

Legal Protection for Children as Victims of Domestic Violence

DOI: <https://doi.org/10.47175/rissj.v4i1.628>

| Ismaidar¹ | Rahmayanti² |

^{1,2} Pancabudi Pembangunan
Development University.

¹rahmayanti@dosen.pancabudi.ac.id.

²ismaidarima@dosen.pancabudi.ac.id.

ABSTRACT

Domestic violence often occurs in human life. The forms of violence experienced by victims vary, both in the economic, social and educational fields. The formulation of the problem is how to protect children as victims of law (domestic violence). Victims who experience domestic violence are generally women and children. In this case, the government provides health facilities and efforts for children who have experienced violence in order to relieve the trauma experienced. This can be too contained in Law no. 23 of 2002 concerning Child Protection which has stipulated criminal sanctions, within the form of detainment or with. Which is for the good thing about the child. Legitimate security for children as casualties of residential viciousness is the assurance given, counting: providing legal help; privacy of the victim's personality; capture the culprit with preparatory prove; giving other help within the shape of wellbeing administrations; recovery endeavors. The reason of this investigate is to discover outlegal assurance for children as casualties (Household Savagery (KDRT) and lawful cures against children as victims of Domestic Violence (KDRT). This research uses descriptive analytical research method, the approach used is normative juridical. The approach method used in this research is the statutory approach.

KEYWORDS

Legal Protection; children; victims; violence

INTRODUCTION

Children are a command and blessing from God All-powerful, who has characteristic respect and worth as a entirety human being. Children are moreover the following era of the nation's beliefs and human resources for future national development. Protection of victims in the criminal justice process is certainly inseparable from the protection of victims according to the applicable positive law. In positive law in Indonesia, victim protection is more of an abstract or indirect protection. Criminal responsibility for the perpetrator is not directly and concretely responsible for the loss or suffering of the victim, but is focused on personal (individual) responsibility.¹ Child protection has basically been regulated in Law No. 35 of 2014 concerning Child Protection.

The protection of a child against the law and the elimination of crime and violence in a household are very interesting problems to study and research because children are the potential and successors of the nation's cadres which have basically been placed by the previous generation. In addition, so that all children can bear these responsibilities. So they need to urge the largest opportunity to develop and create well profoundly, physically and

¹ Barda Nawawi Arief, 1998, Beberapa Aspek Kebijakan Penegakan Dan Pengembangan Hukum Pidana, Citra Aditya Bakti, Bandung, p. 56

socially. Inherently in society there are children who experience obstacles to their spiritual, physical, social and economic well-being. In the maintenance of the welfare of the child has not been able to be done by the child. So in maintenance, Opportunities and efforts to eliminate obstacles can only be carried out and obtained if the child welfare efforts are guaranteed. Children are portion of the more youthful era as one of the human assets which are possibilities and successors of the beliefs of the nation's battle, which have a key part and have uncommon characteristics and characteristics, requiring direction and security in arrange to guarantee development, physical, mental, social advancement with entire, concordant, agreeable, conjointly adjusted. To carry out coaching and give assurance for children, back is required. Both concerning teach and legitimate disobedient that are more steady and satisfactory. Hence, the arrangements with respect to the organization of courts for children have to be be carried out particularly. requires direction and assurance in arrange to guarantee development, physical, mental, social improvement in a total, concordant, agreeable and adjusted way. To carry out coaching and give assurance for children, bolster is required. Both concerning teach and legitimate rebellious that are more steady and satisfactory.

Violence often occurs in the life of every child, the experiences that occur in every child who experience violence are of many kinds, namely violence that occurs from the scene, the perpetrator and the cause of the violence. Crimes or violence committed by parents that often occur are scolding their children and hitting their children using brooms, belts and objects around them. Many say that parents who abuse their children are mild forms of abuse, but the act is done intentionally to cause pain to a child's body, which can be fatal for children who have experienced violence by their own parents.²

Children are children who need to be taken care of, they should get the protection they should get. The family is a place where children take refuge and feel safe. Efforts to protect children must be carried out as early as possible, so that in the future children can participate optimally and can socialize in the surrounding environment and also as heirs and continuation of the future of a nation and state. Efforts to protect children need to be implemented firmly. Article 1 section (2) of Law Number 23 of 2002 concerning Child Security contains arrangements that: child assurance is all exercises to ensure and ensure children and their rights so that they can live, develop, create, and take part ideally in agreement with their respect. and human nobility, and get assurance from viciousness and separation. The problems experienced by children are very dramatic and heartbreaking, because they are experienced by children whose physical and mental abilities are still very limited to protect themselves from the various risks and dangers they face. Children still depend on adults who are around them to protect them. Different endeavors have been made, but it is completely realized that in society there are still numerous children who require uncommon security endeavors. The reality in society is that there are still numerous children who are casualties of physical savagery.

