



Legal Review of Criminal Acts of Allowing Violence Against Children to Occur, Resulting in Death (Case Study of Decision No. 653/Pid.Sus/2020/Pn Pekanbaru)

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ABSTRACT

One form of crime that is growing in society and constitutes a criminal offense is violent crime. Violence is an arbitrary act committed by a person to harm another person, either physically or psychologically. Acts of violence are usually directed at vulnerable people such as women and children. The issues to be discussed are: How is substantive criminal law applied to violent crimes committed against children? How did the judge consider the perpetrator of violent crimes in Court Decision Number 653/Pid.Sus/2020/PN Pbr?

Keywords: Violence, Children, Factors, Death.

INTRODUCTION

Indonesia is a country governed by law, where every interaction is regulated by legislation. Violations of the rules will result in sanctions in accordance with applicable regulations. The law is important in society for justice, security, order, legal certainty, and benefit. Every action must comply with the legal regulations established by the state government. This aims to create justice, peace, and security for society. With this sense of security, it is hoped that the crime rate in Indonesia will decrease, so that no Indonesian citizen will experience loss or suffering while living in Indonesia.¹ Childhood is a crucial period in human development. During this period, children are vulnerable to various forms of abuse, including physical, emotional, sexual, and neglect. Child abuse can have significant long-term effects, both physically and psychologically. In some cases, child abuse can even lead to death.²

Children are the hope of the nation in the future, and the rights that children should obtain from their parents from the moment they are born must be given special attention in every aspect of national and state life.³ In Indonesia, children are protected by law, the state guarantees and upholds human rights, including the guarantee of child protection in Law Number 35 of 2014 as an amendment to Law Number 23 of 2002, which regulates and clarifies the prohibition of all forms of violence against children and obliges everyone to protect children

¹ Atmasasmita, R. (2017). *Rekonstruksi Asas Tiada Pidana Tanpa Kesalahan*. Jakarta: PT Gramedia Pustaka Utama.

² R Amin, *Hukum Perlindungan Anak Dan Perempuan Di Indonesia* (Yogyakarta: Deepublish, 2021).

³ Amin.

from harm.⁴ Clear and effective legal regulations on criminal acts of violence against children are very important in preventing and stopping violent practices that result in death.⁵

Violence against children is a very complex and sensitive issue that needs to be addressed in an effective and sustainable manner. Child abuse refers to violence, mistreatment, or torture. Child abuse is intentional behavior that causes physical or psychological harm to children. The term child abuse refers to various types of behavior, including threats made directly by adults.⁶ In recent years, cases of violence against children resulting in death have increased significantly in Indonesia. This violence can be physical, psychological, or sexual, and can be perpetrated by parents, teachers, or other people who have a relationship with the child.⁷ This violence not only causes physical death, but can also cause prolonged psychological trauma and impact on the child's development. Criminal acts of violence against children resulting in death have very serious implications for children's rights and the welfare of society.⁸

One case of parental violence against a child resulting in death occurred in Pekanbaru in 2020. Hermanto, the biological father of the victim, committed the heinous act of killing his own child based on a misguided belief. He cannot be held criminally responsible for his actions due to mental illness. The case was handled by the Pekanbaru District Court, with court decision No. 653/Pid.Sus/2020/PN Pbr.⁹ The defendant was Jumini, the biological mother of the victim and Hermanto's wife. The perpetrator's actions violated Article 80 Paragraph (3) in conjunction with Article 76 C of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, which states that "Everyone is prohibited from placing, allowing, committing, ordering, or participating in violence against children." The judge ruled that the defendant had been proven legally and convincingly guilty of the criminal act of "allowing violence against a child resulting in death" and sentenced him to 6 (six) years in prison and a fine of two hundred million rupiah with a subsidiary of 3 (three) months in prison. In a legal

⁴ J. (n.d.) Hamida, A., & Setiyono, "Analisis Kritis Perlindungan Terhadap Anak Korban Kekerasan Dalam Rumah Tangga: Kajian Perbandingan Hukum,," n.d.

