



Victimological Review Of The Criminal Offence Of Child Abuse By Father And Step-Uncle

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Abstract: This study aims to determine the victimology review of victims of criminal acts of child molestation committed by their stepfather and uncle. This research raises two issues, namely how to review the victimology of victims of criminal acts of sexual abuse and the form of legal protection for children who are victims of criminal acts of sexual abuse. This research uses empirical legal research methods with a descriptive approach. The results of this research show that children who are victims of criminal acts of sexual abuse have a passive role in that they do not act, but with their attitude they push themselves to become victims, resulting in crimes occurring against them, whose nature and character tend to be weak physically and in terms of their thinking power. The legal protection provided is contained in Law Number 35 of 2014 in place of Law Number 23 of 2002 concerning Child Protection. Protection efforts include the rehabilitation of children who are victims and providing protection for the broadcast of victims' identities to prevent labeling of children which affects the future of children who are victims of criminal acts of sexual abuse.

Keywords: Review of Victimology, Crime of Child Abuse

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1. Introduction

The rapid development of social progress in community life has an impact on the tendency of community members to interact with each other, in this interaction often acts that violate the laws and norms in society. In this case, not all members of the community want to obey the legal regulations and norms, and there are still people who commit deviant acts that are usually not liked by society.

One example of a deviant act is an obscene or violent act, even sexual intercourse with a minor, which is a manifestation of someone committing an act or deed that violates the norms of decency (decency) or what is called morality. Morality is the quality in human actions by which we say they are right or wrong, good or bad. Morality includes an understanding of the good and bad of human actions.¹

The Preamble to the 1945 Constitution of the Republic of Indonesia, the formation of the Indonesian State in the fourth paragraph states that the aim of the State is one of "protecting the entire Indonesian nation", this has provided a guarantee of holistic and comprehensive legal protection which is the responsibility of the State and its state elements. which is inherent in it. It is known that substantially the State was formed to be free from all forms of oppression, both physical and psychological, for all Indonesian citizens, including children.

Children are part of society who also need protection and fulfillment of their rights as Indonesian citizens. Children are also one of the human resources who have potential and are successors to the nation's ideals they have a strategic role and have special characteristics and characteristics that require guidance and protection in ensuring complete, harmonious, and balanced physical, mental, and social growth and development. Cases of violence against children are one of the most dominant legal problems in this country. This is very ironic considering that children are the successors of the nation who should have the right to live, grow develop, and participate optimally by human dignity and dignity and receive protection from violence and discrimination, especially sexual abuse. In Article 1 paragraph 2 of Law Number 23 2002 concerning Child Protection, hereinafter referred to as the Child Protection Law, states that: "Perlindungan anak adalah segala kegiatan untuk menjamin dan melindungi hak-haknya agar dapat hidup, tumbuh, berkembang dan berpartisipasi sesuai dengan harkat dan marabat kemanusiaan, serta mendapat perlindungan kekerasan dan diskriminasi".

Obscenity is a sexual crime that occurs through coercion by one party against another party. The victim is under physical or psychological threat, or violence and is in a state of unconsciousness and helplessness, is a minor or is mentally retarded, or in another condition that makes him unable to deny what happened and be responsible for what happened. Obscenity is contact interaction between a child and an adult where the child is used for sexual stimulation by the perpetrator or another person who is in a position of power or control over the victim. This includes inappropriate physical

¹ Poespoprodjo, *Filsafat Moral Kesusilaan Dalam Teori Dan Praktek* (Bandung: Remadja Karya, 1986). Hal. 102

contact, exposing children to sexual acts or pornography, using children to make pornography, or exposing an adult's genitals to a child. Obscenity is an indecent desire or act that leads to sexual acts to achieve self-satisfaction outside the bonds of marriage.²

Obscenity is a crime against morality which is regulated in Chapter. This is because it conflicts with people's views about propriety in the field of sexual life, both from the perspective of the local community and in terms of people's habits in carrying out their sexual lives.³