Culprits of savagery whose casualties are children are for the most part carried out by individuals who have near connections or have known the casualty to begin with. Viciousness against children can be activated by a need of great family work and financial foundation. Children can ended up casualties or culprits of viciousness with 3 (three) loci or places of viciousness against children, to be specific within the family environment, within the school environment and within the community. The foremost key target is to extend the part and engage the family as a vehicle for children to socialize and take asylum from all

²Adami Chazawi, *Kejahatan Terhadap Tubuh dan Nyawa*, PT Raja Grafindo Persada, Jakarta, 2013, p. 2

mistreatment of them.³ The family ought to be a put where children feel secure and give security for children. Physical viciousness that's rampant against children within the family, school and community environment appears that children are defenseless to being casualties of savagery and the need of security for children. Children truly require a neighborly and secure environment for playing and communicating themselves to create themselves, but this appears that a neighborly and secure environment is still distant from being a child-friendly environment. The problems in this research are How is legal protection for children as victims of Domestic Violence (KDRT) and legal remedies for children as victims of Domestic Violence (KDRT). Thus, every occurrence of domestic violence, the victim must report the perpetrator to the competent authority.

RESEARCH METHODS

This investigate strategy is expressive explanatory depicting lawful issues related to legal assurance for children as casualties of Household Viciousness (KDRT). The approach utilized is standardizing juridical. The approach strategy utilized in this investigate is the statutory approach. Auxiliary information incorporates essential and auxiliary and tertiary legitimate materials. The essential lawful fabric is within the frame of statutory controls. Auxiliary lawful materials comprise of reading material, lawful diaries, comes about of past investigate, suppositions of researchers, and other distributions. Tertiary Legitimate Materials that give informational or clarifications for essential and auxiliary legitimate materials such as legitimate lexicons, reference books and others (Johnny Ibrahim, 2005: 295-296). Conclusions are drawn in a deductive way, specifically drawing conclusions from a common issue to a concrete issue.

RESULTS AND DISCUSSION

Legal Protection for Children as Victims of Domestic Violence (KDRT)

The protection of a child against the law and the elimination of crime and violence in a household are very interesting problems to study and research because children are the potential and successors of the nation's cadres which have basically been placed by the previous generation. In addition, so that all children can bear these responsibilities. So they need to get the widest opportunity to grow and develop well spiritually, physically and socially. Children are portion of the more youthful era as one of the human assets which are possibilities and successors to the standards of the nation's battle, which have a key part and have extraordinary characteristics and characteristics, requiring direction and security in arrange to guarantee development, physical, mental, social advancement with entirety, agreeable, agreeable, additionally adjusted. To carry out coaching and give assurance for children, bolster is required. Both concerning educate and lawful rebellious that are more steady and satisfactory. Subsequently, the arrangements with respect to the organization of courts for children have to be carried out particularly. All shapes of savagery, particularly human and wrongdoings against human respect as well as residential viciousness, are generally ladies. In this manner, it is mandatory to induce assurance from the state or society in arrange to maintain a strategic distance from and be free from viciousness, torment, or treatment that corrupts the degree and respect of humankind.

That in truth there are numerous cases of residential savagery. In the interim, the legitimate framework in Indonesia has not ensured assurance for casualties of household viciousness and children. To carry out coaching and give assurance for children, back is

³ Ibid, p. 2

required. Both concerning teach and legitimate disobedient that are more steady and satisfactory. In this manner, the arrangements with respect to the organization of courts for children ought to be carried out particularly. All forms of violence, especially human and crimes against human dignity as well as domestic violence, are mostly women. Therefore, it is obligatory to induce security from the state or society in arrange to maintain a strategic distance from and be free from viciousness, torture, or treatment that degrades the degree and dignity of humanity. That in fact there are many cases of domestic violence. Meanwhile, the legal system in Indonesia has not guaranteed protection for victims of domestic violence and children. To carry out coaching and give security for children, bolster is required. Both concerning educate and legitimate disobedient that are more steady and satisfactory. Hence, the arrangements with respect to the organization of courts for children have to be be carried out particularly. All forms of violence, especially human and crimes against human dignity as well as domestic violence, are mostly women. Therefore, it is obligatory to get protection from the state or society in order to avoid and be free from violence, torture, or treatment that degrades the degree and dignity of humanity. That in fact there are many cases of domestic violence. Meanwhile, the legitimate framework in Indonesia has not ensured assurance for casualties of residential viciousness and children.⁴

Articles 21 and 25 in this law too direct encourage the assurance and obligations of children. In Law Number 23 of 2004 concerning the disposal of household viciousness in article 2, the scope of this article also includes the existence of children to be protected from domestic violence. Legal protection for children is also implicit in the law on the protection of witnesses and victims. Law Number 13 of 2006 in Article 5 paragraph 1 point a, namely "a witness or victim has the right: to obtain protection for the safety of his personal, family, and property, and to be free from threats related to the testimony he will, is currently, or has given". In the general provisions of this article, it is explained about the family and the child being one member. The legal instruments above are proof that the law in Indonesia pays attention to the existence of children. The thing that must be understood again to prevent viciousness against children is the guideline of child security. The guideline of non-discrimination, the rule of the finest interest of the child, the rule of the correct to life, survival and improvement of children, and the guideline of regarding the sees of children.⁵

The forms of violence against children who are victims in the household consist of several categories, namely: (1) Physical violence such as slapping, hitting, torturing with tools; (2) Psychological violence such as insulting, harassing with words that degrade human dignity, (3) Sexual violence such as rape, verbal sexual harassment, ridicule with body movements if the will of the perpetrator is not obeyed by the victim; and (4) Child neglect.