⁵ J. S. Panjaitan, "Tinjauan Yuridis Terhadap Pelaku Tindak Pidana Kekerasan Terhadap Anak Ditinjau Dari Undang-Undang No 35 Tahun 2014 Tentang Perlindungan Anak (Studi Kasus Putusan No. 934/Pid.B/2014/PN.Mdn)." (Universitas Medan Area, 2018).

⁶ Khaled H. Nadaa and El Daw A. Suliman, 2010, "Violence, Abuse, Alcohol and Drug Use and Sexual Behaviors in Street Children of Greater Cairo and Alexandria", AIDS: Journal Wolters Kluwer Health, Vol. 24 No. 2, p 42.

⁷ Panjaitan, "Tinjauan Yuridis Terhadap Pelaku Tindak Pidana Kekerasan Terhadap Anak Ditinjau Dari Undang-Undang No 35 Tahun 2014 Tentang Perlindungan Anak (Studi Kasus Putusan No. 934/Pid.B/2014/PN.Mdn)."

⁸ M. (n.d.). Busyro, "Kekerasan Orang Tua Terhadap Anak Hingga Menyebabkan Kematian (Studi Putusan Nomor 117/Pid.Sus/2020/PN Sgt)," 2020.

⁹ Busyro.



context, “allowing” means not taking action to stop or prevent violence against children.¹⁰ This means that allowing does not only mean not committing violence, but also not providing assistance or helping children who are victims of violence.¹¹

The imposition of legal sanctions on perpetrators of violence against children should have a deterrent effect on society. However, according to data from the Ministry of Women's Empowerment and Child Protection, cases of violence against children have increased from 2019 to 2021.¹² In 2019, there were 11,057 cases of violence against children, in 2020 there were 11,279 cases, and in 2021 there were 12,556 cases. These figures represent only the reported cases, as they are like the tip of the iceberg; the actual number of cases is likely to be much higher.¹³

Based on explanation above, several issues arise that will be discussed in the legal review: how are the legal regulations and application of substantive law regarding criminal acts of violence against children resulting in death?

This study aims to determine the qualifications of criminal acts of violence against children resulting in death and to determine the application of substantive criminal law to criminal acts of violence against children resulting in death. In this study, an analysis will be conducted of court decisions related to criminal acts of violence against children resulting in death and the application of substantive criminal law to perpetrators of such criminal acts of violence.

METHOD

This legal review uses a normative legal research method with a doctrinal approach. This research method is carried out by examining primary and secondary legal materials, such as legislation, legal textbooks, legal journals, and court decisions. The data obtained is then analyzed qualitatively using a criminal law theoretical framework.

¹⁰ K A., Romansa Bangun, D., & Kunci, “Analisis Yuridis Kekerasan Terhadap Anak Yang Menyebabkan Mati Studi,” *IURIS STUDIA: Jurnal Kajian Hukum* 1, no. 10 (2020): 121–132, <http://jurnal.bundamediaгруп.co.id/index.php/iuris>.

¹¹ A., Romansa Bangun, D., & Kunci.

¹² & S. R. I. Furi, V. L., “Peran UPTD Perlindungan Perempuan Dan Anak Dalam Pendampingan Perempuan Korban Kekerasan,” *Jurnal Kewarganegaraan* 4, no. 2 (2020): 122–129.