According to criminal law provisions outside the Criminal Code, protection for crime victims can also be seen in laws outside the Criminal Code. Law No. 13 of 2006 concerning the Protection of Witnesses and Victims in Article 5 concerning the protection and rights of witnesses and victims, is emphasized regarding the protection of victims regarding personal, family, and property security and freedom from all forms of threats relating to the testimony given. A criminal act that is widespread in society is the crime of obscenity, Ledeng Marpaung stated that "against children and it is increasingly common with various motives for perpetrators to commit obscene acts, the victims are children who do not understand the situation they are experiencing. Acts of violence against children are often not easy to reveal because violence against children is essentially personal".⁴

Victims have a functional role in the occurrence of a crime (criminal act).⁵ Therefore, victims should receive greater attention and of course, must be considered in making various criminal decisions and also fostering criminal behavior (criminal acts). The issue of crime victims is not a new problem because it is something that is not paid enough attention to, or even ignored. It has become absolute that understand crime as a social phenomenon, although on the one hand, to determine policies to overcome it, you must understand the victims and their problems.⁶

Crimes of morality, especially crimes of sexual immorality, do not always occur due to factors of the perpetrator, there is still the possibility that crimes of morality, especially crimes of sexual immorality, occur due to the victim himself. Things that can affect a person to the point that they can end up becoming a victim of criminal acts of sexual harassment and other things. It started with an understanding that problems with children are very complex problems, therefore there must be preventive measures, and prevention must be carried out simultaneously and concurrently.

² R Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal* (Bogor: Politeia, 1988). Hal. 212

³ Lamintang Theo Lamintang, *Detik-Detik Khusus Kejahatan Melanggar Norma Kesusilaan Dan Norma Kepatutan* (Jakarta: Sinar Grafika, 2009). Hal. 01

⁴ Ledeng Marpaung, *Kejahatan Terhadap Kesusilaan Dan Masalah Prevensinya* (Jakarta: Sinar Grafika, 1996). Hal 81

⁵ Siswanto Sunarso, *Viktimologi Dalam Sistem Peradilan Pidana* (Jakarta: Sinar Grafika, 2012). Hal 32

⁶ *Ibid*, hal.38

This criminal act of obscenity occurs not only in big cities, it even occurs in remote villages, which is mostly caused by supporting factors such as a low or lack of understanding of religious and moral values. Obscene crimes can occur in any situation and environment, for example, the perpetrator commits these acts against people he does not know, people he knows well, or even people who are related to him.

Cases of sexual violence often occur in Indonesia, especially in the Gorontalo area. Like the child molestation case that occurred in Bonebolango Regency. Based on the results of initial observations, the author interviewed Mr. Teguh as part of the investigative team at Kabila Police. He said that there had been criminal acts of child molestation by his stepfather and uncle.

2. Method

According to the type, nature, and objectives, research is generally divided into two, namely normative legal research and empirical legal research. According to Soerjono Soekanto, legal research carried out by researchers can be studied and analyzed in terms of its nature, form, application, objectives, and scientific disciplines.⁷ The approach used in this research is empirical legal research which is also called sociological legal research, which is legal research that examines law which is conceptualized as real behavior as an unwritten social phenomenon, which is experienced by everyone in social life. Different from what is used in normative research, empirical legal research is the focus of study on the operation of law in society.⁸

Empirical legal research is "a legal research method that functions to see the law in real terms and examine how the law works in the social environment". Because this research examines people in their living relationships in society, the empirical legal research method can be said to be sociological legal research. It can be said that legal research is taken from facts that exist in society, legal entities, or government institutions.

3. A victimology review of victims of criminal acts of sexual abuse committed by their stepfather and uncle

Based on the facts that researchers found in the field, a discussion of victimology can be described, namely to examine topics about victims, such as the role of victims in the occurrence of criminal acts, the relationship between victims and perpetrators, and the vulnerability of the victim's position.

