



Factors That Cause Families To Commit Crimes Against Children

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Abstract: This research aims to find out what factors cause families to commit criminal acts against children. This research uses empirical research methods by taking a qualitative approach. The results of this research found that cases of criminal acts against children occurred twice at the Gorontalo City Police in the past 3 years. In the child kidnapping case handled by the Gorontalo City Police, this case has become a case that has shocked Gorontalo residents recently. There was talk of a six year old child with the initials NV who suddenly disappeared and had even been searched for but not found around the city of Gorontalo until it was recently discovered that he had been taken by his aunt to Jakarta without his parents knowing. The perpetrator has been arrested by the Gorontalo City Police and stated that this case is currently in the second stage, namely the prosecutor's handling stage. Meanwhile, in the case of abuse that resulted in death, a five year old child died as a result of torture which caused several lacerations and bruises until the victim finally died. The perpetrators of this case are known to be the victim's step-grandmother, the victim's step-mother and none other than the victim's biological father.

Keywords : Family; Criminal Offences; Children

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1. Introduction

Crime against children is a phenomenon that is endlessly prevented and eradicated in Indonesia. Many factors are conducive to causing the perpetrator to carry out this action for his own benefit, including family conditions, environmental factors, revenge factors, and others. All of these factors have the potential to open up opportunities for criminal acts against children. In social life there are several types of people, there are people who do good and there are also people who do the opposite. It is normal for good deeds to occur or acts that can harm other people. In society, injustice often occurs which is caused by the actions of people who violate laws and norms, as well as the influence and impact it causes which is very detrimental to those who are not involved in it.¹

Meanwhile, in the city of Gorontalo, which has been busy lately, there have been various kinds of legal problems. Human behavior patterns increasingly deviate and deviate from the norms that exist in society and result in violations and even crimes that lead to violations of human rights. Namely cases of criminal acts against children such as kidnapping, abuse that results in death, where the perpetrators who carry out the crime are the victim's own family. This is a very serious social problem and requires real attention and action from all parties. This phenomenon is an action that should be prevented so that similar cases do not occur again. Along with the development of globalization and information technology, this case is increasingly becoming a problem that requires attention because of its widespread scale and huge negative impact, especially on victims and society.²

In the Criminal Code, the offense of abuse is a form of action that can cause physical harm to another person and can even result in the loss of another person's life. Not only that, the existence of criminal regulations for abuse that can cause serious injury or cause the loss of another person's life must clearly be seen as an act that is very detrimental to the victim as a legal subject who deserves justice. The criminal provisions for criminal acts or offenses of abuse themselves are contained in the Criminal Code, namely in Articles 351 to Article 358 of the Criminal Code which confirms that:

1. Persecution is punishable by imprisonment for a maximum of two years and eight months or a fine of up to four thousand five hundred rupiah.
2. If the act causes serious injury, the guilty person is threatened with imprisonment for a maximum of five years.
3. If it results in death, he is threatened with imprisonment for a maximum of seven years.
4. Persecution is equated with deliberately damaging health.

¹ Eva Harianti dan Nina Siti Salmaniah, "Faktor-faktor penyebab terjadinya kekerasan orang tua terhadap anak," *JPPUMA: Jurnal Ilmu Pemerintahan dan Sosial Politik UMA (Journal of Governance and Political Social UMA)* 2, no. 1 (2014): 45-57.

² Dewi Eko Wati dan Intan Puspitasari, "Kekerasan terhadap anak, penanaman disiplin, dan regulasi emosi orang tua," *Jurnal Varidika* 30, no. 1 (2018): 21-26.