¹³ Simandjuntak, M. Y., & Gokok, Y. B. (2022). Meningkatnya Kasus Kekerasan Terhadap Anak Selama Pandemi Corona virus disease 19 Indonesia. *Jurnal Magister Hukum ARGUMENTUM*, 8(1), 14–22. <https://doi.org/10.24123/argu.v8i1.4924>

RESULTS AND DISCUSSION

In various laws and regulations, there is pluralism regarding the criteria for children. This is because each law and regulation regulates the criteria for children separately and imposes restrictions on certain acts, certain interests, and certain objectives, so that the formulation in various laws and regulations regarding the definition of children does not provide a clear conception of children.¹⁴ However, with regard to child protection as stipulated in Law No. 35 of 2014, a child is defined as a person under the age of 18 (eighteen), including unborn children.¹⁵

Violence against children can occur at any time and by anyone associated with the child. Violence against children can occur within the family by family members or relatives, or outside the family by friends or adults. In addition, violence can also occur in educational institutions or even in law enforcement agencies for children who commit crimes. Therefore, it can be said that children have a very high possibility of experiencing violence, and it can even be said that violence against children is far greater than the possibility of violence occurring to adults.¹⁶ Thus, violence against children has become a very important issue that is often overlooked by many people.¹⁷ Physical violence, sexual violence, emotional violence, and child neglect are some forms of violence against children.¹⁸ According to Rusmil (2004:60), violence against children occurs due to motives or causal factors (triggers) that lead perpetrators to commit violence against victims. These factors are divided into three categories: parental/family factors, social/community factors, and child factors.¹⁹

1. Parental/family factors. Parents play an important role in the occurrence of violence against children. Factors that cause parents to commit violence against children include:
 - a) Cultural practices that are harmful to children
 - b) Raised with abuse

¹⁴ Haryuni, A. M. Y. P. (2022). Analisis Yuridis Tindak Pidana Kekerasan Terhadap Anak Yang Mengakibatkan Kematian (Studi Kasus Putusan No. 287/Pid. Sus/2019/PN. Sgm)= *Juridical Analysis of Violence Against Children that Result in Death (Case Study of Decision No. 287/Pid. Sus/2019/PN. Sgm)*" (Doctoral dissertation, Universitas Hasanuddin).

¹⁵ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," n.d.

¹⁶ Bangun, D. R. (2020). Analisis Yuridis Kekerasan Terhadap Anak Yang Menyebabkan Mati (Studi Kasus No. 175. PID. SUS/2017/PN. PMS). *Iuris Studia: Jurnal Kajian Hukum*, 1(2), pp.121-132.

¹⁷ Panjaitan, "Tinjauan Yuridis Terhadap Pelaku Tindak Pidana Kekerasan Terhadap Anak Ditinjau Dari Undang-Undang No 35 Tahun 2014 Tentang Perlindungan Anak (Studi Kasus Putusan No. 934/Pid.B/2014/PN.Mdn)."

¹⁸ A. Huraerah, *Kekerasan Terhadap Anak* (Bandung: Nuansa Cendekia, 2018).

¹⁹ W. (n.d.) Fitriani, "Faktor-Faktor Penyebab Orang Tua Melakukan Kekerasan Verbal Pada Anak Usia Dini," n.d.



- c) Mental disorders
 - d) Not yet physically, emotionally, or socially mature
 - e) Alcohol and drug addicts
2. Social/community environmental factors. The environment is a factor and circumstance that can affect a child's life. Environmental factors that can cause violence against children include:
- a) Poverty and materialistic pressures from society
 - b) Low socioeconomic status
 - c) Patriarchal family system
 - d) Individualistic social values
 - e) The perception that children belong to their parents
3. Factors related to the child (individual)
- a) Children with developmental disorders or chronic illnesses caused by dependence on their environment.
 - b) Deviant behavior in children.

Violence against children can cause them to lose the most basic things in their lives and, in turn, have a serious impact on their future, including permanent physical disabilities; learning disabilities; psychological disorders; drug abuse or alcoholism; and, worst of all, death.²⁰

In relation to Pekanbaru District Court Decision Number 653/Pid.Sus/2020/PN Pbr, this is a case in which a 3-year-old child was killed by his own father, Hermanto. The incident occurred at his home on Gang Anturiam, Griya Cipta Housing Complex, Jalan Cipta Karya, Tampan District, Pekanbaru. In front of the police, the perpetrator expressed an unreasonable motive for why he had the heart to take his own child's life. The sadistic murder was carried out by stuffing the victim's mouth with pages from the Quran, then burning it, and finally strangling the victim with a wire clothes hanger.²¹ According to the suspect's confession, the heinous act was committed because he claimed to have received supernatural whispers.²² This delusional belief was the underlying motive for the violent act against the child, leading to his death. As a result, the police brought the suspect and his wife to a psychiatric hospital for a mental evaluation.

