



Analysis of Legal Protection against Child Abuse in the Family

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ABSTRACT

The family has a significant role and function to the development and future of children. A child must get the widest opportunity to be able to grow and develop optimally both physically, psychologically, socially, and spiritually. Children also need to get their rights to be protected and prospered. All forms of violence against children need to be prevented and overcome, especially physical violence against children. Domestic violence is an activity in which the perpetrator (who is a member of the household) attacks someone who is also a member of the household. Violence against children means violence committed by parents against their children. Parental awareness about of violent punishment is still low, this is still low, this is influenced by many factors as lack of knowledge about violence, the existence of a tradition of violence, to psychological problems. But in general parents feel that violence is the only solution to nurture and educate children. The purpose of the research is to find out how the legal protection efforts of physical violence against children in the family. This research uses a literature review with data obtained from journals, books and the internet. The results of this article include the inheritance of intergenerational violence, violence against children in the family difficult to be revealed in the public sphere, and cultural background (The presence of relationships in society that always puts children in the lowest position.

Keywords: Parents, Children, Violence, Family

INTRODUCTION

Children need their families as the first and foremost place to receive mental guidance and personality development. The functions and roles of the family have a very significant impact on a child's development and future, thereby shaping a quality generation for the child's own future. However, in reality, it is often found in society that children who should receive protection within the family instead experience physical and psychological abuse. Cases of violence against children often loss or disappear from the attention of the surrounding community because they are considered part of the parents' right to educate their children in their own way. Outsiders usually do not dare to interfere because child abuse is still considered a private matter within the family.

Forty-six cases of child abuse within families have occurred in Bone, South Sulawesi, in the last three years. This data is based on police reports (LP) submitted to the Bone Police Headquarters over the past three years, from 2016 to 2018, which indicate that 18 perpetrators were parents and 28 were other individuals.¹ Police arrested the perpetrator of violence against an eight-year-old boy with the initials B in Kuningan, West Java. The boy was known to be a victim of violence from three different people, one of whom was his own biological mother. The Head of Public Relations of the Metro Jaya Regional Police said that the case came to light after a video lasting more than two minutes went viral on the internet. In the video, a young boy is shown suffering from various physical injuries across his body as a result of the abuse. The video was recorded around January 16, 2018, by B's teacher while he was still at school ².

The Child Protection Commission (KPAI) stated that violence against children has been increasing every year. KPAI monitoring results from 2011 to 2014 show a significant increase: "in 2011 there were 2,178 cases of violence, in 2012 there were 3,512 cases, in 2013 there were 4,311 cases, and in 2014 there were 5,066 cases." KPAI Deputy Chair Maria Advianti said that children can be victims or perpetrators of violence, with three locations where violence against children occurs: the family environment, the school environment, and the community environment. KPAI monitoring and evaluation results in 2012 in nine provinces showed that 91% of children were victims in the family environment, 87.6% in the school environment, and 17.9% in the community environment³.

Children experience many types of violence, including physical violence, emotional violence, and economic violence. In addition, parents have also committed verbal and sexual violence. The family is the first and primary place for children to receive mental guidance and formation, because most parents have not received a formal education, namely primary school, and they also do not know how to educate their children properly. Parents also behave badly in educating their children; most parents often spontaneously commit physical violence against their children on a large scale; most families do not understand the importance of non-violent

¹ Justang Muhammad, "46 Kasus Kekerasan Anak Terjadi Di Bone Dalam 3 Tahun," *Tribun Bone*, 2018, <https://makassar.tribunnews.com/2018/07/17/46-kasus-kekerasan-anak-terjadi-di-bone-dalam-3-tahun>.

² Rayhand Purnama, "Ibu Kandung Jadi Tersangka Kekerasan Anak Yang Videonya Viral," *CNN Indonesia*, 2018, <https://www.cnnindonesia.com/nasional/20180205005748-12-273775/ibu-kandung-jadi-tersangka-kekerasan-anak-yang-videonya-viral>.

³ Davit Setyawan, "KPAI: Pelaku Kekerasan Terhadap Anak Tiap Tahun Meningkat," *KPAI.go.id*, 2015, <https://www.kpai.go.id/publikasi/kpai-pelaku-kekerasan-terhadap-anak-tiap-tahun-meningkat>.

parenting. Violence in the family seems normal, common, and justified by culture. Parents often get angry and resort to physical violence when children drop food, ask for toys, run around, and do other minor things. Children are often scolded and beaten on the grounds that they are being disciplined and not spoiled.

Violence against children is now one of the most pressing issues in this country. This is especially true when it occurs within the family, which should be the best place for children to find refuge. Ironically, the perpetrators of violence are people who are close to these children, sometimes even their own parents. This can be caused by many things, such as family structure, social isolation, social stress, and inherited violence. Even though children's rights are clearly protected by national, international, and Islamic law. To instill gentleness and compassion in children, humanistic education, sincere affection, and gentle words, far from harsh and rough tones, are the first steps. Violence against children in the household often occurs, including violence that involves fathers, mothers, and other siblings. In addition, violence also arises due to economic pressures because of the family's inability to meet the needs of its members. As parents, primary and early education plays the most important role in ensuring that children are not influenced by bad environments that can trigger them to commit acts of violence.

