



Child Sexual Abuse in Indonesia: History and Challenge in Legal Perspective

Setyarini Nur Octaviana¹

¹Faculty of Law, Universitas Negeri Semarang, Central Java, Indonesia

Received February 17 2018, Accepted April 22 2019, Published May 21 2019

DOI: 10.15294/ijcls.v4i1.19613

How to cite:

Octaviana, S.N (2019). 'Child Sexual Abuse in Indonesia: History and Challenge in Legal Perspective', *Indonesian Journal of Criminal Law Studies* 4(1): 81-90. DOI: 10.15294/ijcls.v4i1.19613

Abstract

A case of child sexual abuse has become a common case among the community. The fundamental question was why the case it could not be eradicated and what is the basis of the person doing the Act of harassment was primarily in children. This study has purposes to analyze the appropriate punishment to the perpetrators so that deterrent, analyzes the impact of psychological casualties and challenge what we will encounter when trying to eradicate the case. The method used at this research was normative legal research Cases of sexual abuse have been around some of the last decade and became the most widely performed case, estimated the year 1970 was the initial disclosures of sexual abuse in children. It can be seen from the year the case was started and why we can't stop it the case was there first. Judith Lewis Herman in his book says that children who have become victims of abuse and trauma will tend to do it to others as adults later. It's like a cycle to continues, our task in tackling these cases is finding a way to keep people who have become victims can recover from trauma and break that cycle.

Keyword: child sexual abuse, legal perspective, sexual violence, criminal law

INTRODUCTION

The case of sexual violence on children already happened a long time ago. Sexual abuse in children is generally defined with contact between a child with a more mature people who are usually used to stimulate sexualitas with his children. The case of sexual violence on children already happened a long time ago. Sexual abuse in children is generally defined with contact between a child with a more mature people who are usually used to stimulate sexualitas with his children. The impact of sexual violence inflicted on children is prolonged trauma, depression, insomnia, a great risk of contracting the disease, pregnancy, sexual even inclined to do such acts to others as adults (Messman-Mooree & Long, 2000)(Anonym, 1999). The specified age limits of children according to the child protection act is a newborn child up to age 18 (eighteen). Sexual

*Email: setyarini@gmail.com

Address: Jln. Taman Siswa, UNNES Sekaran Campus, Gunungpati, Semarang, Indonesia

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

perpetrators of violence on children are usually the people that are known to the child, according to a case study of the perpetrator about 30% comes from the child's family (father, brother, uncle, brother-in-law) and about 60% is derived from acquaintances (neighbor, acquaintance of family, caregiver) and 10% is derived from an unknown stranger (pedophiles) (Whealin, 2007). Pedophilia is a sexual perpetrators of violence on children which usually target was children of puberty.

The case of sexual violence on children is very rapidly growing. In Indonesia alone child sexual violence cases according to the child protection Commission of Indonesia (KPAI) in 2011 alone has occurred as many children 2,275 cases of violence, including 887 cases of sexual violence. 2012 year of child cases of violence occurred as much as 1,028 cases, of which 3,871 is sexual violence cases in children. In the year 2013, of 2,637 cases of child violence, approximately 48% (1,266) is a case of sexual violence on children (Ridho, 2016). If views sexual violence cases each year in children increased by about 69% of it indicates that the punishment given to sexual perpetrators of violence in children have not yet made the deterrent abusers. The role of the family is very important here, if you don't want her child being a victim of sexual violence. Giving sex education to the child and teach him not to easily believe in another people can be a way to prevent it. In this case handling the police felt less fast and responsive as most victims report it after the event or even did not dare to report it.