Criminal acts are something that will always exist in society which then causes anxiety. So, there is an urgency to get attention so that a criminal act does not become a recurring disease which can then disrupt the stability of life and public peace. The

⁷ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (jakrata: Rajawali Press, 1886). Hal 50-51

⁸ Salim HS Erlies Septiana Nurbani, *Penerpapan Teori Hukum Pada Penelitian Tesis Dan Disertas* (Jakarta: PT. raja Grafindo Persada, 2003). Hal 23

crime of obscenity, which is classified as a crime of morality, that consists of various forms, is not the same as other crimes. Therefore, the author limits what is discussed only specifically to anything that is related to criminal acts of sexual abuse committed against children in the Bone Bolango Regency area which should receive protection from the family, then from the community or the State as stated in the mandated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

3.1. The role of the victim in the occurrence of criminal acts of sexual abuse

The crime of obscenity is a crime in the field of morality that often threatens children. When a criminal act occurs, it cannot only be seen from the perspective of the perpetrator. Victims also have a role and share in the occurrence of criminal acts.

According to the Head of Criminal Investigation Unit, Kabila Police, he said:

"The role of the victim in the occurrence of an act of sexual abuse against a child itself has many variations, the basis for understanding is that the child certainly has or is in a situation that is not the same as an adult, therefore, children becoming victims of criminal acts is nothing new. The child's inability to act or carry out appropriate actions is due to limitations in the child's level of thinking, the child's emotional state, as well as his physical condition which is still in the weak category, especially at the time of sexual abuse or after he has experienced what is known as sexual abuse. then it has an impact on the role of children as victims of criminal acts of sexual abuse. "Children and victims have different roles in the occurrence of criminal cases, some play an active role, some play a passive role."⁹

A child or victim who plays an active role is a child who, due to all his behavior, then actively causes him to become a victim through actions from which a stimulus arises which is then felt by the perpetrator so that a criminal act of sexual abuse occurs.

Children who have a passive role are children who do not do anything but through the attitude they display which then becomes a factor so that they become victims of criminal acts of sexual abuse.

Based on this, the Head of the Criminal Investigation Unit said:

"From several cases of sexual abuse that occurred in Bonebolango, it became a representation that it is true that children as victims of sexual abuse crimes play a role in which their roles are relative and vary according to the situation and condition of the child. One of the cases he spoke about was a case of sexual abuse that occurred in December 2020, in which the obscene act was committed against the victim with the initials YY, a 12-year-old child who was committed by his stepfather with the initials SU. In this case, the victim admitted that he committed the first, second, and third molestation at the victim's parents' house, when his mother and stepfather were still dating, and there was also the same act he did to the victim when the victim asked to be taken to the victim's friend's house by bicycle. motorbike and while traveling, precisely at the canal bridge complex in Oluhuta sub-district, where the perpetrator

⁹ Zulkifli Doda, Kanit Reskrim Polsek Kabila, wawancara pada tanggal 22 november 2022

SU again committed an act of sexual immorality against the victim by putting his hand inside his trousers and then the perpetrator immediately groped the victim's genitals."¹⁰

The causes of child molestation cases are due to lack of protection from the family, broken parents, and inappropriate upbringing within the family environment.

Then he added:

"The victim's physical condition: height ± 155 cm, weight ± 55 kg, and olive skin. The victim also wore a headscarf and had an attractive appearance like a young child, there were no special characteristics or visible disabilities on the victim. The victim's health condition also looks healthy. In the current period of development of victims (teenagers), victims need figures who are role models. because the victim's biological parents separated and each remarried, so the victim went with her biological mother. A biological mother often utters words that are inappropriate for a mother to do to her child. According to the victim's confession to the social worker, the victim had seen the behavior of his mother and stepfather which exemplified bad behavior, where the victim had seen inappropriate actions by the children committed by the mother and stepfather before the marriage."¹¹

Based on the case above, it can be seen that the victim's role in the crime of sexual abuse occurred, the victim did not want himself to become a victim of sexual abuse, but rather the victim was not careful when he was in the surrounding environment, so as a result his carelessness caused him to become a victim of sexual abuse.