The level of violence experienced by children is quite high. Of the several types of violence, emotional, economic, and physical violence are more common. In addition, parents have also committed verbal and sexual violence. Low levels of education and attention from parents, as well as a lack of knowledge about how to raise children properly, will have an impact on parents' behavior in caring for their children. As shown in this study, the formal education of parents is also mostly low, namely primary school education, coupled with parents who do not participate in various parenting programs, resulting in many mistakes being made in educating and caring for children, who become a never-ending burden for their parents. Children dropping food, children whining for toys, children running around, and other small things they do often trigger parents to get angry and resort to physical violence. Yelling and hitting are often directed at children under the pretext of disciplining them and preventing them from becoming spoiled. There are many factors that trigger this: inherited violence, social stress, social isolation, and family structure. However, it is clear that national, international, and Islamic laws provide strong protection for children's rights, and violence is condemned. A humanistic education, sincere affection, and gentle words that are far from harsh and rough are

the beginning of instilling gentleness and affection in children and keeping them away from all acts of cruelty.

On the basis of the background described above, it is necessary to conduct a more in-depth study of this issue, which can be formulated as follows: What are the forms of legal protection against violence against children in families in Indonesia? The purpose of this study is to identify the forms of legal protection against violence against children in families in Indonesia.

METHOD

The research method used in this study is a normative juridical method that uses primary and secondary legal materials. Normative juridical research refers to a legal research method that focuses on analyzing legal norms written in legislation and legal concepts related to the topic of violence against children. This study uses a literature review approach by searching for theoretical references relevant to the cases or issues found, focusing on the collection, analysis, and interpretation of information from various sources. Meanwhile, the data collection method uses Library Research, namely data obtained from journals, books, and the internet. Meanwhile, the data analysis method uses descriptive analysis. This is done by describing the facts, followed by analysis, not merely elaborating, but also providing understanding and explanation. Meanwhile, this study focuses on physical violence against children.

RESULTS AND DISCUSSION

A. Definition and Forms of Violence against Children

Violence against children as defined in Article 13 of the Law on Child Protection includes discrimination, exploitation, physical or sexual neglect, cruelty, violence and abuse, and injustice. Violence against children is an intentional act that causes physical or emotional harm or danger to children. The term child abuse covers various forms of behavior, from direct physical threats by parents or other adults to neglecting the basic needs of children. Meanwhile⁴. Child abuse is the repeated physical and emotional harm of a

⁴ Robert L. Barker, *The Social Work Dictionary* (National Association of Social Workers, 1987).

dependent child through coercion, uncontrolled physical punishment, degradation, and permanent humiliation or sexual abuse, usually committed by parents or other caregivers.

Violence against children is a serious concern in our country. Therefore, violence against children must be eradicated through early prevention. One way to eradicate it is through early prevention efforts, especially among the younger generation.

To address violence against children, anti-violence education should be provided to the community, especially the younger generation. This is also intended to ensure the successful implementation of the law, as the success of law enforcement is designed to achieve its objectives (Fajaruddin. (2018).

Forms of Violence Against Children, according to Edi Suharto's classificatio,⁵ concerning child abuse are as follows physical, psychological, sexual, and social abuses. These four forms of child abuse can be explained as follows:

- a) Physical child abuse, consists of torture, beating, and maltreatment of children, or the use of certain objects, causing physical injury or death to children. The injuries can be in the form of abrasions or bruises caused by contact or blunt force trauma, such as marks, bites, pinches, belt marks, or cane marks or either death to children. They can also be burns caused by hot gasoline or cigarette burns or iron burns which are usually found on the thighs, arms, mouth, cheeks, chest, stomach, back, or buttocks. Physical violence against children is generally triggered by behavior that is disliked by their parents, such as being naughty or fussy, asking for snacks, urinating or vomiting in inappropriate places, or breaking valuable items.
- b) Psychological abuse of children includes scolding, using harsh and foul language, and showing children pornographic books, pictures, and films. Children who are subjected to this treatment generally exhibit maladaptive behavior, such as withdrawal, shyness, crying when approached, fear of leaving the house, and fear of meeting other people.
- c) Social violence against children can include child neglect and child exploitation. Child neglect is the attitude and behavior of parents who do not provide adequate attention to their children's growth and development process.
- d) Sexual violence against children can take the form of sexual contact between children and older individuals (through words, touch, visual images, or direct sexual contact with adults (insertion, rape, sexual exploitation).

⁵ Edi Suharto, *Pembangunan, Kebijakan Sosial Dan Pekerjaan Sosial*, Spektrum P (Bandung, 1997).