Protection of children is the development of truth, justice, and child welfare on the philosophical basis of Pancasila and carried out in accordance with professional ethics in accordance with the juridical basis of the 1945 Constitution and various other applicable laws and regulations, with an integrative application, namely the integrated application of laws and regulations from various related legal fields, which are shown to be in the best interests of the child.⁶

Every legal protection given to citizens without exception is in accordance with the provisions of the legislation in force in the Republic of Indonesia. All Indonesian citizens have the right to be given protection by the government, both adults and children, even more

⁴ Muhammad Taufik Makarao, Syaiful Azri, Wenny Bukamo, *Hukum Perlindungan Anak dan Kekerasan Dalam Rumah Tangga*, Rineka Cipta, Jakarta, 2013, p. 1

⁵ Dikdik M. Arief Mansur dan Elisatris Gultom, 2007, *Urgensi Perlindungan Korban Kejahatan Antara Norma Dan Realita*, Cetakan Pertama, Edisi pertama, PT Raja Grafindo Utama, Jakarta, p. 122.

⁶ *ibid*

attention is given to the protection of children because children are helpless to being casualties of viciousness. Legal protection for children is what efforts are made to ensure that every child has rights and obligations before the law for the sake of the child's physical, mental and social growth. Legal protection for children is very beneficial for parents and children. Therefore, in the legal protection of children, it is necessary to cooperate in arrange to anticipate an lopsidedness in child security exercises as a entire. Abdul Hakim Garuda Nusantara said that the issue of legitimate security for children is portion of an approach to secure Indonesian children.⁷

The duties and commitments of the Government and the State in efforts and efforts to protect a child are regulated in Law Articles 21-24, namely: 1) Giving back for offices and framework within the usage of child assurance 2) Respecting and guaranteeing the human rights of each child notwithstanding of ethnicity, religion, race, course, sexual orientation, ethnicity, culture, dialect, lawful status of the child, arrange of birth of the child, physical or mental condition 3) Ensuring the child is able to use and express his rights according to the opinion concurring to the level of insights of the child and according to his age 4) Guaranteeing security, support and welfare of children by taking into consideration the rights and commitments of guardians, gatekeepers, and other individuals who are by and large dependable for children and oversee the execution of child security. Based on Article 1 number 2 of the Child Assurance Act, "Child assurance is all exercises to ensure and ensure children and their rights so that they can live, develop, create, and take part ideally in understanding with human respect and security, and get assurance from viciousness. and segregation".

CONCLUSION

Child protection is the support of an effort so that the rights and obligations of a child are obtained and the right to develop and grow in life is balanced and positive, so that it is obtained in a fair manner, and without discrimination, has noble character, and is prosperous.

REFERENCES

- Adami Chazawi. (2013). *Kejahatan Terhadap Tubuh dan Nyawa*, PT Raja Grafindo Persada, Jakarta
- Barda Nawawi Arief. (1998). *Beberapa Aspek Kebijakan Penegakan Dan Pengembangan Hukum Pidana*, Citra Aditya Bakti, Bandung
- Dikdik M.Arief Mansur & Elisatris Gultom. (2007). *Urgensi Perlindungan Korban Kejahatan Antara Norma dan Realita*, Cetakan Pertama, Edisi pertama, PT Raja Grafindo Utama, Jakarta
- Maidina Gultoni. (2008) *Hukum Perlindungan Anak Terhadap Dalam Sistim Pengadilan Anak Di Indonesia*, Cet I, PT Refiikama Aditamana, Bandung.
- Moh Fasial Salam. (2005). *Hukum Acara Peradilan Anak*, Mandar Maju, Bandung.
- Muhammad Taufik Makarao, Syaiful Azri, Wenny Bukamo. (2013). *Hukum Perlindungan Anak dan Kekerasan Dalam Rumah Tangga*, Rineka Cipta, Jakarta.
- Sholeh Soeaidy, S.H & Zulkhair. (2001). *Dasar Hukum Perlindungan Anak*, CV. Noviando Pustaka Mandiri, Jakarta.

⁷ Maidina Gultoni, 2008, *Hukum Perlindungan Anak Terhadap Dalam Sistim Pengadilan Anak Di Indonesia*, Cet I, PT Refiikama Aditamana, Bandung, p. 33