


Children As Victims of Sexual Violence: Criminological Perspective

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Abstract

Introduction: Children are a mandate and a gift from God Almighty that must be safeguarded because they have human dignity and rights that must be upheld. Sexual violence crimes obtained by the Ambon City Police (POLRESTA) and Lease Islands during 2022 to 2024, the forms of sexual violence were in the form of sexual intercourse and sexual abuse of children.

Purposes of the Research: This research aims to examine and discuss what are the factors that cause children to become victims of sexual violence at the Ambon City and Lease Islands Police Station.

Methods of the Research: The research used in this legal writing is empirical legal research or non-doctrinal research (socio legal research), using the research approach used by the author is a qualitative approach where this approach is a research method that produces analytical descriptive data. This research uses primary data and secondary data.

Findings of the Research: The results showed that Factors causing children to become victims of sexual violence at the Ambon City and Lease Islands Police Department are 1) Lack of Education; 2) Psychological Disorders of the Perpetrator; 3) Technological Advancement Factor; and 4) Lack of Supervision from Parents.

Keywords: Criminology; Child; Victims; Sexual Violence.

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INTRODUCTION

Children are a mandate as well as a gift from God Almighty that must always be safeguarded because in them are inherent dignity and rights as human beings that must be upheld. Children's human rights are the same rights as human rights, which are guaranteed protection in the 1945 Constitution of the Republic of Indonesia. The state's consistency in providing guarantees for children's rights can also be seen from the ratification of the United Nations (UN) Convention on the Rights of the Child in 1990 through Presidential Decree Number 36 of 1990. In line with that, the issuance of Law Number 17 of 2016 on the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection into Law (hereinafter referred to as the Child Protection Law) and Law Number 11 of 2012 on the Juvenile Justice System are also concrete forms of state protection of children's rights. As the next generation of the nation that has an important role for the development of the country, every child has the right to be able to live, grow, develop, and participate reasonably in accordance with the dignity of humanity and is entitled to protection from violence and discrimination.

The fulfillment and protection of children's rights is not only an obligation that must be fulfilled by parents, but also an obligation of society and the state as stated in Article 20 of

the Child Protection Law.¹ Despite the existence of adequate legal regulations in relation to the crime of sexual violence against children as described, in reality, the crime of sexual violence against children still occurs in Ambon City at the Ambon City Resort Police (POLRESTA) and Lease Islands from 2022 to 2024. This is due to the deviant behavior of perpetrators who commit sexual violence against children.

The type of sexual violence is sexual violence which includes all forms of sexual violence in accordance with article 4 paragraph 1 and 2 of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, namely non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, electronic-based sexual violence, rape, obscene acts, intercourse with children, obscene acts against children, and / or sexual exploitation of children, acts of violation of decency against the will of the victim, pornography involving children or pornography that explicitly contains sexual violence and exploitation, forced prostitution, criminal acts of trafficking in persons intended for sexual exploitation, sexual violence within the scope of the household, criminal acts of money laundering whose originating criminal act is a criminal act of sexual violence, and other criminal acts that are expressly stated as criminal acts of sexual violence as stipulated in the provisions of laws and regulations. Sexual violence crimes obtained by the Ambon City and Lease Islands Police from 2022 to 2024 included sexual intercourse and sexual abuse of children.

The crime of sexual violence can be qualified as a crime that can be categorized as an extraordinary crime, as contained in Article 9 of Law Number 26 of 2000 concerning the Law of the Republic of Indonesia concerning Human Rights Courts (Human Rights Law) which regulates "crimes against humanity". This certainly has an impact on life in society. Because it causes insecurity and discomfort in social life. People will become afraid because people who commit criminal acts of sexual violence against children, even though we all know that there are laws that apply and regulate. Then the cases of sexual violence that occurred at the Ambon City Police and Lease Islands have decreased and then increased again.

As for some previous research contained in this study, namely 1) Criminological Review of Sexual Violence Against Children in the South Tangerang City Area (Siti Zulaika Wulandary, 2028), which discusses the criminogenic factors that cause criminal acts of sexual violence against children in the South Tangerang City area and knows the efforts made by related parties in order to overcome the occurrence of criminal acts of sexual violence against children in the South Tangerang City area, and 2) Criminological Review of Sexual Violence Against Children in Buleleng Regency (Sebayang, Afri Levisa Bibina Br, Yuliantini, Ni Putu Rai, Sudika, Dewa Gede Mangku). The research differs from previous studies in that the novelty of the author's research results (State of The Art) is related to the factors that cause children as victims of sexual violence at the Ambon City and Lease Islands POLRESTA. Based on the background that has been described, the title is Criminological Study of Children as Victims of Sexual Violence, which aims to examine and discuss what factors cause children to become victims of sexual violence at the Ambon City and Lease Islands POLRESTA.

