Law Analysis Against Calculatory and Children’s Crimension Under Age of Decision No. 19/Pid.sus/2016/PN.Slw

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Abstract: Abuse is a crime against decency. Where the obscene act not only occurs in adults but also occurs in minors. The perpetrator of the crime of sexual abuse against minors can be committed by someone both against women and men. Sexual abuse or abuse of children is not only regulated in the Criminal Code but also regulated in more specifically regulated in Law No. 35 of 2014 on Child Protection in Articles 81 and 82 which states that: the punishment for perpetrators of sexual crimes against children is at least 5 years and a maximum of 15 years in prison and a minimum fine of Rp. 5,000,000,000.00 (five billion rupiah, While other punishments according to the Criminal Code articles 287 and 292 mention that the sentence period against the perpetrator of child abuse is a maximum of 9 years (article 287) and a maximum of 5 years (article 292). From the background and general review of the criminal acts of abuse and violence against minors, then the formula of the problem is how to account for criminal abuse and violence against minors based on the verdict No.19 / Pid.sus / 2016 PN.Slw and what about the legal protection of victims of criminal acts of abuse and violence against minors. In answering the formulation of the problem, then this study uses normative juridical research methods.

Abstrak: Pencabulan adalah kejahatan terhadap kehormatan. Dimana perbuatan cabul tersebut tidak saja terjadi pada orang dewasa tetapi juga terjadi pada anak dibawah umur. Pelaku tindak pidana pencabulan terhadap anak dibawah umur dapat dilakukan oleh seseorang baik terhadap wanita maupun pria. Pencabulan atau pelecehan seksual pada anak tidak hanya diatur dalam Kitab Undang-Undang Hukum Pidana saja tetapi juga diatur dalam peraturan yang lebih khusus yaitu diatur dalam Undang-Undang Nomor 35 tahun 2014 tentang Perlindungan Anak pada Pasal 81 dan 82 yang menyebutkan bahwa: hukuman bagi pelaku kejahatan seksual terhadap anak minimal 5 tahun dan maksimal 15 tahun penjara serta denda minimal maksimal sebesar Rp. 5.000.000.000,00 (lima miliar rupiah, sedangkan hukuman lainnya menurut KUHP pasal 287 dan 292 menyebutkan bahwa masa hukuman terhadap pelaku pencabulan terhadap anak maksimal 9 tahun (pasal 287) dan maksimal 5 tahun (pasal 292). Dari latar belakang dan tinjauan umum mengenai tindak pidana pencabulan dan kekerasan terhadap anak di bawah umur, maka yang menjadi rumusan masalah adalah bagaimana pertanggungjawaban pidana pencabulan dan kekerasan terhadap anak dibawah umur berdasarkan putusan No.19/Pid.sus/2016 PN.Slw dan bagaimana perlindungan hukum terhadap korban tindak pidana pencabulan dan kekerasan terhadap anak dibawah umur. Dalam menjawab rumusan masalah tersebut, maka penelitian ini menggunakan metode penelitian yuridis normatif.
INTRODUCTION

Sexual crimes are of many types, one of which is an act of rape in which the perpetrator no longer knows the status, nor the age of the victim (Bahri & Fajriani, 2015). The perpetrators committed this heinous act to vent their lusts or lusts, which also fall into the category of sexual disorders (Ramdhani, 2017; Setiawan, 2016). Abuse of minors is particularly an unforgivable act, given that the victims are children, so the public cannot accept it. This act of abuse is a misconduct that violates community norms especially if the victims are minors who are not vulnerable and vulnerable generations and can experience prolonged (Annisa, 2014; Zuleha, 2015).

Children are an integral part of human survival and the survival of a nation and state. With this important role of children, they receive special protection by the constitution, which is contained in the 1945 Basic Law Article 28 Paragraph (2): "That the state guarantees every child the right to live a growing and growing survival and the right to protect from violence and discrimination". The best interests of children are worth cherishing, as the best interests of mankind’s survival. Therefore, all of us always try to keep children from becoming victims of violence, as well as children from being caught up in bad deeds or other dishonorable acts. The point of the child criminal justice system is to promote child welfare (The Promotion Of The Well Being Of The Juvenile). The goal of advancing child welfare is the main focus (The Main Focus), which means avoiding the use of punitive criminal sanctions (Avoidance Of Merlekey Punitive Sanctions). The purpose of the propositional principle is to curb the use of sanctions, many of which are stated within the limits of cannabis that are appropriate for the severity of legal violations (Be Based On) but also to consider their personal circumstances. The Consideration Of Personal Circumstance).

