

LAW ENFORCEMENT ON THE CRIMINAL ACTS OF SERIOUS ABUSE BY CHILDREN TO CHILDREN

Wendy Lidansyah^{1*}, Uyan Wiryadi², Parbuntian Sinaga³

^{1,2,3}Postgraduate Program in Master of Law, Krisnadwipayana University, Jakarta, Indonesia

wendylidansyah@gmail.com^{1*}, uyanwiryadi@gmail.com², parbuntian@gmail.com³

Abstract

This study aims to analyze the qualifications of criminal acts of physical violence against children based on legislation and to analyze the application of criminal law in criminal acts of physical violence against children in Decision Number 19/Pid.Sus-Anak/2018/PN Jkt.Pst., and Decision Number 00/Pid.Sus-Anak/2023/PN Jkt.Brt. The type of research used by the author is a type of normative legal research with a legislative approach method, a case approach, and a conceptual approach. The legal materials used consist of primary legal materials, namely laws and regulations, and judges' decisions. Secondary legal materials, namely journals and book literature related to this study. As well as tertiary legal materials, namely articles and literature on the internet as supporting data in this study. All of these legal materials are analyzed qualitatively and presented descriptively. The results of this study are, 1) The qualification of the crime of physical violence against children based on statutory regulations is an act that is included in Article 80 Paragraph (1) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection concerning physical violence committed against children as victims and in the general scope. 2) The application of criminal law in Decision Number 19/Pid.Sus-Anak/2018/PN Jkt.Pst., and Decision Number 00/Pid.Sus-Anak/2023/PN Jkt.Brt., is correct. The defendant has been proven legally and convincingly to fulfill the elements in Article 80 Paragraph (1) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. The judge considered that the defendant could be held responsible for the actions he had committed because he was in good health when he committed the crime, and there was no reason to remove the criminal sentence, so the Panel of Judges sentenced the Defendants to imprisonment.

Keywords: Enforcement, Law, Criminal Acts of Abuse

INTRODUCTION

Child protection is all activities to ensure the protection of children and their rights so that they can live, grow and develop and participate optimally in accordance with human dignity and honor, and receive protection from violence and discrimination. Starting from the concept of complete, comprehensive and comprehensive child protection, this child protection law places the obligation to provide protection to children based on the principles of non- discrimination, the best interests of the child, the right to life, survival and development and respect for children's rights (Muladi, 2004).

In Article 80 of Law Number 35 of 2014 concerning Child Protection, committing violence or cruelty and threats of violence or abuse, is punishable by a maximum of 3 years and 6 months and/or a fine of 72 million rupiah. If it results in serious injury, it is punishable by a maximum of 5 years. The punishment is aggravated if the act results in death, namely a maximum imprisonment of 15 years.

Cases of violence that occur in the community are still common, where children often become victims of the abuse of parents, society or the environment around the child. Protection of children's rights to grow and develop as the next generation of the nation is a concern in the society that is expected in this case.

In connection with the explanation above, the author conducted a thesis research on the Decision of the Central Jakarta District Court Number 19/Pid.Sus-Anak/2018/PN Jkt.Pst., with the Defendant Haris Buatan who is a child who is still 17 years old, has been proven legally and convincingly guilty of committing the crime of "committing violence against children to the point of serious injury." The judge sentenced the defendant, Haris Buatan, to 10 (ten) months in prison and 1 (one) month of job training. The defendant, Haris Buatan, was proven to have violated Article 80 paragraph (2) of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, Article 197 of the Criminal Procedure Code and other relevant regulations. Meanwhile, for the comparative case, the author conducted a study on the Decision of the West Jakarta District Court Number 00/Pid.Sus-Anak/2023/PN Jkt.Brt., with the defendant, who is still 17 years old, having been legally and convincingly proven guilty of committing the crime of "committing or participating in violence against children that causes serious injury."

The judge sentenced the child to 2 (two) years in prison at the Class II Jakarta Children's Special Development Institution (LPKA) and job training at the Class I West Jakarta Correctional Center for 6 (six) months. The child defendant has violated Article 80 paragraph (2) in conjunction with Article 76C of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection in conjunction with Article 1 paragraph (1) of Law Number 11 of 2012 concerning the Child Justice System and other relevant laws and regulations.