5. Attempting to commit this crime is not punishable.

As we know, in 2022 the Gorontalo City Government received an award from the central government for its serious efforts in making Gorontalo City a Child Friendly City. The Ministry of Women's Empowerment and Child Protection has established affirmative policies and programs for the Gorontalo City Government which implement the five substantive clusters of the child rights convention which are deemed to comply with the requirements of standard indicators and fulfill the stated rights of children. The five clusters referred to include fulfilling children's civil rights and freedoms, fulfilling children's rights to a family environment and alternative care, fulfilling children's rights to education, utilizing free time and cultural activities as well as special protection for children. In this case, the above policy should be able to reduce cases of criminal acts against children that occur in Gorontalo, but what we know is that criminal acts against children in Gorontalo are still not resolved properly, therefore this policy has not been implemented optimally and does not meet policy standards.³

Indonesia, as part of the international community, has also created Law No. 39 of 1999 concerning Human Rights, to protect the rights of its people from human rights violations in which children are also included as subjects of society. Children's rights are part of human rights contained in the 1945 Constitution of the Republic of Indonesia (UUD 1945) and Law Number 39 of 1999 concerning Human Rights (HAM). From the perspective of national and state life, children are the future of the nation and state as well as the next generation of national ideals. As the nation's successors, children will be able to grow and develop well if the facilities and infrastructure are met. Children must grow and develop naturally both physically, spiritually and socially so that in the future they will be able to assume their responsibilities, thus children have the right to survive, grow, develop, participate and have the right to protection from violence.

Based on Article 1 number 15 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (UU No.35/2014), namely:

"Violence is any act against a child that results in physical, psychological, sexual, and/or neglect, misery or suffering, including threats to commit acts, coercion, or unlawful deprivation of liberty."

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 the protection of children's rights which are human rights. Every child has the right to survive, grow and develop, and has the right to protection from violence and discrimination," as mandated in the 1945

³ Erniwati Erniwati dan Wahidah Fitriani, "Faktor-Faktor Penyebab Orang Tua Melakukan Kekerasan Verbal Pada Anak Usia Dini," *Yaa Bunayya: Jurnal Pendidikan Anak Usia Dini* 4, no. 1 (2020): 1–8.

Constitution of the Republic of Indonesia. This law strictly regulates criminal acts against children.⁴

Article 80 (1) Jo can be used against those who commit acts of violence against children. Regarding child protection, Article 76 c of Law 35 of 2014 carries a maximum prison sentence of three years and six months and/or a maximum fine of IDR 72 million. In accordance with Law No. 35 of 2014:

"Every person is prohibited from placing, allowing, committing, ordering or participating in violence against children." The number of criminal cases against children that occurred at the Gorontalo City Police Station in the past 3 years only occurred twice. In the child kidnapping case handled by the Gorontalo City Police, this case has become a case that has shocked Gorontalo residents recently. There was talk of a six year old child with the initials NV who suddenly disappeared and had even been searched for but not found around the city of Gorontalo until it was recently discovered that he had been taken by his aunt to Jakarta without his parents knowing. The perpetrator has been arrested by the Gorontalo City Police and stated that this case is currently in the second stage, namely the prosecutor's handling stage.⁵

Meanwhile, in the case of abuse that resulted in death, a five year old child died as a result of torture which caused several lacerations and bruises until the victim finally died. The perpetrators in this case are known to be the victim's grandmother, the victim's stepmother and none other than the victim's biological father.

It is difficult to believe when someone becomes the victim of a criminal act from someone who is expected to be able to protect and look after him. In fact, the child is the next generation of the family, nation and guardian of the family's honor. Children are very expensive and important state assets so they need to be protected, especially by their parents. Therefore, many hopes and aspirations are expressed for children so that they can live a life much better than their parents.

This is what we need to act on to realize a sense of legal justice in society. There is no other way but how to ensure that the supremacy of the law can be upheld. In the sense that the existing law is applied to anyone "without discrimination, even if the perpetrator of the crime is his own blood family. Therefore, giving sanctions to perpetrators of criminal acts should be able to provide a deterrent effect and be as fair as possible.⁶

In this research, the factors that influence families to commit criminal acts against children (who are blood relatives) will be analyzed, as well as police efforts and forms

⁴ Abdul Kadir dan Anik Handayaningsih, "Kekerasan Anak dalam Keluarga," *Wacana* 12, no. 2 (2020): 133-45.