According to the law, the notion of sexual abuse in children is criminal and civil acts where the adults involved sexual violence and exploits on a child with purpose is sexual satisfaction (a Center for Youth Policy Studies, 2001). Sexual violence on children include actions by touching or kissing the sexual organs of a child, sexual actions with raping a child, exposing the media/objects which are pornographic, show the genitals on the child and others. Sexual violence on children of men and women should not be allowed. Sexual violence that occur in children already violated the norms and laws, and can make the child was injured physically and psychologically. Rampant child abuse cases indicate that children are no longer safe, they are supposed to be free to play and expression should be carefully because of the large number of pedophiles. Then for the children who became victims they no longer can be cheerful and free to play again, he should bear the burden of a huge trauma and shame which resulted in his becoming a future interrupted. The problem in this study is why the case it could not be eradicated and what is the basis of the person doing the Act of harassment was primarily in children. This study has purposes to analyze the appropriate punishment to the perpetrators so that deterrent, analyzes the impact of psychological casualties and challenge what we will encounter when trying to eradicate the case.

RESEARCH METHOD

The method used at this research was normative legal research. The research examines the child abuse cases in Indonesia. The research not the filed research, all data and facts at this research obtained from both offline and online sources. The research focus on child abuse cases in Indonesia, and the protection to the child on the child abuses. The research analyzes laws and regulations concerning to the child abuses as well as child protection in Indonesia

FINDING AND DISCUSSION

History of Child Abuse in Indonesia: The Complexity Cases and Condition

The case of sexual violence on children is estimated to have existed from the year 1857, through the book entitled *Medical – Legal Studies Of Sexual Assault (Etude MEDICOS-Legale sur les Attentats aux Moeurs)* by Auguste Ambroise describing sexual abuse of child are there any in France. Auguste Ambroise is a medical doctor who came from France and scientists in the field of medical and forensic. The case of sexual violence on children began to appear in public in 1970 until 1980, before people are ashamed to say it because it is considered taboo to inquiries. In America's own recently enacted the law of sexual assault on a child in the year 1970, since then people began to express them and report it.

In Indonesia's own laws about child protection on new year 2002. Regulation number 23 of the year 2002 on the protection of children which explains the importance of giving a heavy criminal penalties and fines to offenders of child sexual violence especially in children which aims to give a deterrent effect on the offender as well as the expected recovery may provide either physical or psychological.

In psychological, child victims of sexual violence as though her circled the fence that horrible old-time that makes the more narrow and confine him who makes the child become always imagined would be traumatized. It was in psychological science called *Teufelkreis* or *vicious circle*. Children who become victims of sexual violence is very potentially do it to others as adults, it is inevitable to mention because it's been such a vicious circle.

Children's rights in Indonesia is set out in article 2 of the Regulation No. 4 of the year 1979, stating (1) the child has the right to welfare, treatment, care and guidance with affection to grow and develop is reasonably. (2) the child is entitled to the maintenance and protection of content during and after birth. (3) the child is entitled to protection of the environment and endangering his inhibiting its development. In article 3 of Act No. 4 of the year 1979 also arranged in circumstances that endanger, the first kids is entitled to relief, assistance and protection.

The purpose of legal protection is provided for the rights to survive, thrive, and participate according her dignity and the protection of violence and discrimination and are expected to make Indonesia more qualified, and prosperous (Rusni, 2016). In addition to Laws – Laws there are other regulations set about child welfare, PP number 2 Year 1988 governing the responsibilities of Governments in the protection of children. In article 4, (1) outlines the efforts of child welfare consists of business coaching, development, prevention and rehabilitation (2) child welfare Efforts which the Government and/or the community geared especially to children who have problems among other children who do not have behavioural problems. And what is meant here is according to the article 5 PP No. 2 the year 1988 is to (1) provide the maintenance, protection and restoration to the children who have problems in order to grow properly. (2) the prevention and rehabilitation was carried out in the form of the care, assistance, and special service.

