



# **LEGAL PROTECTION FOR CHILD VICTIMS OF ABUSE COMMITTED BY THEIR BIOLOGICAL FATHERS IN NORTH JAKARTA**

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## ***ABSTRACT***

Sexual violence against children is increasingly common. Ironically, the perpetrators of this violence are the biological parents who are supposed to look after and protect their children. As in a case in North Jakarta, there was a biological father who had committed sexual abuse against his biological child who was still 5 years old. To answer research problem, the author uses empirical methods based on reality in the field or through direct observation. The data obtained was through information on social media from the mother of the victim. The results obtained in this research indicate a lack of legal certainty from law enforcers before this case went viral.

**Keywords: biological father, sexual violence, child**

## **INTRODUCTION**

Sexual Violence is any act of degrading, insulting, harassing, and/or attacking a person's body, and/or reproductive function, due to inequality in power relations and/or gender, which results in or can cause psychological and/or physical suffering, including those that interfere with a person's reproductive health. In Indonesia, sexual violence is not a new thing anymore, especially sexual violence against children and the perpetrators are the closest people or even their own parents who are supposed to protect and protect children from various threats or things that interfere with children's psychology. Child sexual abuse is a form of action committed by an adult or an older person, who uses a child to satisfy his or her sexual needs. The forms of sexual



harassment are actually diverse, such as asking or pressuring a child to engage in sexual activity, providing indecent exposure of a child's genitals, displaying pornography for a child, having sexual intercourse with a child, physical contact with a child's genitals, and viewing a child's genitals without physical contact outside of medical treatment.<sup>1</sup>

Like the case that occurred in North Jakarta, a 5-year-old child was molested by his own biological father right on his 5th birthday. The parents of the child victim have been divorced since 2 years ago, so the child victim has never met his biological father for 2 years. On January 31, 2024, the victim's birthday and night children were picked up by their father to stay at their father's house. Without any suspicion, his mother immediately agreed and allowed the child victim to stay at his father's house for 4 days. During his stay, the child victim could not escape his mother's supervision. Until the fourth day, her son was picked up and his mother saw many wounds around the child victim's genitals. The efforts made by the victim's mother were to take her to medical personnel to get a visum letter and immediately report to the authorities.<sup>2</sup>

### **A. Previous Research**

Previous research is an effort by researchers to find comparisons and then to find new inspiration for future researchers. In addition, previous studies help researchers position his/her research and show the originality of the research. In this part, the researcher lists various previous research results related to the research to be carried out, then makes a summary, both published and unpublished researches. The followings are previous studies that are still related to the theme that the author is studying.

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<sup>1</sup> Aprilianda, N. (2017). Perlindungan Anak Korban Kekerasan Seksual Melalui Pendekatan Keadilan Restoratif. *Arena Hukum*.

<sup>2</sup> Mastur, Pasamai, S., & Agis, A. (2020). Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual. *Journal of Philosophy, 1*.



First is the research conducted by Ermaya Sari Bayu Ningsih (2018) entitled "Sexual Violence Against Children in Karawang Regency". This type of research uses a qualitative approach method. The results of a preliminary study at the Karawang Resort Police (POLRES) showed that there were 67 cases of child sexual violence reported from 2014, with the criteria of sexual violence in dating 47 cases, molestasi/obscenity as many as 20 cases, while from January ± April 2015, there were 16 cases with the criteria of sexual intercourse, 9 cases, molestasi/obscenity, 7 cases.<sup>3</sup> Based on the data, the researcher intends to conduct an in-depth study of the social phenomenon of cases of sexual violence against children that occurred in Karawang Regency. The similarities of previous research with this study are as follows:

1. The object of study is both sexual violence against children
2. The types and methods of research approaches used both use qualitative descriptive methods.

While the differences between the previous research and this study are as follows:

1. The perpetrator in the previous research case was someone else, while in this study the perpetrator was his own biological father.
2. The focus in the previous study was that sexual violence in children was triggered by sexual disorientation in adults, lack of parental supervision of children, while in this study it focused on the lack of awareness of parents (biological fathers) to protect and protect their biological children.
3. The location in the previous study was in Karawang district, while in this study it was located in East Jakarta.

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<sup>3</sup> Sari, E., & Hennyati, S. (2018). Kekerasan Seksual Pada Anak di Kabupaten Karawang. *Midwife Journal*.