⁵ Sandhi Praditama, "Kekerasan Terhadap Anak Dalam Keluarga Dalam Perspektif Fakta Sosial," *SOSIALITAS; Jurnal Ilmiah Pend. Sos Ant* 5, no. 2 (2016).

⁶ Utami Zahirah, Nunung Nurwati, dan Hetty Krisnani, "Dampak dan penanganan kekerasan seksual anak di keluarga," *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat* 6, no. 1 (2019): 10.

of response to overcome this problem. This research will also evaluate existing policies and provide recommendations for improving strategies and actions that are more effective in dealing with criminal acts against children.

2. Method

The type of research used by researchers is Empirical Legal research. Empirical legal study itself is a study that views law as a reality, including social reality, cultural reality, and empirical studies of the world *das sin* (what is reality).⁷

3. Crimes against children committed by blood relatives

In living in society there are interactions between one human being and another human being. As a social group, the family is referred to as a primary group which consists of a number of people who interact directly, personally and in an intimate way. Therefore, the family is considered to be the most trusted environment. However, quite a few of the criminal cases that occur involve the family being the perpetrator.⁸

In the case taken by researchers, it was related to child kidnapping that occurred in the city of Gorontalo, where the perpetrators were blood relatives. Starting from a child in Gorontalo on behalf of NV who was reported missing, the 6 year old girl was reported missing on March 4 2023 at around 12.00 WITA. The boy was initially playing in the yard and at that time his grandfather was rushing to the mosque when the call to prayer sounded. According to family information, this boy was with his grandmother but while the boy was playing in the yard, his grandmother was cooking in the kitchen.⁹ When the grandfather returned from the mosque, the boy was no longer there where he had started playing. The boy's mother then made a police report and also circulated on social media a pamphlet that said the child was missing. Until finally, after being traced, it turned out that the boy had not disappeared, been kidnapped by a stranger, but had been taken without permission by his aunt to Bekasi.

The suspect, the victim's aunt or RR, was proven to have taken her niece from Gorontalo to Bekasi without her parents' knowledge and the actions taken by the perpetrator made the people of Gorontalo worried about child kidnapping. The perpetrator's motive was that he had previously told his husband that NV or the victim was his biological child who was born in 2018 and entrusted to a family in Gorontalo. The perpetrator planned to take his nephew secretly and before carrying

⁷ S. H. I. Jonaedi Efendi, S. H. Johnny Ibrahim, dan M. M. Se, *Metode Penelitian Hukum: Normatif dan Empiris* (Prenada Media, 2018).

⁸ Septi Amellya Risma, "PENEGAKAN HUKUM TINDAK PIDANA PENCABULAN TERHADAP ANAK OLEH KELUARGA SEDARAH (STUDI DI UNIT PPA SATRESKRIM POLRESTA BANYUMAS)" (Universitas Islam Negeri Prof. KH Saifuddin Zuhri Purwokerto, 2022).

⁹ Ardi Muthahir, Rama Asmoro, dan Dika Nurmalasari, "PERTANGGUNG JAWABAN PIDANA TERHADAP TINDAK PIDANA KEKERASAN SEKSUAL TERHADAP ANAK OLEH SAUDARA SEDARAH," *Lakidende Law Review* 2, no. 2 (2023): 426–31.

out the action he packed his nephew's clothes and then ordered a plane ticket online using someone else's name. The Rajawali Team from the Gorontalo City Police managed to collect information including CCTV at the airport as well as information from two children who were playing with the victim at the time of the incident.