A form of anticipation to avoid the negative impact of the criminal justice process on the child can be made by an action or policy in dealing with or resolving problems about the child by not going through criminal proceedings. The judicial process has a detrimental psychological impact on the child. They will experience pressure and stigma during the course of the judicial process, so based on this, all activities carried out in the context of child justice, whether it be by the police, prosecutors, judges, or other officials, must be based on a principle of child welfare and child benefit (Syaiful Bakhri, 2014).

In order to prevent cases of child abuse, families and all walks of life have an active role in paying attention to, protecting and maintaining from such treatments as, discrimination, exploitation, abandonment, cruelty and injustice (Bayu, 2020).

The perpetrator of a criminal offence against minors can be committed by a person against both women and men. Abolition is a crime against decency. Where such obscene acts occur not only in adults but also in minors. Both directly and indirectly, the children who were victims of the crime of adulteration who experienced various disorders against him, both physical and non-physical, caused by the incident.

According to R. Soesilo, obscene acts refer to article 289 of the Criminal Code, are all acts that violate decency or indecency, all of which are in the environment of sexual lust, for example: kissing, groping, fumbling, groaning, and so on. Aggression is also included in the understanding of obscene acts, but in the Criminal Code it is mentioned itself. What is prohibited is not only forcing people to commit lewd acts, but also forcing a person to commit adultery and violence against others. Child Abuse is a sexual harassment crime committed by a person
who is a minor and usually accompanied by violence against a victim of abductions, usually involving any child that may be committed by a biological parent or unidentified person. Child abuse can occur because there is a possibility that the perpetrator may experience a psychiatric disorder that makes him interested in a child.

METHOD

The type of research used is juridical normative jurisprudence. Normative legal research is referred to as doctrinal research, library research or document study, meaning that research on cases, by the author, is reviewed by aspects of criminal law, in addition to collecting data.

The data collection technique used by authors in this legal study is the study of libraries. Library Study is a single method used in the study of normative law. It is carried out by collecting various materials or data in the form of books, seminars, papers, research reports, legislation and other documents related to "Legal Analysis of Violent Crimes and Violence Against Minors".

Data analysis techniques used in a qualitative approach, in order to explain descriptively deductive, based on concepts that are commonly applied to describe data sets or show a comparison or relationship of data sets with other data sets. The file that will be analyzed by the author is about "Legal Analysis of Penalties and Violence Against Minors" with decision No.19/Pid.sus/2016/PN.Slw.

RESULTS AND DISCUSSION

Responsibility for Penalties and Violence Against Minors Based on Decision No.19/Pid.Sus/2016/PN.Slw

An obscene act is an act that leads to sexual immorality or can be words and images that lead to sexual gratification outside the marriage bond. Sexual harassment is a term used in society to describe sexual assault, while in law the term sexual harassment is rarely used because it is more commonly used in the term sexual violence except in Act No. 9 of 1999 on Human Rights which states that there is a term for sexual abuse (Suryandi, 2020).

The decency guidelines for children in the Criminal Code will be differentiated into two:

a. an affair

b. Alleged Acts

In children, obscene acts can also be orientated by verbal and non-verbal sexual activities, such as holding a person’s penis, solicitation of sexual intercourse that the victim does not want and there is an element of coercion in it. The obscene acts themselves in the Criminal Law Book consist of obscene acts in adults, children and in the same way, obscene acts in adults are regulated in Articles 281, 282, 283, 283 bis, 284 and 286. In children, lewdness is defined in Articles 287, 288, 289, 290 and 291 while lewdness in the same type is defined in Articles 292 and 293, articles 292 and 293 show that sexual harassment is the category of lewdness not only between men and women but also against women.

