, documentation from various agencies and data that have been documented. The data collection techniques used are document study techniques, observation, and through applicable laws and regulations (Sunggono, 2003).

In this study, the main data sources are secondary data involving literature, scientific papers, previous research results, laws and regulations, documentation from various agencies, and other documented data. Data analysis will require exploration and evaluation of the different types of documents and information that have been collected. In addition, the data collection techniques used include document study, observation, and analysis of applicable laws and regulations. Thus, data will be obtained through written documents, direct observation, and understanding of the relevant legal framework, enabling researchers to detail the necessary information by combining diverse data sources.

RESULTS AND DISCUSSION

1. Legal Protection Arrangements for Children as Victims of Sexual Crimes

Legal protection of children in relation to the phenomenon of sexual crimes is protection carried out before and after children become victims of sexual crimes. Legal protection carried out before children become victims of sexual crimes is preventive legal protection. Repressive legal protection is an action carried out after a child has already become a victim of sexual crimes.

The Child Protection Law affirms that the accountability of parents, families, communities, governments and the state is a series of activities that are carried out continuously in an effort to protect children's rights. Child protection aims to fulfill children's rights to live, grow, develop, and participate optimally, as well as receive protection from violence and discrimination. Children have the right to protection from economic and sexual exploitation, cruelty, violence, maltreatment, discrimination in accordance with Article 20 and Article 13 of the Child Protection Law (Wahid, Irfan, & Rasjidi, 2001).

Repressive legal protection of children is provided for when children are victims of, or perpetrators of sexual crimes (Hehalatu, Hehanussa, & Supusepa, 2022) (Ufran, Rodliyah, & Parman, 2022). Even if a child is declared a sex offender, children's rights as stipulated in Article 21 of the Child Protection Law remain attached to them. Preventive protection in the implementation of child protection from sexual crimes is reflected in Article 54 of the Child Protection Law, which confirms that children must get protection from sexual crimes in an educational environment.

Based on Article 59 of the Child Protection Law, the government and state institutions are obliged to provide protection to children who are sexually exploited, children who are victims of pornography, children who are victims of sexual crimes. Special protection for sexually exploited children is carried out based on the provisions of Article 66 of the Child Protection Law, namely disseminating laws and regulations relating to the protection of sexually exploited children; monitoring, reporting and sanctioning; Involving companies, employers, non-governmental organizations, and communities to participate and contribute to eliminating and combating all forms of sexual exploitation of children.

The provision of legal protection is also carried out repressively through the provisions of Article 69 A of the Child Protection Law. In the provisions of the article, protection is carried out for children who are victims of sexual crimes, through efforts: education about reproductive health, religious values and moral values, social rehabilitation, psychosocial assistance during treatment to recovery, provision of protection and assistance at every level of examination starting from investigation, prosecution, to examination at court hearings.

The government has made repressive efforts to enforce material legal provisions that are prohibitive in nature as well as criminal provisions as stipulated in Chapter XI A and Chapter XII of the Child Protection Law. The application of formal legal provisions in terms of protecting children is carried out through the Juvenile Criminal Justice

System Law which is repressively in accordance with the principle of justice. restorative and diversion as well as the principle of legal protection of children and the Convention on the Rights of the Child which was ratified into Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child.

In accordance with the Juvenile Criminal Justice System Law, children who face the law who are perpetrators of criminal acts will get sanctions based on age classification. Children with qualifications of less than 12 years of age will be subject to sanctions for action, children who have reached the age of 12 years to 18 years may be criminally charged and actions heard through juvenile criminal courts (Sutarno, 2022). If it is possible to diversion an attempt to a child who is in conflict with the law, then such efforts will take precedence.

Repressive regulations are used in cracking down and criminalizing sex offenders. For victims who are under 18 years old and have not yet entered into a marriage bond. Repressive regulations related to victims and perpetrators of sexual crimes over the age of 18 years or have committed marriage bonds apply to the provisions of the Criminal Code. Articles in the Criminal Code that can ensnare sex offenders who can be said to be adults are Article 285, Article 286, Article 289, Article 290 paragraph (1), Article 291, Article 294 paragraph (2), Article 296.

Sexual crimes that occur with adult or legally responsible victims and perpetrators committed within the scope of the family will be charged with Law 23

of 2004 concerning the Elimination of Domestic Violence formulated into Article 46, and Article 47. One of the efforts to provide protection for women against sexual violence is to pass and promulgate the Draft Law on the Elimination of Sexual Violence. All forms of violence are violations of human rights and crimes against human dignity which are forms of discrimination that must be avoided and eliminated by the state.

2. Factors Causing Sexual Crimes

The development of society and technological advances that change the structure of socio-cultural life values in society affect and have an impact on the nature and form, motive, intensity and modus operandi in sexual crimes (Amalia, 2019). The cause of a criminal act in the form of sexual crimes is influenced by internal factors of each individual, such as psychological and mental emotions of the perpetrators of crimes, age and gender factors, education level. External factors that influence sexual crimes are economic factors, low understanding of science, religion, references to reading books to the influence of films (Wijaya & Ananta, 2022).

A person can commit sexual crimes due to the mental state of the perpetrators which leads to negative personalities who tend to commit crimes. A person's mental disorder is influenced by factors of lack of understanding of religious science so that morals and mentality are not built. The level of education that affects hasty decision making without thinking about the risks and consequences if a crime is committed is not thought about responsibility.

Victims play a role in the emergence and occurrence of sexual crimes, such as looking inappropriate in public spaces by wearing tight clothing so that it looks sexy which can trigger sexual crimes in the form of harassment. This victim factor is synonymous with the designation criminogen factor. The role of victims who intentionally or omittingly encourage sexual crimes (victim precipitation). Factors of patients with exhibitionism or fond of showing genitals which are generally suffered mostly by men, can also be a factor causing sexual crimes. Factors under the influence of alcohol and narcotics also influence the occurrence of a sexual crime.

Sexual crimes are influenced by the relationship between the perpetrator and the victim, such as family relationships, friendships, and lovers who already know the personality and habits of the victim. Depression is also a factor that influences a person to commit sexual crimes by venting to others about his sexuality problems with his own partner or getting rejected by those closest to him to have sexual relations. Pornographic content influences criminals in fulfilling their fantasies, lust and sexual desires unnaturally.

Overcoming sexual crimes can be done with legal education not to repeat their actions in the future, and prevent similar acts by other individuals. The ultimate sanction remedium is the imposition of other sanctions if the sanctions that have been imposed cannot stop the crime against sexuality.

CONCLUSION

Based on the results of research and discussion that have been described, the author can draw the following conclusions: The regulation of legal protection against sexual crimes against children and women is reflected in the articles of the Child Protection Law and Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child. Legal protection arrangements are reflected in the Criminal Code, the Domestic Violence Law, and the Draft Law on the Elimination of Sexual Violence.

Factors that influence the occurrence of sexual crimes are mental and moral factors, understanding religious values, environmental and community factors, victim factors themselves, economic factors, sexual disorder factors such as exhibitionism sufferers.

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