After several days of undergoing examination, the perpetrator alias RR, who is the victim's aunt, was finally named a suspect and was detained at the Gorontalo City Police Detention Center. In the meantime, I have been charged with Article 83 of Law of the Republic of Indonesia number 17 of 2016 concerning Implementation of Government Regulations in Replacement of Law of the Republic of Indonesia number 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia number 23 of 2002 concerning the protection of children into law with threats maximum 15 years in prison.¹⁰

Meanwhile, if we look at the difference between criminal acts committed by other people and criminal acts committed by one's own family, the case that the author took is in cases that were not committed by blood relatives, namely that there was intent, which means that the perpetrator consciously committed the criminal act and knew the consequences. this action, whereas in the case that the researchers took, the perpetrator carried out this action without realizing it and did not have an element of intention because the perpetrator's initial intention was to invite the victim (his nephew) to go out of town, only because the perpetrator said goodbye to the victim's mother, which in the end This action resulted in an unexpected mistake on the part of the perpetrator.

4. Factors That Cause Families To Commit Criminal Offences Against Children In Cases Of Child Abduction

Law is basically a tool for creating order in society. Communities in a country need to be given guidelines, not only about how to interact between humans in community groups, but also between humans and the natural resources that are under the control of the country in meeting their life needs. Kidnapping crimes committed by blood relatives require an important role from society using social control theory.¹¹ This theory refers to the discussion of crime which is associated with sociological variables, including family structure, education and dominant groups. Travis Hirschi mapped out four main elements in internal social control which are contained in proportion to the cases taken by researchers, namely:

- a. Attachmelnt (affection)

¹⁰ Tedy Sudrajat, "Perlindungan Hukum Terhadap Hak Anak Sebagai Hak Asasi Manusia Dalam Perspektif Sistem Hukum Keluarga Di Indonesia," *Kanun Jurnal Ilmu Hukum* 13, no. 2 (2011): 111-32.

¹¹ Ferawati Royani dan Widya Timur, "Peranan Masyarakat Terhadap Pencegahan Kejahatan Incest Berdasarkan Teori Kontrol Sosial," *AL IMARAH: JURNAL PEMERINTAHAN DAN POLITIK ISLAM* 6, no. 1 (2021): 39-48.

The attention given by the family/relatives to my peak in this case is still lacking. The family itself is a function of socialization for family members, from the family we are taught to know the rules, norms and values so that we can play our role and status correctly in society and always adhere to the rules that have been instilled. If good rules and norms are not embedded within oneself, it will definitely lead to deviant behavior and provide opportunities for perpetrators to do things that are outside the rules and norms, as in the case taken by this researcher.

b. Commitment (Responsibility)

If the perpetrator understands the responsibility of doing something that is not in accordance with the rules and norms, he should not commit the crime of kidnapping. Because the perpetrator underestimates his sense of responsibility, he commits deviant behavior. This can be seen from the perpetrator's lack of sense of responsibility for kidnapping his nephew without the permission of the victim's parents and causing unrest to the entire community in Gorontalo City by not considering that there would be many losses if he violated norms.

c. Involvement (involvement)

In this case, there is no intelligence in my involvement in conventional normative activities, where when there is opportunity and involvement which is supported by the situation and conditions of my peak it is easy to carry out these deviations. For example, the perpetrator deceived her husband by taking advantage of the existing situation and conditions, namely that for a long time she had had a biological child (the victim) with the promise of getting money from her husband to pay for the child's living expenses even though in fact the victim was not his biological child. This method was finally applied by my husband to carry out this crime.

d. Believe (Trust)

The trust that my family gave me was support that indirectly triggered the crime of kidnapping. I have strong faith within myself and thought that kidnapping my nephew would not be a bad thing because he considered his nephew as part of the family so it was not a problem for me and ended up violating this norm.¹²

Meanwhile, in the research case, the factors involved in committing the crime of kidnapping will be discussed in terms of the accident that occurred in this case. When this criminal act was committed, this happened accidentally, which made the perpetrator not expect that the consequences of his actions would become a criminal case that shocked many members of the public and law enforcement. The following are the factors that underlie the accident in this case, namely:

1) Uncontrolled relationships

¹² Ni Luh Gede Yogi Arthani, "Strategi pencegahan kejahatan penculikan anak pada saat aktivitas pulang sekolah," *Satya Dharma: Jurnal Ilmu Hukum* 4, no. 1 (2021): 68-83.