²⁰ Furi, V. L., "Peran UPTD Perlindungan Perempuan Dan Anak Dalam Pendampingan Perempuan Korban Kekerasan."

²¹ S. Sakroni, "Kekerasan Terhadap Anak Di Masa Pandemi Covid-19," *Sosio Informa* 7, no. 2 (2021).

²² N. Novitasari, "Analisis Undang-Undang Nomor 35 Tahun 2014 Terhadap Kekerasan Anak Pada Masa Pandemi COVID-19," *Journal of Childhood Education* 5, no. 2 (2021): 333–351.



In the Pekanbaru District Court Decision Number 653/Pid.Sus/2020/PN Pbr, it is explained in accordance with the facts presented at the trial that the person who committed the act of abuse against the victim's child, Fadil Hermansyah, resulting in his death, was Hermanto, the biological father of the victim and also the husband of Jumini, who is the biological mother of the victim.²³ However, at the time Hermanto committed the act of assault, Jumini did not make any effort or take any action to prevent or stop Hermanto from carrying out his actions, even though it was known that Hermanto suffered from a mental disorder and therefore could not be held responsible for his actions.²⁴ Furthermore, there was no evidence of any genuine pressure, coercion, or threat from Hermanto (Jumini's husband) toward Jumini, such that the defendant was unable or incapable of taking defensive measures to prevent the act from occurring.

It is known that parents with mental disorders can be a factor behind violence against children. Mental disorders can affect a person's behavior and emotions, which in turn can lead to violent acts. In this case, the state, through its instruments, imposes strict sanctions on anyone who commits violence against children.²⁵ These sanctions range from the lightest to the most severe. The application of these sanctions depends on the type of violence committed, including physical violence, emotional violence, sexual violence, neglect, and all acts that can endanger the growth and development of children. The sanctions contained in Law No. 35 of 2014 vary.²⁶ For example, if someone discriminates against or neglects a child, causing harm or suffering, they will be punished with five years' imprisonment and/or a fine of 100 million rupiah (Article 77). Meanwhile, committing violence, cruelty, threats of violence, or abuse is punishable by 3-10 years imprisonment and/or a fine of 72-200 million rupiah. If the perpetrator of the abuse is the child's parent, the penalty is increased by one-third (Article 80). Furthermore, if they commit sexual intercourse and/or molestation against a child, they will be punished with 3-15 years imprisonment and/or a fine of 60-300 million rupiah (Articles 81 and 82), as well as several other regulations.²⁷

²³ D. T. Aprian, "Terpengaruh Bisikan Gaib, Ayah Bunuh Anak Kandungnya Di Pekanbaru," 2020, <https://regional.kompas.com/read/2020/02/17/18511221/terpengaruh-bisikan-gaib-ayah-bunuh-anak-kandungnya-di-pekanbaru?page=all>.

²⁴ M. Syukur, "Ayah Di Pekanbaru Sumpal Mulut Anaknya Pakai Lembaran Alquran Hingga Tewas," 2020, <https://www.liputan6.com/regional/read/4180975/ayah-di-pekanbaru-sumpal-mulut-anaknya-pakai-lembaran-alquran-hingga-tewas>.

²⁵ A. a, P., & Kusumaning Ratri, "Wahyu Agustin Analisis Tindak Kekerasan Seksual Pada Anak Sekolah Dasar," *Jurnal Kajian Teori Dan Praktik Kependidikan* 3, no. 2 (2018).