METHODS OF THE RESEARCH

¹ Siti Zulaika Wulandary, "Tinjauan Kriminologi Kekerasan Seksual Terhadap Anak Di Wilayah Kota Tangerang Selatan," *Recidive* 7, no. 3 (2018): 297-308, <https://doi.org/https://doi.org/10.20961/recidive.v7i3.40608>.

The type of research used in this legal writing is empirical legal research or non-doctrinal research (socio legal research) to find out the circumstances that occur in practice. Empirical legal research is research based on certain methods, systematics, and thoughts that aim to study one or several certain social symptoms by analyzing them. In addition, an in-depth examination of the social facts is also carried out to then attempt a solution to the problems arising from the symptoms concerned. In sociological or empirical writing, what is examined initially is secondary data that provides an explanation of legal research writing and then continues with primary data research in the field or in the community. The research approach used by the author is a qualitative approach where this approach is a research method that produces analytical descriptive data, namely what is stated by respondents in writing or verbally as well as their real behavior, studied and studied as a whole..² This research uses primary data, namely data obtained directly based on the results of interviews. In addition, this research also uses secondary data consisting of primary legal materials such as the Criminal Code (KUHP) and Law Number 23 of 2002 concerning Child Protection, and Law Number 11 of 2012 concerning the Child Criminal Justice System.

RESULTS AND DISCUSSION

A. Sexual Violence

Children are entrusted by the Almighty and a treasure that must be guarded and protected. Because in him lies the future of the nation. Children are the asset power of the nation and are the next generation of the nation as one of the human resources that has the power to inherit and inherit the struggle as well as the ideals of the nation's future. Children first learn new things from their family, then get their formal education in the scope of school, then collaborate with the scope of their life and the community where they live. Along with the growth and development of children, they are increasingly familiar with their larger environment and face the era of globalization, the development of the science and technology section which continues to experience advanced changes, resulting in children becoming less controlled and getting information from their parents easy access to everything without it. Therefore, children need guidance as well as a sense of security to be able to ensure their physical, mental, and social growth and development as a whole. Social control can create a procedure for efforts to prevent social deviations as well as invite and direct people to behave and behave according to social norms and values contained in a society. Then with good social control, the community is expected to be able to straighten out members of the community who behave deviantly.³

Margie Gladies Sopacua is of the opinion that "The Law of the Republic of Indonesia on Human Rights provides an affirmation that what is meant by human rights are all rights that are inherent and contained in humans as creations of God Almighty. The rights regulated in the Human Rights Law must be respected, protected, and maintained by the state through various positive legal regulations. Human rights originate from God Almighty as the creator. The state must protect them as the holder of the power to make legal regulations to protect the human rights of each human being").⁴ Margie Gladies Sopacua further stated that "Indonesia, as a developing country, has a poor reputation

² Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Press., 2010).

³ Margie Gladies Sopacua, "Criminology Study on the Circulation of the Sopi Traditional Liquor in the Villages of Zeith, Asilulu, and Kaitetu during the Covid-19 Pandemic," *Law Reform* 17, no. 2 (2021): 168–82, <https://doi.org/https://doi.org/10.14710/lr.v17i2.41743>.

⁴ Margie Gladies Sopacua, "Perception of Indonesia and Afghanistan in Preventing Psychic Violence Against the Household Women," *Jarlev: Jambura Law Review* 5, no. 2 (2023): 251–77, <https://doi.org/10.33756/jlr.v5i2.18529>.

towards the issue of human rights violations, one of which is the violation of women's rights. Furthermore, violations of women's rights can be classified as acts of violence against women".⁵

Issues that arise in the community provide different perceptions in general, where women themselves get less attention and women are classified as weak. Thus, the violence experienced by women is continuously neglected and remain hidden. This view is influential and affecting how society conducts daily activities, in connection with the values that develop in the community regarding the position of women in society.⁶

Crime itself is defined as anti-social behavior that has been prohibited and formulated in positive law as a crime. This sexual violence is a very serious crime that needs attention because the victims are children and women where children and women are very vulnerable to becoming victims of sexual violence where children are very weak humans and still need protection..⁷

The crime of sexual violence against children is not only detrimental to oneself but also detrimental to the wider community. Sexual violence against children is a problem that arises and develops and has its own impact, so it is necessary to overcome the crime of sexual violence against children. Countermeasures against crime are an effort made so that it can suppress or prevent the crime. As a law enforcement officer, the police certainly have a duty to maintain security, public order, service, protection and protection for the community.⁸

Sexual violence against children is one of the crimes that violates the provisions of the law and must be handled quickly. An appropriate action is needed in order to be able to provide a deterrent effect and understanding for the perpetrator regarding the impact and consequences of the actions committed so that the perpetrator does not commit the act again..⁹

Sexual violence can also affect interpersonal relationships, worsen victims' quality of life and have long-term impacts on their mental and emotional health. Prevention of sexual violence requires not only support and services for victims of sexual violence, but also education and awareness-raising efforts.