RESEARCH METHODS

The type of research used by the author in this study is based on the philosophy of positivism, used to research certain populations or samples, data collection using research measuring instruments , quantitative/statistical data analysis, with the aim of testing and proving the hypothesis that has been made/determined (Sugiyono, 2014).

The data obtained from primary data and secondary data will be processed and analyzed qualitatively and then the data is described. Qualitative analysis is a qualitative analysis of verbal data and accurate data descriptively by describing the real conditions

of the object to be discussed with a formal legal approach and referring to the concept of legal doctrine.

RESEARCH RESULT

Criminal Act of Serious Abuse by Child Against Child

To find out the motives for children committing serious child abuse, this can be explained through the following 2 (two) elements:

1. Case Decision No. 19/Pid.Sus-Anak /2018/PN Jkt.Pst.

a. Central Jakarta District Court Examination

In the case of the Central Jakarta District Court Decision Number 19/Pid.Sus-Anak/2018/PN Jkt.Pst., which tries criminal cases with the examination of Children at the first level, with the Defendant Haris Buatan, place of birth Jakarta, age 17 years and date of birth January 21, 2021, male gender, Indonesian citizenship, residence of Tanah Tinggi Flats Block IV/311 RT. 07 RW. 14 Tanah Tinggi Village, Johar Baru District, Central Jakarta , Islam, elementary school education (not finished).

b. Public Prosecutor's Demands

The demands of the Public Prosecutor which were read out in court on Thursday, November 12, 2018, essentially demanded that the Judge issue the following verdict:

- 1) Artificial Child Haris has been proven legally and convincingly guilty of committing the crime of "placing, allowing, committing, ordering or participating in committing violence against a child resulting in serious injury", as regulated and threatened with criminal penalties in the indictment, namely violating the charges in Article 80 paragraph (2) of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection .
- 2) Sentencing Haris Buatan's child to 1 (one) year and 2 (two) months in prison, minus the time the child has been in temporary detention, with an order that the child remain in detention and provide job training for 1 (one) month .
- 3) Stating evidence in the form of:
 - a. 1 (one) sickle blade with a wooden handle .
 - b. 1 (one) blood-stained shirt .
 - c. 1 (one) pair of blood-stained batik patterned trousers .
 - d. Confiscated for destruction .
- 4) Charge the Child Perpetrator to pay court costs of Rp . 2,000.00 (two thousand rupiah)

c. Verdict

Considering Article 80 paragraph (2) of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, Article 197 of the Criminal Procedure Code and other relevant regulations, with the following ruling:

- 1) Declaring that the child named Hari Buatan has been proven legally and convincingly guilty of committing the crime of "committing violence against a child resulting in serious injury".
- 2) Sentencing the Artificial Child to 10 (ten) months imprisonment and 1 (one) month of job training.

- 3) Determining that the period of arrest and detention that has been served by the Child is deducted in full from the sentence imposed.
- 4) Ordered that the Child remain in custody.
- 5) Establishing evidence in the form of:
 - a. 1 (one) sickle blade with a wooden handle.
 - b. 1 (one) blood-stained shirt.
 - c. 1 (one) pair of blood-stained batik patterned trousers.
 Seized for destruction.
- 6) Charge the Child to pay court costs amounting to Rp. 2,000.00 (two thousand rupiah).

2. Case Decision Number mor 00/Pid.Sus-Anak/2023/PN Jkt.Brt.

The West Jakarta District Court which tried the criminal case of a Child with a regular examination procedure in the first instance handed down the following verdict in the case of a child, with the name of the Child, place/date of birth; Jakarta/November 17, 2006, male gender, Indonesian citizenship, address Pekojan 3 RW. 07 Pekojan Village, Tambora District, West Jakarta, religion Islam, occupation scavenger, elementary school education.