Second is the study conducted by Desi Sommaliagustina (2018) entitled "Sexual Violence Against Children in the Perspective of Human Rights". This research uses normative legal research methods or literature law research methods. The result of this study is that violence against children in general has not been seriously handled by the state, in this case by law enforcement officials. In fact, children's human rights have been recognized and protected since they are still in the womb. In the Convention on the Rights of a child, a child is any person who has not reached the age of 18. As a country participating in the Convention on the Rights of the Child, Indonesia has an obligation to make various efforts to protect the human rights of children, including:<sup>4</sup>

1. Preventing children from being kidnapped, smuggled and sold;
2. Protect children from family loss, economic exploitation both physically and psychologically, prostitution, all forms of discrimination and in the event of emergency crises such as displacement, armed conflict, and children in conflict with the law;
3. Guarantee the rights of children who are victims of armed conflict, neglect, persecution and exploitation;
4. It is forbidden to give cruel treatment/punishment, the death penalty, life imprisonment, arbitrary detention and deprivation of independence.

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<sup>4</sup> Sommaliagustina, D., & Citra, D. (2018). Kekerasan Seksual Pada Anak Dalam Perspektif Hak Asasi Manusia. *Jurnal Psikologi*.



The first prevention of violence against children is within the scope of the household. Therefore, the role of parents in protecting children is very important. Because when children's human rights are cared for by parents within the scope of the household and the interests of children are protected by parents, it is unlikely that children will become victims of violence.<sup>5</sup>

The similarities of previous research with this study are as follows:

1. The object of study is both sexual violence against children
2. The focus of his research is equally researching the human rights of a child to get justice and protection from his parents

While the differences between the previous research and this study are as follows:

1. The type and method of research approach used in the previous study was the normative research method, while in this study the empirical research method was used.
2. In the previous study, it discussed the role of parents who should protect children, but in this study it discusses parents who are the perpetrators of their own biological child abuse.

## **B. Problem Formulation**

Based on the above background, the formulation of the problem is as follow: what is the role of mothers and law enforcement in obtaining justice in the case of molestation of a 5-year-old child committed by their biological father?

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<sup>5</sup> Setiawan, B. (2023). Penanganan Terhadap Tindak Pidana Pencabulan yang Terjadi di Wilayah Hukum Polres Wonogiri. *Jurnal Bevinding*, 01.



## **Purpose**

Based on the formulation of the problem above, the purpose of this study is to find out the role of mothers and law enforcement in obtaining justice in cases of molestation of 5-year-old children committed by their biological fathers.

## **METHOD**

The type of this present research employs an empirical method. From some of the expert definitions above, it can be concluded that empirical is an approach or method of knowledge that is based on direct experience, observation, experimentation, and observation of reality that can be observed concretely.

## **RESULTS AND DISCUSSION**

### **A. The Role of Parents (Mother) in Getting Justice**

Children are the mandate and gift of God Almighty which is inherent in their dignity as a whole human being. Consequently, children must get the greatest opportunity to grow and develop optimally physically, mentally, spiritually, and socially by providing protection and fulfillment of their rights without discrimination.

The increasing number of cases of sexual abuse of minors is very troubling to the community. Children, who are the next generation of this nation, were damaged in their growing up. In addition, the community also becomes restless and worried about the safety that exists in the environment around their children. This shows that children have not received protection for safety in their daily lives. A child should have received protection from his parents, but lately there are many cases of biological parents who have the heart to damage mentally, physically,



especially their intimate organs by molesting them or forcing the child to engage in sexual activities with them.<sup>6</sup>

The role of parents to fight this act of sexual violence against early childhood is related to the four principles of parenting and education of children, along with the role of parents in early childhood. The role of parents to protect children from acts of sexual violence are as follows:

- a) Parents become the first model for children, especially a mother. Parents as models can set an example by telling children how to dress well, how to take a good bath, how to use the toilet and also how to flush the toilet before and after use.
- b) Parents set an example for children in protecting and protecting themselves from acts of sexual violence.
- c) Parents teach children about sexual education by using simple language according to early childhood development and also using visual media so that children can understand it.
- d) Parents can provide education about what boundaries should not be held on the child's body by others.

In particular, Indonesia has its own law regarding the protection of children, namely Law Number 23 of 2004 concerning Child Protection. In Articles 81 and 82 of the Law on Child Protection, it is stipulated that perpetrators of sexual abuse of children are sentenced to a maximum of 15 years in prison.

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<sup>6</sup> Wulandari, H., & Nurwaci. (2023). Peran Orang Tua Dalam Melawan Tindak Kekerasan Seksual Terhadap AUD. *Journal of Early Childhood and Inclusive Education*, 6.



The punishment is not proportional to the impact that occurs on children who are victims of sexual violence. This impact is very fatal, because it has a long-term impact. not only physically but also mentally for the child. The physical impact is the damage to the child's body caused by sexual violence, where the child's organs are still not ready to carry out sexual activities. In addition, there are also mental or psychological impacts of children who get sexual violence, such as fostering a sense of severe trauma, such as children becoming afraid to meet men or even their own family.