Sexual violence against children under the age of 17 is an increasing threat in Indonesia. This condition raises concerns among the public. Sexual violence is a form of abuse experienced by children, where a number of teenagers or adults abuse them to fulfill their sexual desires. Child sexual abuse can take the form of commanding or forcing a child to engage in sexual behavior, which in turn creates inappropriate interactions for the child. Child abuse or maltreatment can take the form of physical, psychological or sexual violence as well as neglect in care and exploitation for commercial gain. These acts of violence can jeopardize the health, survival, dignity and worth of children, and hinder their development. Therefore, it is important for us to recognize that people who have the responsibility, trust and authority to protect children are key in preventing sexual violence.

⁵ Margie Gladies Sopacua, "Legal Politics and Strategy on Protection of Women from Violence in Human Rights Context," *Research on Humanities and Social Sciences* 9, no. 4 (2019): 34-40, <https://doi.org/10.7176/RHSS/9-4-04>.

⁶ Sopacua.

⁷ Afri Levisa Bibina Br Sebayang et al., "Tinjauan Kriminologis Tindak Pidana Kekerasan Seksual Terhadap Anak Di Kabupaten Buleleng," *E-Journal Komunikasi Yustisia* 6, no. 1 (2023): 67-78.

⁸ Sebayang et al.

⁹ Sebayang et al.

In this context, children are defined as individuals under the age of 18, including those still in the womb, in accordance with Law Number 23/2002 on Child Protection.

B. Criminology and Factors Causing Children to Become Victims of Sexual Violence at the Ambon Island and Lease Islands Police Department

Criminology is a branch of science that looks at and reviews crimes from many fields. The meaning according to Grammar is a crime, or an act that is commonly known or heard by people. These crimes include cases of murder, theft, fraud, kidnapping, and especially the part that offends minors. On the other hand, although it is not clearly regulated in the Criminal Code, it is a crime contained in Articles 104 to 488 as well as Articles of the Criminal Code. From a legal perspective, a crime is a behavior that must be avoided and the act or act can result in a criminal offense. This view emerged in the year from the theory that all parts of society, namely the part that has free wil.¹⁰

Crime is something that deviates from the norms that cause the perpetrator to be subject to sanctions in accordance with the crime he committed, but the perpetrator commits a crime must have caused him to do so, be it environmental, economic, and other factors. The following are the factors that cause crime to occur which are analyzed according to several theories as follows;

1. Biological Theory

This theory says that physiological factors and a person's physical structure are inherited from birth. Through genes and heredity can lead to behavioral deviations. Inheritance of abnormal types of tendencies can result in deviant behavior that can lead to symptomatic behavior. For example, congenital defects associated with criminal traits and mental illness. Biological factors also illustrate that crime can be seen from the physicality of the criminal, for example, it can be seen from certain biological characteristics such as an asymmetrical face, thick lips, snub nose, and others. However, this cannot be used as a factor that causes crime, only as a theory used to identify a criminal. In addition, criminals have a talent for evil that has been possessed since birth, which is obtained from the inheritance of ancestors. Because criminals are born with a legacy of evil actions.¹¹

2. Psychogenesis Theory

This theory says that criminality arises because of intelligence, personality traits, motivation, wrong attitudes, fantasy, rationality, wrong internalization of self, inner conflict, controversial emotions, and psychopathological tendencies, meaning that criminal behavior is a reaction to psychological problems, for example in families that are destroyed by divorce or misparenting because parents are too busy.

Another factor that contributes to crime is the psychology of the offender, meaning that the offender responds to a variety of personality pressures that drive them to commit crime. Criminality may be the result of an overactive conscience that produces excessive feelings of guilt, a person commits prohibited behavior because of his conscience, or his superego is so weak and imperfect that his ego (which acts as a deterrent between the superego and ideas) is unable to control the impulses of ideas (the part of the personality that contains strong desires and urges to be satisfied or fulfilled).

¹⁰ Goklan Tamba, "Tinjauan Kriminologis Terhadap Penyalahgunaan Narkotika Di Kalangan Pelajar Di Wilayah Hukum Polisi Resort Kota Pekanbaru. Pekanbaru," *JOM Fakultas Hukum* 1, no. 2 (2014): 1–15.

¹¹ Emilia Susanto dan Eko Raharjo, *Buku Ajar Hukum Dan Kriminologi* (Lampung: CV Anugrah Utama Raharja, 2018).