So we can describe and explain the legal issues regarding the crime of serious child abuse against children, namely as follows:

a. Demands From The Public Prosecutor

After hearing the reading of the criminal charges submitted by the Public Prosecutor, which in essence are as follows:

- 1) Declaring the child legally and convincingly proven guilty of committing the crime of "committing or participating in committing violence against a child which causes serious injury", as regulated and threatened with criminal penalties in Article 80 paragraph (2) in conjunction with Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection as stated in the indictment.
- 2) Imposing a criminal sentence on the child in the form of imprisonment for 2 (two) years and 6 (six) months, minus the time the child has been in temporary detention with an order that the child be detained at the Class II Jakarta Special Child Development Institution (LPKA) and undergo job training at the Class I West Jakarta Correctional Center for 6 (six) months.
- 3) Determine that the Child be charged with court costs of Rp. 5,000,- (five thousand rupiah).

b. Verdict

Taking into account Article 80 paragraph (2) in conjunction with Article 76C of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection in conjunction with Article 1 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Justice System and other relevant laws and regulations, with the following ruling:

- a. Declaring the child legally and convincingly proven guilty of committing the crime of "committing or participating in committing violence against a child that causes serious injury."
- b. Sentencing the children to 2 (two) years in prison at the Class II Jakarta Special Children's Rehabilitation Institution (LPKA) and job training at the Class I West Jakarta Correctional Center for 6 (six) months.

- c. Determining that the period of arrest and detention that the child has served is deducted entirely from the sentence imposed.
- d. Determining that the child remains detained.
- e. Determine that the Child be charged with court costs of Rp. 5,000,- (five thousand rupiah).

Legal Responsibility for Serious Crimes of Child Abuse Against Child

Legal accountability for children as perpetrators and children as victims of serious abuse, increasingly makes all components of society aware and urges that children have the right to receive special protection from parents, family, society, government, and the state. Children who become victims get physical injuries or psychological disorders, this is a series of consequences of abuse. As in the case at the Central Jakarta District Court and the West Jakarta District Court with the facts described in this thesis .

With the case of Decision Number 19/Pid.Sus-Anak /2018/PN Jkt.Pst., which stated that the Child named Haris Buatan has been proven legally and convincingly guilty of committing a crime; "committing violence against a Child to the point of serious injury". The Panel of Judges sentenced Child Haris Buatan to 10 (ten) months in prison and 1 (one) month of job training. Because Child Haris Buatan has violated Article 80 paragraph (2) of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection.

And the case of Decision Number 00/Pid.Sus-Anak/2023/PN Jkt.Brt., which stated that the Child was proven legally and convincingly guilty of committing a crime; "committing or participating in committing violence against a child that causes serious injury". The Panel of Judges sentenced the Child to 2 (two) years in prison at the Class II Jakarta Special Child Development Institution (LPKA) and job training at the Class I West Jakarta Correctional Center for 6 (six) months. Because he violated Article 80 paragraph (2) Jo. Article 76C of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection Jo. Article 1 paragraph (1) of Law Number.11 of 2012 concerning the Juvenile Justice System.

Violence against children often also occurs in families and communities. In Law Number 23 of 2002 concerning Child Protection, it has regulated criminal provisions that provide punishment for anyone who commits violence against children. The threat of criminal punishment in Law Number 23 of 2002 concerning Child Protection, apparently does not provide a deterrent effect on perpetrators of violent crimes against children. This is evidenced by the increasing number of cases of violence every year that befall children.

In the criminal sanctions regulated in Law Number 23 of 2002 concerning Child Protection, for sexual violence the minimum sentence is three years and the maximum is fifteen years in prison. In its implementation, the average sentence for perpetrators of child sexual violence is only a maximum of five years in prison. With this kind of punishment, the perpetrators feel comfortable and do not cause a deterrent effect. This is due to the lack of knowledge of law enforcers regarding child protection cases. In handling child protection issues, judges should change their attitudes and perspectives. Judges should impose the fairest possible sentence according to applicable law to the perpetrators, taking into account the interests of the victim.

Law Number 23 of 2002 concerning Child Protection does not differentiate between perpetrators of violence against children. This means that violence committed by the child's family, parents and teachers will be subject to the same punishment as

people who do not have a close relationship with the child. Law Number 23 of 2002 concerning Child Protection should differentiate between perpetrators of violence against children. If the perpetrator is a parent, family member, or teacher, the criminal penalty is increased by one third of the maximum sentence.