Because the perpetrator felt that the victim was his own nephew, without thinking twice, he immediately took the victim away without even saying goodbye to the victim's parents, which in the end his actions resulted in a mistake. Meanwhile, from the family side, in this case they did not think that the suspect who took the victim was their own aunt. So it can be concluded that this close, uncontrolled family relationship is what underlies the perpetrator's unintentional actions in this case.

2) Uncontrolled actions

Due to the opportunity to do something fun, namely trying to take his nephew out of town and buy him a pack of ice cream, which ultimately resulted in a mistake. This is what underlies uncontrolled actions.

3) Factors from the subject

Because the subject, the perpetrator and the victim, were an aunt and a nephew who had quite a good relationship within their family, therefore there was no intimidation of each other and both parties never thought that this action would be a mistake that would result in a crime kidnapping crime.

Along with advances in culture and science and technology, human behavior in society and state life is becoming increasingly complex. When viewed from a legal perspective, of course there is behavior that can be categorized as being in accordance with norms and some which is not in accordance with norms. Behavior that complies with applicable norms (laws) is not a problem. Behavior that is not in accordance with norms can usually cause legal problems and be detrimental to society

Crimes that often occur against children can be carried out by means of threats, violence, kidnapping, coercion, fraud and even abuse of authority.¹³ Child kidnapping is one of the crimes against children which has become a scourge in society. Kidnapping is the act of taking someone's cell away by force and using the law to place a person under the coercion and power of another person.

Kidnapping that occurs against children is an act that must be criminalized, kidnapping against children does not only happen to children from upper-class families, but can also happen to children from middle class families with various motives from the top. The criminalization of the crime of child kidnapping is regulated in Article 76F of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection.¹⁴

In a research interview at the Gorontalo City Police, the police stated that the process of this case was already in the prosecutor's handling stage and in the following

¹³ Mellisa Towadi dkk., "Neutrality Law in the Age of Digitalization, Does it Still Exist?," *Lex Scientia Law Review* 7, no. 1 (2023).

¹⁴ Akbar Akbar Kordisa Suwanto, "TINJAUAN HUKUM TINDAK PIDANA PENCULIKAN ANAK DIBAWAH UMUR" (Universitas Pembangunan Nasional" Veteran" Jawa Timur, 2023).

research will explain the factors that cause the family to commit a crime against a child in a child kidnapping case if the suspect is found guilty by a judge's decision, namely:

1. Economic factor

This factor trigger occurrence one of the reasons that kidnapping occurs. According the results of the research interview of the of the PPA Unit of the Police, the that the perpetrator covered up the victim was his child who was entrusted to his. to family who are in Gorontalo to be for. From., the perpetrator he could the husband by money to take of the child's (victim's). This is the factor in committing crime kidnapping. In this factor, the relates to one of the theories, namely the Theory because concept anomie the in caused by condition in society similar to to who crimes in obtain sufficient benefits

2. The perpetrator's intentions

Criminal acts, including kidnapping, can occur on the intention of the perpetrator. The intention to commit a kidnapping belongs to the evil intention. Errors as the basis of criminal liability (liability basel on fault).

Theoretically, errors are divided into two categories:

- 1) Intentional guilt. Deliberate means that there is a conscious intent or intention aimed at committing a particular crime.
- 2) Error due to negligence (culpa). Culpa which in criminal law doctrine is referred to as unconscious negligence or onbewuste schuld and conscious negligence or bewuste schuld.

In this case, the victim was the trigger for the perpetrator's intention to carry out a kidnapping. As explained above, this is because the perpetrator wants to get additional financial support from his husband. This situation creates intention and gives the perpetrator the opportunity to commit the crime of kidnapping.