Then he added:

"What was done on Tuesday, November 22, 2022, he explained that the role of the victim in the commission of the crime of sexual abuse was divided into active and passive roles. There are times when the child is the cause of himself becoming a victim of sexual abuse, for example: because of promiscuity outside, dating, etc. which can cause children, especially female students, to become victims of sexual abuse due to the environment in which they play. Meanwhile, passively, the divorce of the child's parents is often the cause of the child becoming a victim of abuse. This is because if the child's parents remarry, the child will usually be vulnerable to becoming a victim of abuse from his stepparent. Children who are victims of passive abuse are usually forced and threatened by their stepparents so that they do not dare to report it to their mother or family."¹²

We can also see the role of the victim in the occurrence of criminal acts of sexual abuse as stated by E.A Fattah regarding the typology of victims which is divided based on the role of the victim, namely as follows:

- a. The victim did not participate
- b. Victims play an indirect role

¹⁰ Zulkifli Doda, Kanit Reskrim Polsek Kabila, wawancara 22 november 2022

¹¹ Zulkifli Doda, Kanit Reskrim Polsek Kabila, wawancara 22 november 2022

¹² Zulkifli Doda, Kanit Reskrims Polsek Kabila, wawancara 22 november 2022

- c. Victim as provocateur
- d. The victim was involved in a crime
- e. The victim is considered the wrong target

As stated by E. A Fattah regarding the typology of victims, in the case of criminal acts of sexual abuse committed by Titi's father and her uncle, the victim can be classified as having an indirect role.

The role of the crime victim is related to what the victim does, when something is done, and where it is done. The role of the victim has consequences and influence for the victim, other parties, and the environment. There is a functional relationship between the victim and the perpetrator, even if certain crimes occur, the victim is said to be responsible. As in the case of sexual abuse committed by his stepfather and uncle in Kabila Bone Bolango, the victim played a role in the occurrence of this act, whether consciously or unconsciously. The actions and conditions of the victim sometimes become a stimulus or incentive for the perpetrator to commit a crime. Due to the victim's role in the occurrence of this crime, the victim must not be blamed, but the perpetrator must also be held responsible for this act.

According to Bambang Waluyo, it cannot be denied that there are also conditions where the victim has a role in the occurrence of a criminal act, no matter how small the role he has. For example, the result of negligence which then triggers a criminal act. Then it can happen, such as when the victim then seeks attention from the perpetrator. For example, the victim overacts or behaves in a way that then stimulates the perpetrator to do something that leads to a criminal act.¹³

The results of the research that the author has carried out, through interview methods with parties who are considered to have adequate understanding and also based on literature studies and observations of legal events that occurred in Bonebolango Regency related to criminal acts of child molestation.

For this reason, the author tries to state several things regarding what actually is or can later become a trigger factor for a child to become a victim of a crime of sexual abuse related to its role which is broadly divided into two, namely internal factors and external factors as follows:

3.1.1 Internal factors

- a. Child personality
- b. The faith side
- c. The emotional relationship between the victim and the perpetrator
- d. Education

3.1.2 External factors

- a. There is a moral crisis in society
- b. Advances in technology and mass media

¹³ Bambang Waluyo, , *Penelitian Hukum Dalam Praktek* (jakarta: Sinar Grafika, 2011). Hal 21

- c. Parental supervision
- d. Community Environment

3.2. The relationship between the perpetrator and the victim

In certain criminal acts, there is a relationship between the victim and the perpetrator due to acquaintance, having the same interests, living together, or joint activities. This relationship does not need to take place continuously or directly. In this relationship, the situation and conditions of the victim and the perpetrator are such that the perpetrator uses the victim to fulfill his desires and interests based on certain motivations and rationalizations which sometimes legitimize his evil actions based on these motivations and rationalizations.¹⁴

The emotional relationship between the victim and the perpetrator, for example, a bond such as dating, friendship, or family then becomes an opportunity for the perpetrator to be able to meet the victim anytime and anywhere. This is what the perpetrator sometimes takes advantage of to then carry out criminal acts of sexual abuse against the victim either through planning or simply because the perpetrator tends to be close to the victim more often. What is ironic is when the victim or in this case the child then plays an active role, such as seeking and then gaining affection from the perpetrator. The perpetrator then took advantage of this to carry out his actions, because he thought he could freely control the victim who was already dependent on the perpetrator's love. Then, because of the limitations that the victim had, it was even because of the victim's own will that resulted in him becoming a victim of a criminal act of sexual abuse.