Child sexual harassment is not only stipulated in the Criminal Code but also regulated in the more special regulations, namely Regulation No. 35 of 2014 on Child Protection in Articles 81 and 82 which states that: punishment for sexual offenders against children is at least 5 years and
maximum 15 years in prison and a maximum minimum fine of Rp. 5,000,000,000,000 rupiahs (five billion rupiahs), while other penalties according to the Penal Code articles 287 and 292 states that the punishment period for child abusers is 9 years (Article 287) and 5 years (Article 292) shows that 53 laws for child protection as lex specialists pose a greater threat to children. Compared to those set out in the Criminal Code.

A form of criminal responsibility can be interpreted as an act that is asked to be responsible for a crime. The basis for a criminal act is that it is illegal for us to say that this principle applies to anyone and that a person can be convicted on the basis of an azas called by mistake. In effect, a crime or a crime arising from a person's actions will result in a penalty or punishment. This punishment is one of the real forms in order to achieve a legal certainty (Dirwansyah, 2018).

According to decision No. 19/Pid. Sus/2016 PN. Slw, the Defendant Solihin Bin Sidik, who is the perpetrator of fraud and violence against witness Nisfatul Laily (victim) aged 17 (seventeen) years 11 (eleven) months, which in this case is still included in the category of Minors. That the Defendant Solihin bin Sidik was legally proven and conclusively guilty of committing a crime "with the threat of violence forcing the child to continue to have sex with him as a continued act. That based on the consideration of the Panel of Judges in decision No.19/Pid.Sus/2016/PN. Slw, all elements are claimed to be considered. Therefore, the defendant must take responsibility for the actions he committed.

Therefore, in this case, the criminal responsibility of perpetrators of fraud and violence was sentenced to imprisonment for 8 years and a fine of Rp. 50,000,000,000 (fifty million rupiah) under the provisions that if the fine is not paid it is replaced with a three month imprisonment. That before the Assembly convicts the defendant, it will first be considered burdensome and also lightening matters for the defendant, which are as follows: Things are burdensome: (a) As a result of the defendant’s actions, witness Nisfatul Laily was traumatized; (b) The defendant as Uncle/Pakde of witness Nisfatul Laily should have kept and protected witness Nisfatul Laily. Things are lightening: (a) The defendant has never been convicted; (b) The defendant acknowledged and regretted all his actions, and promised not to repeat them again.

When looking at regulations governing the accountability of violent crimes against minors, this is stipulated in Article 80 paragraph (4) of Law No. 1. 35 of 2014 on Child Protection, specifically regulating the non-criminal nature of child abuse with criminal penalties, namely: Penalties plus 1/3 (one-third) of the provisions of paragraph (1), paragraph (2), and paragraph (3) if the person committing the abuse is his or her parents. As for the obligations and responsibilities of the state and the government to the implementation of child protection, it is emphasized in Article 21 to Article 25 of Law No. 1. 35 Year 2014 on Child Protection, which includes responsibilities and responsibilities.

**Legal Protection Against Victims Penalties and Violence Against Minors**

Regarding the rights of children who can be linked to child protection Victims of Abolition Crimes will The author describes the following: (a) Legal Protection Against Victims of Abuse and Violence Against Minors Regarding the rights of children that can be associated with the protection of children of victims of Abuse Crimes, the author outlines the following: According to the Convention on the Rights of the Child with Presidential Decree No. 36 of 1996, the implementation of the children’s rights in the convention is based on 4 (four) basic
principles: (1) Principles of non-discrimination, (2) Best interests of the child, (3) Principles of living, sustainability and development. Development (the rights to life, survival, and development), (4) Maintenance of the child’s opinions (respect for the view of the child); (b) According to the Basic Law of 1945. In general the 1945 Basic Law had clearly regulated legal protection for minors, which the state should have provided full survival for discrimination and even sexual violence against children. This is stated in Article 28B of Paragraph (2) of the Basic Law of 1945; (c) Law No. 8 of 1981 concerning the Criminal Procedure Act. In the Criminal Code concerning the protection of witnesses (victims) include: (1) The right to complain about reports or complaints, (2) the right to give information freely without pressure, (3) the right to get a translator or spokesperson, (4) the right to be free from questions that entangle, and (5) the right to receive compensation; (d) The Criminal Code (KUHP). The legal protection is stipulated in Article 290 of the Criminal Code; (e) Child Welfare Act Number 4 of 1979 Some of the rights of children in Law Number 4 of 1979 concerning Child Welfare that can be associated with legal protection for victims of adulterous crimes are: (1) Rights to receive care, foster care and guidance, (2) Rights to protect the environment; (f) Law No. 31 of 2014 on amendments to Act No. 13 of 2006 on the Protection of Witnesses and Victims. Legal protection for victims of adulterous crimes in Act No. 31 of 2014 concerning the Protection of Witnesses and Victims is usually associated with the rights of witnesses and victims stipulated in Article 5 of Act No. 31 of 2014 of amendments to Act No. 13 of 2006 concerning the Protection of Witnesses and Victims; (g) Act No. 35 of 2014 on amendments to Act No. 23 of 2002 on Child Protection. The child protection principles listed in the Act are: (a) Children cannot fight alone, (b) Children's best interests (the best interest of the child), and (c) Sexual life cycle threats (Gultom, 2018).