In the decision of the Minister of the social Republic of Indonesia number: 15A/HUK 2010 general guide about social welfare programs. In her decision said that based on presidential instruction No. 1 of the year 2010 about the acceleration of the

implementation of the National Development Priorities of the year 2010, the protection of children included in the national development priorities of the scale of the year 2010 and to achieve the goals of child protection efforts with social welfare programs (PKSA). PKSA program by the Government to meet the basic needs of the child include assistance/subsidies the fulfillment of basic needs. Other programs that made the Government social welfare Programs are Toddlers (PKSAB), a social welfare Program abandoned children and street children (PKSAT/AJ), social welfare programs dealing with Child Law (PKSABH), Program Social welfare child with Disability (PKSADK), a social welfare Program Children Need special protection (PKSAMPK), a social Child Labor (TKSA) (Makarao & Dkk, 2013).

The Offender of Child Abuse

Nicholas Groth and Jean Hirnbaum conduct research, taken samples of 175 men—men's sexual perpetrators of violence on children are categorized based on their sexual orientation and gender of the victims. The samples are divided into two groups and the goal of his research is to know the motiv them whether they perform sexual violence on children because of "Fixation" only on the child or because of the "Regression". The meaning of "Fixation" is the target of sexual they are simply kids, and for "Regresion" is defined as an adult who has had a relationship with the other but looking for an escape to the children as his victim. The research results showed that "fixation" only love children no special gender determined only their love children before undergoing puberty. For "Regression" their previous normal with related sebayanya but because they are tired of looking for an escape with a younger, usually the victim of the Regresion is a person who is known or their close relatives (Groth & Birnbaum, 1978).

The types of sexual violence perpetrators and their psychological:

1. Situational – in certain circumstances choose children.
 - a. Regression : normal and have a relationship with his age , but because certain conditions so look for an escape to the children
 - b. *Indiskrimination* : all about moral lapses, sexual and sexual offence but not with children
 - c. *Naij/* inadequate : Some mentally disabled and looking for the same children with him.
2. Special: having sexual interest to children
 - a. Assault: actions taken sadistic and involving violence, the target is children who are not familiar
 - b. Riveted: no interaction with his age , and is called mature early (Holmes, 2002).

Factors cause the perpetrators of sexual violence action is the first can of the broken home. Children of victims of broken home usually experiencing excess stress and usually vent it to the other things that make him aggressive, or anything that causes the children of victims of broken home become distorted is the lack of attention from both his parents. The second thing is because the perpetrators had previously been the victim of sexual violence. In a study said that of the 25 sample cases of sexual violence on children 23 cases, the offender says that he was a victim of sexual assault on the child during when he was child (Rezmovic & Dkk, 1996). From which it can be seen that it becomes a sort of cycle that keeps going and will not stop and will multiply each year.

Table 1. Comparison Between Fixated and Regressed Child Molesters

	Fixation			Regression		
	Female victim	Male victim	Female and male	Female victim	Male victim	Female and male
Offender						
Total sample (n = 175)	28 (16%)	35 (20%)	20 (11%)	65 (37%)	15 (9%)	12 (7%)
Age of offender						
Mean age	28 years	27 years	29 years	33 years	36 years	32 years
Range	17-61	15-50	17-52	15-56	20-64	20-48
Marital status						
Single	22 (13%)	33 (19%)	18 (10%)	16 (9%)	6 (3%)	1 (1%)
Married	6 (3%)	2 (1%)	2 (1%)	49 (28%)	9 (5%)	11 (6%)
Adult sexual orientation						
Heterosexual		Does not apply		62 (67%)	5 (5%)	3 (3%)
Homosexual		Does not apply		0 (0%)	0 (0%)	0 (0%)
Bisexual		Does not apply		3 (3%)	10 (11%)	9 (5%)
Victim						
Age of victim						
Mean age	8 years	11 years	9 years	10 years	11 years	10 years
Range	3-15	2-16	3-15	2-16	6-16	3-14
Offense						
Offender-victim relationship						
Stranger	12 (7%)	12 (7%)	10 (6%)	15 (9%)	6 (3%)	2 (1%)
Acquaintance	7 (4%)	21 (12%)	7 (4%)	12 (7%)	4 (2%)	4 (2%)
Friend	6 (3%)	2 (1%)	3 (2%)	17 (10%)	4 (2%)	4 (2%)
Relative	3 (2%)	0 (0%)	0 (0%)	21 (12%)	1 (1%)	2 (1%)
Type of act						
Nonpenetration	16 (9%)	19 (11%)	10 (6%)	31 (18%)	6 (3%)	3 (2%)
Penetration	10 (6%)	13 (7%)	8 (5%)	23 (13%)	6 (3%)	6 (3%)
Both	2 (1%)	3 (2%)	2 (1%)	11 (6%)	3 (2%)	2 (2%)
Modus operandi						
Seduction-enticement	7 (4%)	11 (6%)	7 (4%)	20 (11%)	5 (3%)	3 (2%)
Intimidation-threat	16 (9%)	13 (7%)	9 (5%)	31 (18%)	7 (4%)	9 (5%)
Force-attack	5 (3%)	11 (6%)	4 (2%)	12 (7%)	3 (2%)	0 (0%)
Sum						
	92 (53%)					