3. Negligence of Parents and Families in Supervising Children

Children have an important social position and role as members of society. The problem of children who are underdeveloped in society is still considered to be the responsibility of parents, because children are helpless, weak and innocent. Parents themselves in a broader scope of family or guardians of children as the key to the security and protection of children.¹⁵ However, due to the demands of work and the busyness of parents, which eventually led to parents neglecting their obligations towards children to provide protection and supervision, even though children are not within the reach of parents' vision. Parents are sometimes negligent and neglect their full duties in taking care of their children at home and outside the home, which unwittingly neglects the parents who provide opportunities for perpetrators of kidnapping to kidnap children who are not within the reach of parents.

¹⁵ Mellisa Towadi dan Waode Mustika, "Menggagas â€œSister City for Smart Cityâ€ sebagai Optimalisasi Peran Hukum Internasional di Gorontalo," *Jurnal Ilmiah Penegakan Hukum* 9, no. 1 (2022): 87-97.

4. Environmental Factors

This factor can lead to crime because of factors that exist outside the individual. One of the causes of crime is a bad environment, which is an environment that is not good or sometimes can be said to be chaotic where children lack education and knowledge of values that are usually upheld by society, such as the value of other people's property rights, the value of education as a tool for progress and so on.

If the above factors exist, labelling theory will be related to the explanation of the above factors. If we look from the perspective of labelling theory, labelling itself is a theory that arises due to the reaction of society to a person's behavior that is considered deviant which is then stamped or labelled by his social environment. The reason the author uses labelling theory is because in this theory it is able to explain the reasons behind the research problems that are related to the phenomenon of labelling the label on the perpetrator and the effects caused by the labelling of the label.¹⁶

In this theory, the perpetrators and the impact experienced by those who commit violations are explained. In this case the perpetrator was the family of the victim who committed the abduction and is currently undergoing legal sanctions. After the offending behaviour, the community or a social group will label the offender as a "child abuser" and this will affect the community and even the family. This labelling will also be experienced by the perpetrator in a way that he will be discriminated against by the community. It can be assumed that the engagement between the community and the family with the perpetrator needs to be the main milestone that must be done to reduce the inequality that has occurred. This can be done in various ways and supported by encouragement from the community and family who must tend to encourage the perpetrator to become more open so that the inequality and the impact of labelling will not occur. So based on the above factors and the actions of the perpetrator that have been explained above, the labelling theory in terms of criminal sociology is carried out.¹⁷

So based on the description above, the theory of intellectual social control and the underlying factors of misconduct in this case are both related in terms of criminal sociology. When viewed from the theory of labelling and the factors that led to the factors that cause families to commit criminal acts against children in cases of child abduction when the perpetrator is found guilty by the judge's decision, both are interrelated due to the underlying factors that lead to the labelling. Labelling, which is a theory that arises as a result of society's

¹⁶ NURHALIDA ZAENAL, "TINJAUAN KRIMINOLOGIS TERHADAP KEJAHATAN PENCULIKAN ANAK," t.t.

¹⁷ DEVI LIA NINDI SAFITRI, "PERAN KEPOLISIAN DALAM PENANGGULANGAN TINDAK PIDANA PENCULIKAN ANAK (Studi pada Kepolisian Resor Kota Bandar Lampung)," 2019.

reaction to the behaviour of a person who is considered deviant, who is then labelled or labelled by his social environment after he becomes a suspect in the case.

5. Conclusion

Based on the description of the results of the research and discussion that has been carried out by the author, it can be concluded that the perpetrator of the crime of child abduction that occurs in the family who commits the crime of child abduction when the crime occurs. behaviour that is proven guilty in the judge's factors, the intention of the perpetrator, the negligence of parents and family in supervising children, and environmental factors. From the above factors, it can be concluded that the crime of child abduction can occur at any time if there is intention on the part of the perpetrator or there is a mistake, therefore the role of parents or family is very important in supervising children.

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