The victim has a very close relationship with the perpetrator, where the perpetrator in this case is the victim's stepfather. One of the actions was that the perpetrator began to commit sexual abuse against the victim when the perpetrator was still dating the victim's mother.

4. Legal protection for victims of criminal acts of child abuse committed by stepfathers and uncles in Kabila Bone Bolango

4.1. Legal protection for victims of criminal acts of child abuse

Legal protection for children is a total of actions that can provide protection and guarantee the rights inherent in children so that they can live, grow, and develop. Human dignity and dignity are inherent in him, and he must receive protection from acts of a violent/criminal nature and acts of discrimination as stated in Law Number 35 of 2014 replacing Law Number 23 of 2002 concerning Child Protection.

Legal protection is applied to minors who are still receiving education and so on, a legal protection measure provided by the state, government, law enforcement officials, and non-governmental organizations tasked with dealing with cases related to children and focusing on criminal acts towards children who have experienced

¹⁴ Gosita Arif, *Masalah Korban Kejahatan* (Jakarta: universitas trisakti, 2009). Hal 146

criminal acts. Problems with children are certainly not trivial problems whose resolution process is quite complicated and different from ordinary criminal acts. Moreover, children are the nation's next generation who must be truly protected. The actions that must be taken to fulfill the legal protection of children who are victims of criminal acts of sexual abuse have been optimized in such a way, starting from assisting victims so that the process of developing the child's mental state as a result of the criminal act of sexual abuse that he experienced.

According to the Kabila Police Criminal Investigation Unit, he said that:

"Providing legal protection to children is an action that must be carried out by applicable law according to Law Number 23 of 2002 in conjunction with Law Number 35 of 2014 concerning Child Protection, and is also based on other regulations which equally provide attention to children who are victims of criminal acts of sexual abuse. The basis for legal protection is Article 64 paragraphs (1) and (3) of Law Number 23 of 2002 in conjunction with Law Number 35 of 2014 concerning Child Protection. That is

"Special protection for children in conflict with the law as intended in article 59, including children in conflict with the law and children who are victims of criminal acts, is an obligation and responsibility of the government and society."

"Special protection for children who are victims of criminal acts as intended in paragraph (1) is implemented through:

- a. Rehabilitation efforts, both within the institution and outside the institution
- b. Efforts to protect against providing identity through mass media and to avoid labeling providing accessibility to obtain information regarding case developments."

Then he added:

"The protection provided to victims includes everything explained above and is all carried out by authorized institutions, especially the police, in this case, the Kabila Police through the PPA Unit and the Kabila Police Criminal Investigation Unit."

4.2. Efforts to prevent and control child molestation crimes at the Kabila Police Station
The efforts made to prevent sexual abuse crimes are not as easy as imagined because there will be many obstacles and obstacles encountered. Evil will always exist as long as humans live on earth with all the nature that humans have. However, in reducing the number of crimes of sexual abuse against children, especially at the Kabila Police, we must make efforts to prevent and control crimes of sexual abuse against children so that they do not increase and cause unrest in community life.

The head of the Criminal Investigation Unit said:

"In the case of a crime committed by his stepfather and uncle, the Kabila police have provided protection measures to the victim by securing the victim from the perpetrator and currently the victim is being treated by a psychiatrist."

The victim, who has the status of a passive or active participant in a crime, plays a role that influences the occurrence of the crime against himself. For this reason, handling crimes that occur in society can be carried out with continuous and sustainable prevention and control measures.

