



Analysis of Special Legal Protection for Children Who Are Victims of Pornographic Crimes

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Abstract. *This research aims to determine the legal protection efforts specifically provided to children who are victims of pornography crimes. Indonesian positive law in Law Number 35 of 2014 concerning Child Protection has provided special forms of protection for children which are oriented towards realizing the best interests of the child. This article was written using normative legal research methods with a statutory approach. Collection of legal materials is carried out by literature study of primary legal materials and secondary legal materials. The results of this research are that a special form of protection for child victims of pornography crimes is to provide recovery, especially in psychological aspects based on restorative justice. The aim and purpose of this recovery is so that children can live their lives as before without the trauma and pressure of being victims of pornographic crimes.*

Keywords: *special protection, children, victims of pornography*

Abstrak. Penelitian ini bertujuan untuk mengetahui upaya perlindungan hukum yang secara khusus diberikan kepada anak yang menjadi korban kejahatan pornografi. Hukum positif Indonesia dalam Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak telah memberikan bentuk-bentuk perlindungan khusus bagi anak yang berorientasi pada perwujudan kepentingan yang terbaik untuk anak. Penulisan artikel ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan. Pengumpulan bahan hukum dilakukan dengan studi kepustakaan terhadap bahan hukum primer dan bahan hukum sekunder. Hasil dari penelitian ini adalah bentuk perlindungan khusus terhadap anak korban kejahatan pornografi adalah memberikan pemulihan terutama dalam aspek psikis yang berbasis keadilan restoratif. Maksud dan tujuan dari pemulihan tersebut adalah agar anak dapat menjalani kehidupannya seperti sediakala tanpa trauma dan tekanan menjadi korban kejahatan pornografi.

Kata kunci: perlindungan khusus, anak, korban pornografi

INTRODUCTION

Children are the nation's next generation who must be protected and paid special attention to by the state. So that later we will be able to take responsibility for the sustainability of the nation and state. According to Article 1 of Law no. 35 of 2014 concerning Child Protection: "A child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb." (Mastur, Pasamai, & Agis, 2020) Children have a strategic role and have special characteristics and characteristics, so they require guidance and protection in order to ensure balanced physical, mental and social growth and development.

Along with the development and progress of technology which can be easily accessed by various groups, both minors and adults, it certainly has an impact on the development and growth of children (Analiya & Arifin, 2022). Currently, there are many cases that make children victims of pornography through social media networks and in the realm of social life such as at home, supermarkets, at school and other public places.

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One of the cases in the city of Manado which shocked the public was the spread of an immoral video involving a child with the initials IM (16) acting naked in a guest house. The 30 second video shows a woman with long hair cleaning her body after taking a shower, drying her body with a white towel. The child victim did not know that the man she was with was recording herself and sharing and spreading the video of herself on social media via WhatsApp and Facebook groups. The disclosure of this case proves that there is a practice of prostitution against minors. The incident that happened to the child victim caused the child to experience deep trauma and experience physical, psychological and mental health problems. The child victim blames himself and experiences stress due to thinking about the video being spread everywhere

RESEARCH METHOD

This research uses a normative type research method with a statutory approach (Benuf & Azhar, 2020). Collection of legal materials through literature study. The legal materials used for analysis are primary legal materials and secondary legal materials. The analysis technique used is deductive analysis (Susanto & B., 2016).

RESULT AND DISCUSSION

In society, everyone has their own interests, which are not only the same, but also sometimes conflicting, for this reason legal rules are needed to regulate these interests, which concern the interests of children which are regulated by legal provisions relating to child protection, which are called Child Protection Act.

According to the provisions of the cybercrime convention, pornography is included in computer crimes related to content. The definition of pornography in the convention is child pornography via computer. The definition of a child in this convention is a person who is not yet 18 years old (IMAM SUJONO MH CPL, 2019). Contracting and non-participating countries to the convention which do not specify the age limit for children in national legislation as intended in this convention, are expected to determine the maximum age limit for children of no less than 16 years.

Furthermore, child victims of pornography are defined as the act of depicting, disseminating and promoting violence or sexual treatment against children through the media of images, videos, films, computers or other print media, in addition to displaying and/or displaying them to the public. a sex scene or children's sexual organs with the intention of displaying them, also includes child pornography (Jayadi, 2011).

In Indonesia, the implementation of the protection of children's rights as stated in the UN Declaration is outlined in Law Number 4 of 1979 concerning Child Welfare. Article 1 of Law Number 4 of 1979 determines: "Children's welfare is a system of life and living for children, which can guarantee their normal growth and development, both spiritually, physically and socially. Child welfare efforts are social welfare efforts aimed at ensuring the realization of children's welfare, especially the fulfillment of children's basic needs.

Sensitivity to a sense of justice and a caring attitude towards the nation's future generations should also be measured by their attention to efforts to protect the rights of children in trouble with the law who are victims of criminal acts. The legal protection given to a child must prioritize the child's rights to receive special protection (Mastur et al., 2020). Arief Gosita said that the Child Protection Law is a written or unwritten law which guarantees that children can truly carry out their rights and obligations (Octaviani & Nurwati, 2021).

Child protection law is law that guarantees the rights and obligations of children, Child Protection Law takes the form of: customary law, civil law, criminal law, civil procedural law, criminal procedural law and other regulations concerning children. Child protection concerns various aspects of life and livelihood, so that children can truly grow and develop naturally in accordance with their human rights. Bismar Siregar said: "The issue of legal protection for children is one side of the approach to protecting Indonesian children. The problem cannot only be approached juridically, but requires a broader approach, namely economic, social and cultural"(Lase & Halawa, 2022).