It is not only that. the impact of sexual violence on children in the long term is very concerning. For instance, when the child was a teenager, he thought that the previous incident was a mistake and the child would fall into promiscuity. Furthermore, the child is instilled with the mind to do the same thing in the future (pedophile). Because, according to research, most perpetrators of sexual violence have experienced similar things in the past.<sup>7</sup>

In this case, a child who was molested by his own biological father turned out to have a great impact on the child, namely the child became traumatized when he meet a man or even his own grandfather. From this incident, the role of the mother is very important, because a father who is supposed to be the protector of his daughter, actually destroys the child's growth and development period.<sup>8</sup>

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<sup>7</sup> Reynold, C. 2023. “*Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual*”. Diakses dari [Perindungan Hukum Terhadap Anak Korban Kekerasan Seksual \(hukumonline.com\)](http://Perindungan Hukum Terhadap Anak Korban Kekerasan Seksual (hukumonline.com)) pada tanggal 03 Juli 2024 pukul 22.08

<sup>8</sup> Dwi Yuwono, I. (2015). *Penerapan Hukum Dalam Kasus Kekerasan seksual Terhadap Anak*. Medpress Digital.





Some of the efforts made by the victim's mother are as follows:

- 1) After finding out that there were many wounds in the child's genital area, the victim's mother immediately took several medical personnel to get treatment and to find out the cause of the injury. From the results of the examination of health workers, there was a tear in the child's genitals and the doctor suggested doing a visum.
- 2) Immediately brought the child for a visum so that it can be evidence for reporting to the authorities.
- 3) Calmed the victim's child from a deep sense of trauma
- 4) Reported to the authorities so that the victim's child immediately gets justice
- 5) Getting the case viral because it has not yet received a response to the report.

## **B. The Role of Law Enforcers**

Sexual violence crimes can be in the form of non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence. In addition, sexual violence also includes, among others, rape, obscenity, sexual intercourse, and/or sexual exploitation of children, and so on.<sup>9</sup>

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<sup>9</sup> Sirajuddin, Fatkhurohman, & Zulkarnain. (2015). *Legislatif Drafting*. Setara Press.

Hamzah, A. (2016). *KUHP & KUHP*. PT Rineka Cipta.



In Article 1 number 2 of Law 35/2014 it is explained that child protection is all activities to guarantee and protect children and their rights so that they can live, grow, and develop and participate optimally in accordance with the dignity and dignity of humanity and receive protection from violence and discrimination.

Article 58 (1) states that every child is obliged to obtain legal protection from various forms of violence, sexual harassment, and unpleasant acts. Special protection is provided through efforts to:

- a. prompt treatment including physical, psychological and social treatment and/or rehabilitation as well as prevention of diseases and other health disorders;
- b. obtain psychosocial assistance at the time of treatment until recovery;
- c. provide social assistance for children from underprivileged families; and
- d. give protection and assistance in every judicial process.

Furthermore, special protection for children victims of sexual crimes is carried out through efforts to:

1. give education on reproductive health, religious values, and moral values;
2. make social rehabilitation;
3. provide psychosocial assistance at the time of treatment until recovery; and
4. provide protection and assistance at every level of examination starting from investigation, prosecution to examination at court sessions.



In this case, the author researches that there is a slight legal vacuum, namely when the victim's mother reports to the authorities so that the case is handled immediately and the victim's child immediately gets justice, but in reality there is no adequate response to process the case immediately. The victim's mother finally chose to upload this case to social media with the aim that this case would be handled and processed immediately. Until now, the case has been processed and the child victim will immediately get justice from this incident even though the perpetrator is his own biological father.

## **CONCLUSION**

The summary of the article is that children who get sexual violence have a long term psychological impact . Inseparable from the role of parents and government institutions, protection of children is very necessary. In this case, the victim's mother has tried to get justice immediately through cooperation with other law enforcement officials to prosecute the perpetrator or the biological father of the victim's child who should be the protector of her daughter. Against Law Enforcement Officials. Advice to law enforcement officials is that with this case, law enforcers should immediately process the reported case without waiting for it to go viral first; 1) Against Parents. The role of parents in protecting children from sexual violence is very numerous, by providing education about sex according to their age in order to provide an image or limit for the child to protect himself. Instead of ruining her growth period by forcing her to engage in sexual activities. 2) To the Community. Always take care of and supervise children, especially do not easily entrust children to others and always supervise them in playing gadgets.



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