Following are the efforts made to overcome the crime of child molestation at the Kabila Police, divided into three, namely;

1. Pre-emptive efforts

Efforts are made here to prevent the occurrence of crimes of sexual abuse against children by instilling strong religious values in children, instilling moral values that apply in society so that children have the knowledge and faith within themselves to behave and act. To make it clear what can and cannot be done according to religious teachings and existing norms in society. A child's personality and characteristics will be formed from what he received as a child. Therefore, at this stage of prevention, parents have a very important role. Because children begin to grow and develop from the closest environment, namely the family.

2. Preventive Efforts

Preventive efforts are advanced efforts, where the prevention efforts carried out are more like actions or concrete manifestations in suppressing the occurrence of crimes of sexual abuse against children. The efforts made come from various parties related to this crime problem. For the problem of crimes of sexual abuse against children, there are several preventive measures taken, including:

- a. Police efforts

The police can suppress crimes of sexual abuse against children by conducting outreach to the community regarding regulations regarding crimes and the impacts they cause so that people will know and feel afraid of committing these crimes.

The following is a statement from Kabila Police Investigators:

"Efforts are being made, such as the outreach carried out to the community in Kabila District. Kabila Police has a community service program and provides information to the public regarding applicable regulations. For crimes of sexual abuse against children, socialization is often carried out in junior high schools (SMP) and senior high schools (SMA) regarding the dangers and impacts of free sex for teenagers and also controlling places that are considered prone to criminal acts that violate moral norms. "

- b. Community efforts

The efforts made by the community are to create a harmonious environment and continue to increase the sense of concern for other members of society so that crime can be prevented in community life.

Efforts made by community leaders together with other communities are to foster a sense of concern for maintaining security and harmony within society. And by holding night patrols to continue to guard and monitor the environment for actions that are detrimental to the community and prevent residents from committing acts that violate decency, then carrying out community service in the environment so that residents know each other and have a sense of brotherhood to prevent the possibility of sexual abuse and acts Tulisa.

c. Efforts from parents

Parents have a role in carrying out prevention that can be done within the scope of the small family which will affect the wider community, so what must be done is to give full attention to children from an early age, love and attention from parents is very much needed. by the child, controlling every action and behavior of the child because it is the responsibility of the parents and family to ensure that the child remains under every supervision. So that this can prevent children or other family members from becoming victims or perpetrators of crimes of sexual abuse against children.

Repressive efforts are efforts to deal with crimes where child abuse has occurred. This response stage will then determine how the crime occurs in society.

This countermeasure takes the form of a place where witnesses can be brought to justice or punishments for perpetrators of child molestation to provide a deterrent effect. This is the duty and responsibility of law enforcement in the form of cooperation between the police, prosecutor's office, and judiciary in providing punishment for criminals.

5. Conclusion

Victimology review of victims of criminal acts of sexual abuse in the Kabila police area who have a passive role in not taking action, but with their attitude they push themselves to become victims, resulting in crimes occurring against them, whose nature and character tend to be weak physically and in terms of thinking power. The factors that trigger a child to become a victim of sexual abuse are related to their role being influenced by personality factors, trust/faith, the relationship between the victim and the perpetrator, education, moral crisis in society, technology and mass media, attention and supervision of parents/family.

The legal protection provided is contained in Law Number 35 of 2014 in Replacement of Law Number 23 of 2002 concerning Child Protection, including:

- a. Providing rehabilitation. Rehabilitation is provided to children who are victims of criminal acts of sexual abuse through psychological rehabilitation of the child so that the child is expected to return to the way he was before he became a victim of criminal acts of sexual abuse.
- b. Protecting broadcasting identity through print or electronic media to prevent labeling of children which is feared to affect the child's future; providing guarantees for the safety of the child as a victim of criminal acts of sexual

abuse, including physical protection, mental protection, or social protection. Kabila Police also participated, in this case specifically the PPA Unit so that they could serve and protect all children who later became victims of criminal acts of sexual abuse.

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