In Law no. 35 of 2014 Article 1 paragraph (15) states that "Special Protection is a form of protection received by Children in certain situations and conditions to guarantee a sense of security against threats that endanger themselves and their lives in their growth and development. Special protection is an illustration of the working of the legal function to realize legal objectives, namely justice, benefit and legal certainty. In essence, everyone has the right to receive protection from the law (Manalu, 2021).

Therefore, there are many kinds of legal protection, one of which is special protection for children who are victims of pornography. The provisions of article 59 of Law Number 35 of 2014 state: "The Government, Regional Government and other State institutions are obliged and responsible for providing protection Especially for Children." Paragraph (1) Special protection for children as intended in paragraph (1) is given to: a. Children in emergency situations; b. Children who are in conflict with the law; c. Children from minority and isolated groups; d. Children who are economically exploited and / or sexual; e. Children who are victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances; f. Children who are victims of pornography; g. Children who are victims of HIV/AIDS; h. Children who are victims of kidnapping, sales, and/or trafficking; i .Children who are victims of physical and/or psychological violence; j. Children who are victims of sexual crimes; k. Children who are victims of terrorist networks; l. Children with disabilities; dano.Children who are victims of stigmatization from labels related to the condition of their parents (Tengker, 2021).

Article 59 states clearly that Special Protection is an obligation that must be provided by the Government, regional governments and other State Institutions for the welfare of children. Children's happiness is shared happiness, protected happiness is protective happiness. There is no anxiety for children, because the child protection provided makes children prosperous. Children's welfare has a positive influence on parents, families, society, government and the state. Child protection benefits children and parents, families, communities, government and the state. Collaborative coordination of child protection activities needs to be carried out in order to prevent an imbalance in overall child protection activities.

Nowadays there are quite a few cases of pornography that ensnare children who are still underage as victims. Advances in technology and information are certainly one of the means that have a negative impact on the lives and development of children. The vulnerability of children becoming victims of pornography is very high. Both as victims of exposure to content and as victims of pornographic objects

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. Special protection for children who are victims of pornography guarantees a sense of security against threats that could endanger the child's life as a result of criminal acts of pornography. Special protection is provided to child victims such as guidance, assistance and social, health, physical and mental recovery carried out by experts in their fields in the process of helping

to alleviate, restore, social, psychological, mental and spiritual conditions through counseling and therapy activities. psychosocial, providing defense through social advocacy and legal assistance for children who are victims of pornography in order to protect children's rights.

2. The positive impact of special protection for children who are victims of pornography is that children experience changes for the better from their previous conditions. The process of guidance, teaching, increasing will and skills has a positive impact on increasing children's creativity in the learning process. The social recovery provided allows children to return to their families and communities so that children can carry out their social functions well again.

Recommendations

1. Special protection for children who are victims of pornography must be maximized and taken more seriously in providing assistance to children who are victims of pornography. Because not everyone can handle it specifically, for this reason solid cooperation is needed not only from one agency but from all related parties across agencies and also the community so that the expected positive impact is that children do not become victims of pornography again.
2. Special protection for children who are victims of pornography must have the effect of raising awareness and increasing supervision of children in society, especially parents. For this reason, there is a need for socialization within the community regarding the dangers and negative impacts of children who become victims of pornography, which is an effort to prevent children from becoming victims as a result of criminal acts of pornography.

REFERENCE LIST

- Analiya, T. R., & Arifin, R. (2022). Perlindungan Hukum Bagi Anak dalam Kasus Bullying Menurut Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak di Indonesia. *Journal of Gender And Social Inclusion In Muslim Societies*, 3(1).
- Benuf, K., & Azhar, M. (2020). Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer. *Gema Keadilan*, 7(1). <https://doi.org/10.14710/gk.2020.7504>
- IMAM SUJONO MH CPL, S. H. I. (2019). Rekonstruksi Hukum Cybercrime Dalam Konsep Cybersecurity National (Cybercrime Law Reconsruction in National Cybersecurity Concept). *Zenodo*.
- Jayadi, S. (2011). KEBIJAKAN HUKUM PIDANA DALAM TINDAK PIDANA CYBER DI BIDANG PORNOGRAFI ANAK (CYBER CHILD PORNOGRAPHY) DI INDONESIA. *LAW REFORM*, 6(2). <https://doi.org/10.14710/lr.v6i2.12473>
- Lase, F., & Halawa, N. (2022). Menjaga Dan Mendidik Anak Di Era Digital Terhadap Bahaya Pornografi. *Zadama: Jurnal Pengabdian Masyarakat*, 1(1). <https://doi.org/10.56248/zadama.v1i1.21>
- Manalu, S. (2021). TINJAUAN YURIDIS PEMBUKTIAN TINDAK PIDANA PERSETUBAHAN TERHADAP ANAK. *Fiat Iustitia : Jurnal Hukum*. <https://doi.org/10.54367/fiat.v1i2.1155>
- Mastur, M., Pasamai, S., & Agis, A. (2020). Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual. *Journal of Lex Philosophy (JLP)*, 1(2). <https://doi.org/10.52103/jlp.v1i2.213>
- Octaviani, F., & Nurwati, N. (2021). ANALISIS FAKTOR DAN DAMPAK KEKERASAN SEKSUAL PADA ANAK. *Jurnal Ilmu Kesejahteraan Sosial HUMANITAS*, 3(II). <https://doi.org/10.23969/humanitas.v3iii.4118>
- Susanto, A. F., & B., G. T. (2016). PENELITIAN HUKUM TRANSFORMATIF PARTISIPATORIS: SEBUAH GAGASAN DAN KONSEP AWAL. *LITIGASI*, 17(2). <https://doi.org/10.23969/litigasi.v17i2.159>
- Tengker, O. R. (2021). Perlindungan Khusus Bagi Anak Korban Kekerasan Fisik Atau Psikis. *Lex Privatum*, IX(4).