Violence against children is caused by various influencing factors which are so complex that the causes or risks of violence and neglect against children can be divided into three categories: parental factors, family factors, social/community factors, and child factors.

Violent behavior is transmitted from generation to generation. Studies show that approximately 30% of children who are treated violently become parents who act violently towards their children. Meanwhile, only 2 to 3 percent of all individuals become parents who treat their children violently. Children who experience abuse and violence may accept this behavior as a model for their own behavior as parents. However, most children who are treated violently do not become adults who treat their children violently. Some experts believe that the predictor of future violent behavior is the child's awareness that such behavior is wrong. Children who believe that bad behavior warrants violent punishment are more likely to become parents who mistreat their children than children who believe that their parents are wrong to treat them violently.

Families that are frequently troubled have higher rates of violence than those without problems. In addition, families in which the husband or wife dominates important decisions, such as where to live, what job to take, when to have children, and how much money to spend on food and housing, have higher rates of violence against children than families in which both husband and wife are equally responsible for these decisions.

B. Legal Protection Against Violence Against Children

Violence against children as defined in Article 13 of the Child Protection Law includes discrimination, exploitation, physical and sexual abuse, cruelty, violence, maltreatment, and injustice. The government enacted Law No. 23 of 2002 on Child Protection, as amended by Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, to protect children. Article 44 of the Child Protection Law stipulates that the government and local governments are responsible for providing facilities and organizing comprehensive health efforts for children, which must also be supported by the community. Comprehensive health efforts include preventive, curative, rehabilitative, and promotive efforts for underprivileged families. Furthermore, Article 45 stipulates that parents and families are responsible for caring for and maintaining the health of children from the womb. The central government and local governments are responsible for fulfilling the obligations of parents and families who are unable to do so. As the first social environment known to children, the physical growth and mental development of children should be a special concern for

families. With the existence of Article 45, not only families who care for children, but also the central government and local governments are responsible for this.

Many instances of violence and criminal acts against children have attracted high attention from various circles. This is considered a sign that legal instruments and child protection are not functioning properly⁶.

The general provisions of this article explain that the family and the child are members of that family. The above legal instruments prove that Indonesian law pays attention to the existence of children. Another thing that must be understood to prevent violence against children is the principle of child protection. The principles of non-discrimination, the best interests of the child, the right to life, survival and development of the child, and respect for the views of the child. 8 Based on Article 1 paragraph 2 of the Child Protection Law: "Child protection is all activities to guarantee 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."

Based on Article 1 paragraph 1 of Law No. 23 of 2004 concerning the Law on Elimination of Domestic Violence (DV), DV is any act against a person, especially a woman, that results in physical, sexual, psychological, and/or domestic neglect, including threats to commit acts, coercion, or deprivation of liberty against the law within the scope of the household.

Children who are victims of domestic violence will experience physical disorders, and when physical violence occurs, they may also experience mental disorders, such as feeling ashamed in front of others or easily feeling depressed by the presence of other people⁷ This affects their health and development. In situations like this, children need counseling and psychological assistance, which must be provided by authorized professionals, namely psychologists. In addition, protection can come in various forms, such as legal assistance and counseling services provided by social workers. Protection must provide benefits that children can feel and make them feel comfortable.

Legal protection for children who are victims of domestic violence is very important to ensure that their rights are protected and they receive justice. The Child Protection Law is the legal basis for providing protection to children who are victims of domestic violence.

⁶ Tagor Pasaribu Agung Nugroho, "Kekerasan Terhadap Anak Dalam Keluarga," 2022.

⁷ Auliya Hamida and Joko Setiyono, "Analisis Kritis Perlindungan Terhadap Anak Korban Kekerasan Dalam Rumah Tangga : Kajian Perbandingan Hukum" 4 (2022).

Special protection for children who are victims of physical and/or psychological violence is carried out through the dissemination and socialization of laws and regulations that protect child victims of violence, as well as monitoring, reporting, and imposing sanctions (Article 69 of the Child Protection Law). Meanwhile, according to Article 10 of the Law on Domestic Violence, victims of domestic violence have several rights, namely: a) protection from family members, the police, prosecutors, courts, lawyers, social institutions, or other parties, either temporarily or based on a protection order from the court; b) health services according to medical needs; c) special handling related to the confidentiality of victims; d) assistance from social workers and legal aid at every level of the examination process in accordance with the provisions of laws and regulations; and e. spiritual guidance services.

CONCLUSION

Based on the above discussion, it can be concluded that parents need to understand their children's circumstances without resorting to violence. There are also many factors that cause violence against children within the family, including intergenerational inheritance of violence, the difficulty of exposing violence against children within the family in public, and cultural background (the existence of social hierarchies that always place children at the bottom). Therefore, parents need to be aware that children are entrusted to them and must be cared for as best as possible, not abused, let alone subjected to physical violence.

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