Source: A. Nicholas Groth, Ph.D., 1 and H. Jean Birnbaum, B.A. 1, *Adult Sexual Orientation and Attraction to Underage Persons, Archives of Sexual Behavior, Vol. 7, No. 3, 1978*

The above data may be taken from the results:

1. Victims of the Regression and fixation of more or less equal in number, the average offender to Fixation was more than 20 years of age and over 30 years of fewer in number.
2. Although overall, the perpetrator of the unrecognizable victims as much as (67%) the majority (83%) of offenders Fixation is a stranger who knew her only as alone with the victim. This might suggest that the sexual offense is premeditated fixated by the offender, who selects victims who are re-lative strangers in order to reduce the risk of identification and apprehension, whereas for the regressed offender the offense may be highly more impulsive and opportunistic.
3. The perpetrator uses violence and threats as much (49%), and using the method of pleading with the reward after it as much (30%), and as much as (20%) the brutal use of force and the goal is to torture victims.
4. The perpetrator Regression and fixation in selecting victims as much as men (29%) and women (53%), who was fond of both (18%).
5. Fixation and the average 10 year old as much as (74%) and for the Regression registration (69%) under 12 years old.
6. children who are Victims of women twice more than men. There were more male victims (42%) than female victims (34%) in the fixated offender group, and more female victims (71%) than male victims (16%) in. the regressed of.
7. The large majority (88%) of the fixated offenders never married, whereas the large majority (75%) of the regressed group did marry.
8. Those offenders who regressed to children from adult sexual relation-ships were, for the most part (76%), exclusively heterosexual in their life-style. There was a small group (24%) who were classified as bisexual

Another problem which makes sexual violence cases in children are not handled correctly because the first less the use and limitations of law enforcement in interviewing victims. They often force victims of sexual violence told of hers in front of perpetrators, sometimes degrading the victim or often carried by emotions when interviewing a victim. Law enforcement officials here should understand that such victims are extremely vulnerable and fragile psychological condition and his soul. Sometimes law enforcement officials is also less accurate in collecting evidence that should strengthen the case. Often also victims spend up to millions of dollars just for proof that sexual violence of visum. That thing that makes sacrifices sometimes think again to report the case. Due to lack of handling it makes the pedophilia or other predators roam freely attacking the victim. Should have in the handling of victims of sexual abuse in children as it should the victim be interviewed in a safe and comfortable and in a quiet condition first, then in the interviewing of victims should be recorded so that the victim does not need to repeat it and become severe trauma will that interview. And then the voice of the victim and her face is disguised so that others do not recognize it.

Challenges Obstacles of Child Protection from Child Abuse and Violence in Legal Perspective)

Although Indonesia has set up law number 13 year 2006 on the protection of

witnesses and victims and have been on more perfect and became Act No. 31 of the year 2014 but in practice law enforcement officers respond to with wild because they are not longer work with a conscience but became slaves of money and wealth and power. Article in Regulation on trade because of the desire and love of excess money that encourages them to do that. The nature of truth there is no meaning anymore, with money can all go according to our desires. Including making the perpetrator be innocent again, violations of the laws of weight is converted into light category violation. And scarcity will make justice the public no longer believed in the law (Ramada, 2017).