The phenomenon of delinquency that occurs in children in Indonesia is beginning to receive a strong spotlight from various circles, one example of the case in Indonesia Decision No. 19/Pid. Sus/2016 PN. Slw an uncle who in the case named SOLIHIN bin SEKIT, molested a 17-year-old child, that the child was known to be the nephew of the defendant SOLIHIN bin SEKIT.

The confession from the victim happened not only once, but over and over again. The criminal offense committed by the Defendant by groping his breasts and squeezing his genitals until sperm came out, not only that, but there was a threat and even physical violence committed by the Defendant when the Victim tried to resist.

Some of the efforts made by the Tegal City Resort Police as an effort to protect the child, namely: First, keep the victim’s identity secret, to provide the victim’s safety and comfort services for the survival of the victim when he or she is subjected to a criminal offense when it has occurred reported to the police. The obligation to keep the victim’s identity secret is stipulated in Article 17 of Law Number 35 of 2014. Second, there are rehabilitation efforts. The regulations have given the rules for the existence of an obligation to undertake rehabilitation efforts, namely Article 6 of Law No. 31 of 2014 on the Protection of Witnesses and Victims, and Article 69A of Law No. 35 of 2014 on Child Protection.

Third, victims are entitled to legal aid and other assistance. States, governments, communities, families and parents have an obligation to be responsible for providing protection and ensuring the fulfillment of children’s rights in accordance with existing written and unwritten rules of law. Fourth, providing protection and assistance during the prosecution investigation process until the trial process. Investigation, prosecution, until the trial process must indeed be
accompanied, because we never know if there are any people who play and there are overlapping existing processes and there are inappropriate legal applications. There can even be a termination of investigation or prosecution from law enforcement officials who are without fundamental reasons.

Fifth, get information about the progress of the trial and always monitor the progress and situation of the victim’s residence. Information is always needed, especially for victims, information is one of their ways to know what developments are already going on. With the information, the victim can know the progress and situation of the trial they are currently undergoing. This must always be monitored by either the victim who asked the police or law enforcement officials who are actively providing information to the victim.

According to the author, the most important thing in legal protection for the victim is to think about the future because the victim’s protection should not only be done until the verdict is completed but must continue until the child is truly fit in his or her life and able to live and develop according to what he or she needs. The boy was taken in.

CONCLUSION

The responsibility of criminal abuse and violence against minors is based on the No. 1 ruling. 19/Pid. Sus/2016 PN. Slw that based on the consideration of the panel of judges as well as the evidence at the trial submitted by the Public Prosecutor, the Defendant Solihin bin Sidik was legally proven and convincingly committed a fraudulent crime. As for the form of legal protection against victims of criminal acts of adulteration and violence against minors based on Decision No. 1. 19/Pid. Sus/2016 PN. Slw is the police department keeping the identity of the victim as stipulated in Article 17 of Law Number 35 of 2014.

SUGGESTION

For parents, be careful and supervise, because a person who is considered capable of being trusted can be one of the perpetrators of a crime of adulteration, and parents should provide intensive parenting, supervision, and guidance for children. For the police, especially in the process of legal protection for victims of child abuse, it is not done until the decision is made but must continue until the child is truly fit in his or her life and can live and develop according to what the child must receive.

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