3. Sociogenesis Theory

This theory explains that the cause of evil behavior is purely sociological or social psychological, namely the influence of social structure, group pressure, social roles, social status, or wrong symbolic internalization. Evil behavior is shaped by a bad and evil environment, unattractive school conditions and associations that are not directed by moral and religious values. This theory reveals that the cause of crime is because it is influenced by surrounding environmental factors, both family, economic, social, cultural, defense and security and technological inventions. This theory directs us that people have a tendency to commit crimes because of the process of imitating their surroundings or better known as the imitation process¹²

4. Subcultural Theory of Delinquency

According to this theory, delinquent behavior is a trait of the social structure with distinctive cultural patterns of the environment and society experienced by criminals. This happens because of dense population, low socio-economic status of residents, very poor physical conditions of the neighborhood, or also because of a lot of familiar and high-level social disorganization. This factor can be a contributing factor to the occurrence of crime, the meaning of this factor is that the cause of crime is seen based on the location of a particular area where a crime occurs.¹³

5. Cultural Conflict Theory

This theory of cultural conflict is the result of a conflict of social values, then the conflict affects the development of culture and civilization. Conflicts that occur, for example, conflicts in behavioral norms as an example of differences in ways of life and social values that apply among existing groups. Furthermore, this conflict resulted in many crimes¹⁴

6. Economic Factor Theory

This theory sees the occurrence of crime as a result of economic inequality that occurs in society. Economic inequality that occurs, for example, as a result of the dense population of an area due to urbanization, this results in very intense economic competition, resulting in a large number of unemployed people in the area. The large number of unemployed people means that people tend to look for ways to survive, including committing crimes.¹⁵

7. Differential Association Theory

This theory is based on the learning process, namely that criminal behavior is learned behavior. There are 9 propositions in the process of crime, which are as follows: a) Criminal behavior is learned in interaction with others in a communication process; b) The most important part of learning criminal behavior occurs in intimate personal groups; c) When criminal behavior is learned, it is the technique of committing the crime as well as the motives, motivation, justification and attitude; d) The direction of motives and drives are learned through legal constraints, both as favorable and unfavorable; e) A person becomes delinquent because of more contact with evil patterns of behavior than non-evil ones; f) Differential Association can vary in frequency, duration, priority, and intensity; g) The process of learning criminal behavior is obtained from the relationship with crime and anti-crime patterns that involve all the mechanisms involved in any learning process in general;

¹² Raharjo.

¹³ Raharjo.

¹⁴ Raharjo.

¹⁵ Raharjo.

and h) Criminal behavior has a statement of needs and general values. Thieves will steal because of the need to earn money.¹⁶

Based on the results of the interview with PS. KASUBNIT 1, DIK 3 / PPA, (KASUBNIT PPA) POLRESTA Ambon, AIPDA Happi Janbornias, it is known that the factors that influence the increasing level of sexual violence against children, including;¹⁷ 1) Lack of Education. According to KASUBNIT PPA Polresta Ambon AIPDA Happi Janbornias, the lack of education for potential victims and potential perpetrators has a significant impact. The lack of insight of children as potential victims about the dangers of early sex, and how to avoid the threat of sexual violence against them. In addition, AIPDA Janbornias in his statement also explained about the lack of education about criminal threats against potential perpetrators, which increases the potential for people to become perpetrators and potential perpetrators; 2) Psychological Disorders of Perpetrators: Some perpetrators of child sexual abuse suffer from certain personality disorders or psychopathologies that make them have deviant tendencies. These factors include: a) Pedophilia: A psychiatric disorder in which a person has strong sexual urges towards children; b) Antisocial Disorder: Perpetrators lack empathy and guilt for their actions, and tend to violate social and legal norms; c) Impulsivity Disorder: Some offenders are unable to control their sexual urges and commit acts without thinking about the consequences. 3) Technological Advancement Factor: AIPDA Janbornias also explained the impact of technological advances on the increase in cases of sexual violence against children as victims. He explained that technological advances make content that should be adult consumption easy for children to access. He explained more clearly about the content of Korean idols (K-Pop) which are often shown wearing mini and sexy clothes, which often makes children who watch think it is cool and use sexy open clothes, without realizing this attracts the attention of potential perpetrators who do have sexual orientation disorders (Pedophilia) to design and prepare their actions; 4) Lack of Parental Supervision: AIPDA stated that Janbornias Parental supervision is needed to protect children from sexual violence crimes. In many cases it is known that the victims are children who are less supervised by their parents, parents seem to give freedom to their children even though such freedom can plunge children into suffering as victims of sexual violence.

CONCLUSION

Factors causing children to become victims of sexual violence at the Ambon City and Lease Islands Police Department are 1) Lack of Education; 2) Psychological Disorders of the Perpetrator; 3) Technological Advancement Factor; and 4) Lack of Supervision from Parents.

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¹⁶ Raharjo.

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