²⁶ Aprian, "Terpengaruh Bisikan Gaib, Ayah Bunuh Anak Kandungnya Di Pekanbaru."

²⁷ *Ibid.*



Referring to Law No. 35 of 2014 concerning Child Protection, Article 76C states that “Everyone is prohibited from placing, allowing, committing, ordering, or participating in violence against children”, where the mother of the victim committed the act of allowing violence against the child to occur, resulting in death. In a legal context, “allowing” can be interpreted as not taking action to stop or prevent violence against children. This does not only mean not committing violence, but also not providing assistance or helping children who are victims of violence, and this has been revealed in the facts of the trial.²⁸

Violence is one example of a crime that should be punished to deter and prevent it from happening again in society. Children are most vulnerable to violence by others, especially their parents and guardians.²⁹ Violence against children is regulated in Law No. 35 of 2014 and Law No. 17 of 2016, both of which are amendments to Law No. 23 of 2002 on Child Protection. The Child Protection Law explains in detail the types of violence committed against children. Violence committed against children is punishable by imprisonment and fines based on the type of violence.³⁰ Based on the facts of the trial, the mother, as the parent of the victim, was found legally and convincingly guilty of the criminal act of “allowing violence against a child to result in death”. The decision stated that this act was punishable under Article 80 Paragraph (3) in conjunction with Article 76 C of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection.³¹ Taking into account the aggravating and mitigating circumstances, the judge decided that the perpetrator, as the defendant, would be sentenced to 6 (six) years in prison and a fine of two hundred million rupiah, with a subsidiary prison term of 3 (three) months.³²

Even the most comprehensive legal regulations will not be effective if law enforcement officials do not implement them properly, or in other words, if they do not apply them in accordance with existing regulations.³³ The implementation of criminal sanctions against perpetrators of violence against children has been carried out effectively, with perpetrators

²⁸ R. Sandra, A., Andhini1, D., & Arifin2, “Analisis Perlindungan Hukum Terhadap Tindak Kekerasan Pada Anak Di Indonesia,” In *AJUDIKASI: Jurnal Ilmu Hukum* 3, no. 1 (2019), <http://www.duniapsikologi.com/pengertian-anak->.

²⁹ A. A. et al. Hanifah, “Tinjauan Yuridis Terhadap Putusan Bebas Pelaku Pemerkosaan Anak Di Lubuk Basung,” *Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora* 2, no. 3 (2024): 54–67.

³⁰ Sandra, A., Andhini1, D., & Arifin2, “Analisis Perlindungan Hukum Terhadap Tindak Kekerasan Pada Anak Di Indonesia.”

³¹ Syukur, “Ayah Di Pekanbaru Sumpal Mulut Anaknya Pakai Lembaran Alquran Hingga Tewas.”

³² & T. S. Nurisman, E, “Tinjauan Kriminologis Terhadap Tindak Pidana Pemerkosaan Yang Dilakukan Oleh Ayah Terhadap Anak Kandung (Studi Kasus Putusan Pengadilan Negeri Batam Nomor: 774/PID.SUS/2017/PN BTM),” *Journal of Judicial Review* 21, no. 2 (2019): 41–59.

³³ Hamida, A., & Setiyono, “Analisis Kritis Perlindungan Terhadap Anak Korban Kekerasan Dalam Rumah Tangga: Kajian Perbandingan Hukum.”

receiving punishment commensurate with their crimes.

CONCLUSION

The application of substantive criminal law is made by the judge against the perpetrator of violent crimes committed by children, which found the defendant JUMINI alias ANI binti BUGEL legally and convincingly guilty of allowing violent crimes against children to be committed, resulting in death, as regulated and punishable by law in accordance with the judge's decision.

Child protection encompasses all activities to ensure and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, as well as receive protection from violence and discrimination. As parents, they should fulfill all of these rights of children, not commit heinous acts. Because when a victim of violence against children dies, more rights are violated than when the victim is still alive.

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