Other obstacles that have to be faced in this case is a matter of development and discussion of the RUU is the Elimination of sexual violence (RUU-PKS) still felt very sluggish in handling and not fully understand the community of women victims, Discrimination in the UU KUHP Amendments, and the long road RUU PRT (Komnas Perempuan, 2018).

But in the handling of cases of sexual violence Indonesia has experienced progress. The women's National Commission and MOU LPSK witness protection and victims related to cases of violence against women makes a deal with 13 ministries/agencies to "Conducting the integrated Handling of cases of violence against women,". That activity was the event held a Visum for victims free acts of violence either women or children in Jakarta. and the integration of emergency services 122 by Pemda DKI Services for violence against women (Komnas Perempuan, 2018).

Other progress that Indonesia has done in dealing with these cases is the decision of a Judicial Review of ACT No. Adminduk of 23 years 2006 and law No. 24-year 2013 About Residency for Penghayat Administration, then the rules of the Supreme Court (Perma) number 3 years 2017 about Guidelines to judge the matter of women who are dealing with the law, the verdict of the Constitutional Court rejected a petition for the extension of Article adultery, Rape and Violation of article Article potentially susceptible victims of sexual violence (Komnas Perempuan, 2018).

But Indonesia is not fully resolve this case, there are still challenges and obstacles encountered, due to the fact that the victims of sexual violence on children or other violence still occur. And predators or Pedophilia is still growing and rampant. Even cases of violence still rising every year. Possibly effective way that can be done in order to prevent the victims of sexual violence is increased by means of rehabilitation and totally eliminate the trauma there is on him.

Other issues of the case of sexual violence on children is what if the perpetrator turned out to be also were children. The child in question here is who is not yet 18 years of age. If in such a case the child was sentenced to prison and fined is not enough, their psychological is damaged. We recommend that you fix any time their psychological and more eliminate the character or the character of those who are bad.

Indonesia with a majority of its people are Muslim of course knowing that perpetrators who commit such acts a great sinner, and Islam very forbidding fornication. But why still a lot of people do that, the lack of faith is also one of the factors that people are not able to think clearly. Obedient can also be a solution to reduce sexual violence crimes.

Islamic prayer always has been taught. Kids give you guys to work on pray when they are seven years old, their strike caused left it when it has aged ten years old, and separate them (between men and women) in their beds. (Narrated by Ahmad and Abu Dawood). Parents need to be very disciplined their children so that in the future avoid inappropriate actions like that and also can avoid us from people who are dangerous.

Imam Ghazali has said that if it were to refuse a disaster or crime by praying to God. Because prayer is a shield to resist wreaking danger and grace. "Let them preparing to standby and bore their arms." (Nisaa Qs.An: 102). Indeed the destiny that was specified by the Lord, but we pray our disaster will be reduced. If likened to war disaster inevitably will happen is injured, but by wearing the shield at least we originally destined suffered injuries due to the sword being just scraped away. Keep the same injuries but further alleviated. such is the miracle of prayer. "Dar'ul mafasid muqaddamun 'ala jalbi al-mashalih" (to prevent damage to the preferred of goodness) (Kosasih, 2003).

Also, be aware that society also is responsible for the protection of children from crimes. Provided for in article 72 paragraph (3) of the Act for child protection that society is also responsible in both groups and individuals. If the group by establishing protection for the child, if the individual is obliged to report that action if see it. By knowing and immediately report the perpetrator would be easy and there is evidence of real and immediate. Because if only the police who did the handler without assisted by the community will be overwhelmed, because the number of police and citizens are not balanced.