With the relationship between Law Number 23 of 2002 concerning Child Protection and Law Number 11 of 2012 concerning the Juvenile Justice System, in terms of child protection and the imposition of severe punishment threats to perpetrators of crimes against children accompanied by increased punishment for perpetrators of crimes who have close relationships with children such as parents, family and teachers, it is hoped that violence against children can be minimized.

In order to create a deterrent effect on perpetrators of violence against children, Law Number 23 of 2002 concerning Child Protection should provide criminal sanctions for all forms of crimes committed by a child against another child. There are several causes of children committing violence or becoming perpetrators of violence, namely from mood disorders to social and economic factors. Parents may need to consult a psychologist to find out the exact cause underlying their child's violent behavior.

Law enforcement of child criminal acts, both as victims and perpetrators, is a process to realize legal desires into reality. Legal desires mean the thoughts of the legislative body formulated in legal regulations. Law enforcement is an effort to realize ideas about justice, legal certainty and social benefits into reality. Criminal law enforcement is an effort to realize ideas about criminal justice, legal certainty and social benefits into reality in every legal relationship (Marzuki, 2012). The legal regulations will also determine how law enforcement will be carried out. The core of law enforcement conceptually lies in the activity of aligning the relationship of values outlined in solid rules and attitudes as a series of final stage value descriptions to create, maintain and defend peaceful social interactions (Soekanto, 1983).

Criminal law enforcement in concreto is essentially a process of imposing a criminal sentence or punishment. The punishment process itself is the enforcement of criminal law in order to uphold truth and justice. Both stages are crucial aspects or points of handling and prosecuting a criminal case. Criminal law enforcement at the *in concreto stage* (application stage) is also still influenced by bad habits or cultures and shortcuts taken by corrupt and collusive law enforcement officers with perpetrators of criminal acts.

Law enforcement is more or less an effort to make law, both in the narrow formal sense and the broad material sense. Law enforcement is also a guideline for behavior in every legal act by the legal subjects concerned and law enforcement officers who are officially given the task and authority by law to ensure the functioning of legal norms in social and state life.

In accordance with the opening of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, the Unitary State of the Republic of Indonesia guarantees the welfare of every citizen including protection of Children's Rights which are Human Rights. Every child has the right to survival, growth and development, protection from violence and discrimination, as mandated in the 1945 Constitution of the Republic of Indonesia.

CONCLUSION

Regulation of children committing serious crimes of child abuse, stated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning

Child Protection. Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and dignity, and receive protection from violence and discrimination. It is not uncommon for children to experience violence in the form of abuse, but it can also be found that children become perpetrators of serious abuse. In resolving criminal acts, there needs to be a difference between the behavior of adults and child perpetrators, seen from their position, a child is legally not burdened with obligations compared to adults, as long as someone is still called a child, as long as they are not held accountable, if a problem arises with a child, efforts are made to protect their rights by law. One form of crime that often occurs around us is a crime in the form of violence such as abuse, especially that committed by minors. The rampant acts of abuse that we see from various sources are a sign that this is inseparable from the behavior of society that is less controlled, both due to low levels of education and the influence of a less than good social environment. Disputes, both personal and group, can be a factor that can invite acts of violence that lead to abuse by children against other children.

Legal accountability for children who commit serious child abuse in Case Decision Number 19/Pid.Sus-Anak/2018/PN Jkt.Pst., which states that a child named Haris Buatan has been proven legally and convincingly guilty of committing a crime; "committing violence against a child resulting in serious injury". The Panel of Judges sentenced Haris Buatan to 10 (ten) months in prison and 1 (one) month of job training. Because Haris Buatan has violated Article 80 paragraph (2) of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection., and Case Decision Number 00/Pid.Sus-Anak/2023/PN Jkt.Brt., which states that the child has been proven legally and convincingly guilty of committing a crime; "committing or participating in committing violence against a child resulting in serious injury". The Panel of Judges sentenced the child to 2 (two) years in prison at the Class II Jakarta Special Child Development Institution (LPKA) and job training at the Class I West Jakarta Correctional Center for 6 (six) months. Because he violated Article 80 paragraph (2) Jo. Article 76C of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection Jo. Article 1 paragraph (1) of Law Number.11 of 2012 concerning the Child Justice System.

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