CONCLUSION

Conclusion we can take is sexual violence on children is very detrimental, not only physical but also psychological casualties. To heal the victims of traumatic is very difficult and needs proper handling. Because in fact the victims of many who have not recovered from traumatic and attempted to return to sexual abuse to others, which means he becomes the abuser in later life. In psychology it is called vicious circle, it is inevitable to mention.

The case of sexual violence on children is estimated to have existed from the year 1857, through the book entitled Medical – Legal Studies Of Sexual Assault (Etude MEDICOS-Legale sur les Attentats aux Moeurs) by Auguste Ambroise describing sexual abuse of child are there any in France. Auguste Ambroise is a medical doctor who came from France and scientists in the field of medical and forensic. The case of sexual violence on children began to appear in public in 1970 until 1980, before people are ashamed to say it because it is considered taboo to inquiries . Children's rights in Indonesia is set out in article 2 of the Regulation No. 4 of the year 1979, In article 3 of Act No. 4 of the year 1979 also arranged in circumstances that endanger, the first kids is entitled to relief, assistance and protection. PP number 2 Year 1988 governing the responsibilities of Governments in the protection of children , article 5 PP No. 2 the year 1988.

The challenge for Indonesia itself in addressing cases of sexual violence have on law enforcement officials, law enforcers should be more deft in dealing with cases of sexual violence and more patient in interrogation victim. And the solution to avoid the sexual assaults was more alert and always pray that precluded from evil. For women could carry objects that could protect in case of crimes missal bring umbrella, sprays, or electric shock.

BIBLIOGRAPHY

- a Center for Youth Policy Studies. (2001). *The Sexual Exploitation of Children*.
Groth, N., & Birnbaum, J. (1978). *Adult Sexual Orientation and Attraction to*

- Undergrade Persons. *Archives of Sexual Behavior*, 7(3).
- Guidelines for psychological evaluations in child protection matters. (1999). *American Psychologist*, 54(8), 586–593. <https://doi.org/10.1037/0003-066X.54.8.586>
- Holmes, R. M. (2002). *Profiling Violent Crimes: An Investigative Tool*. Sage Publications, Inc.
- Komnas Perempuan. (2018). *Tergerusnya Ruang Aman Perempuan dalam Pusaran Politik Populisme*. Jakarta.
- Kosasih, A. (2003). *HAM dalam Perspektif Islam*. Jakarta: Salemba Diniyah.
- Makara, M. T., & Dkk. (2013). *Hukum Perlindungan Anak dan Penghapusan Kekerasan dalam Rumah Tangga*. Jakarta: PT RINEKA CIPTA.
- Messman-Moore, T. L., & Long, P. J. (2000). Child Sexual Abuse and Revictimization in the Form of Adult Sexual Abuse, Adult Physical Abuse, and Adult Psychological Maltreatment. *Journal of Interpersonal Violence*, 15(5), 489–502. <https://doi.org/10.1177/088626000015005003>
- Ramada, D. P. (2017). Reality of Protection for Sexual Violence Victims: Comprehensive Protection Analysis for Sexual Violence Victims. *IJCLS Indonesian Journal Of Criminal Law Studies*, 2(2).
- Rezmovic, E. L., & Dkk. (1996). *Cycle of Sexual Abuse: Research Inconclusive About Whether Child Victims Become Adult Abusers*.
- Ridho, M. (2016). Peran Kepolisian Dalam Pemberantasan Tindak Pidana Perdagangan Orang (Eksplorasi Sexual) Melalui Media Elektronik. *IJCLS Indonesian Journal Of Criminal Law Studies*, 1(1).
- Rusni, A. dan. (2016). Fenomena Kekerasan Terhadap Anak. *Shautut Tarbiyah*, XXII(35), 59.
- Whealin, J. (2007). *Child Sexual Abuse*.

Law Quote

“The offender must be able to give something back. But criminals are most often poor people. They have nothing to give. The answers to this are many. It is correct that our prisons are by and large filled with poor people. We let the poor pay with the only commodity that is close to being equally distributed in society: time.”

Nils Christie, *Limits to Pain: The Role of Punishment in Penal Policy*