

Police Role in Providing Legal Protection against Children as Victims of Sexual Abuse

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Abstract

The main objective of the paper is to analyze Police role and their steps in providing legal protection against children as victims of sexual abuse. This study is using the normative research which is a study of legal principles concerning the substance of legislation. This study is using the secondary data as the main data and the primary data as support. The result found that the police role in dealing with a criminal act of sexual violence in children in general already showed his role with a maximum of law enforcement and guidance of society. In addition, the police also in dealing with the case of criminal act in particular in the case of criminal acts of sexual violence not always running in accordance with the expected, this is because by the time constraints and means in dealing with each case that there. While the steps taken is collecting evidence of a strong, giving protection to the victim and running cooperation with the local community. With these steps are expected to maximize the police work in dealing with the case of sexual abuse in children

Keywords: Police, Indonesia, Child Abuse, Law protection

1. Introduction

1.1 Background

Child abuse has for a long time been recorded in literature, art and science in many parts of the world. Reports of infanticide, mutilation, abandonment and other forms of violence against children date back to ancient civilizations (Ten Bensel, 1997). The historical record is also filled with reports of unkempt, weak and malnourished children cast out by families to fend for themselves and of children who have been sexually abused.

Based on the data from Commission child protection Indonesia (KPAI) about 2012, recorded report and recorded reports and complaints from the public against violence in children as much 2,637 cases. The amount is, as much 62 percent is the action of sexual abuse in children. The figure increased about 5, 9 percent of the case all of 2011, which reached 2,509 cases, while 59 percent of which is the case of sexual violence in children. That is, the case of sexual abuse in children increased by 10 percent along in 2012 than in 2011.1 Follow- child sexual abuse based on data KPAI Year 2011 show that, child sexual abuse done by people around it. child sexual abuse most widely performed by biological parents (44, 32 percent), a friend(25, 9 percent), neighbors(10, 9 percent), parents' s half(9, 8 percent), teachers(6, 7 percent) and his (2 percent).(Komnasp. or. id)

Despite many efforts made by the government, such as by making the Law number 23 years 2002 about Child Protection, the Law number 39 year 1999 about Human Right and Law number 3 year 1997 about Juvenile Justice, but the form of protection of the expected can not be given to the maximum. These conditions more and multiply the case of violence against children

Currently there is a tendency on how children treated and how to neglect of them when it became victims of violence or treatment should not. The phenomenon shows that the case of child sexual abuse is one of the case of

the increased significantly later this particular that occurred in the city which recently occurred, namely the case of sexual violence against the students in Jakarta International School (JIS) involving many actors even suspected of involving teachers from the United which is a fugitive by United State's Federal Bureau Investigation (FBI). Based on the report KPAI the second victim who had report to the JIS early, but JIS only provide assistance psychosocial course, so victims feel fear because the perpetrator has not caught.

But according to forensic psychologist from the University of Indonesia, Reza Indragiri Amriel (Tempo, 2014) in the investigation process police yet fully implements Law No. 23, 2002. To the police role as one of the law enforcement agencies is essential in providing legal protection to the child as a victim in a criminal act of sexual violence not only focus on mode based on sexual abuse crimes but should strictly apply the appropriate legal protection legislation existing.

According to Cruise (2004), child sexual abuse can have immediate and long-term effects that span across an individual's physical, cognitive, interpersonal, and emotional functioning. Thus, it is important for parents and educators to familiarize themselves with the signs and symptoms of sexual abuse know what to do if faced with a child who has been molested, and take appropriate steps toward the prevention of sexual abuse.

Based on these descriptions, the authors feel the need to raise the matter in writing to the law with the title "Police role in providing legal protection against children as victims of sexual abuse"

1.2 Purpose of the Study

1. Knowing and analyze the role of Police in providing legal protection against children as victims in criminal acts of sexual abuse.
2. Knowing and analyze the steps carried out the police in providing legal protection against children as victims in criminal acts of sexual abuse.

1.3 Research Methodology

Type of research

This study uses normative research is a study of the principles of law relating to the substance of the legislation. This study uses secondary data as the main data and primary data as supporting.

Sources of data

Research data used in this study come from:

a. Primary legal materials, ie materials that binding law which consists of:

- 1) Act of 1945
- 2) Act No. 4 of 1979 about Child Welfare.
- 3) Law No. 39 Year 1999 about Human Rights.,
- 4) Law No. 2 2002 about the Indonesian National Police.
- 5) Law No. 23 2002 about the Child Protection.
- 6) Law No. 23 2004 about the Elimination of Domestic Violence.
- 7) Government Regulation No. 2 years 2002 about Procedures for Protection Against The victim and Witnesses in the hard Human Rights Violations.

b. Secondary Material, ie legal materials that gives an explanation of the materials primary law, which are consists of:

- 1) Expert opinion of law
- 2) Books
- 3) Articles
- 4) Opinion of scholars

- 5) Website related to the problems police role in providing legal protection Children as a witness in the Crime of Sexual abuse.

c. legal materials tertiary the legal materials that gives instructions or an explanation of the legal materials primary and secondary namely the form:

- 1) Great Dictionary English.
- 2) Dictionaries Law

Data collection methods

Data in this study collected by: Studies Library Secondary data collected through the literature study by studying the legislation, literature, research results, the opinion scholars related to the object under study.

Data Analysis Methods

Method of data analysis to be used is a method of qualitative analysis, which is analyzed obtained from the answer interviews and then taken of the conclusion with the deductive method. The method deductive is the way to think the beginning with knowledge of a general nature, then taken a conclusion that are special.

2. Result and Discussion

2.1 Definition of Child Sexual abuse

There are four types of child abuse. They are defined in the UK Government guidance Working Together to Safeguard Children 2010 (1.33 – 1.36) as follows:

1. Physical abuse
2. Emotional abuse
3. Sexual abuse
4. Neglect

Related with this paper, Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children (NSPCC, 2010).

According to Medline Plus (2008), Child sexual abuse or child molestation is a form of child abuse in which an adult or older adolescent uses a child for sexual stimulation. Forms of child sexual abuse include asking or pressuring a child to engage in sexual activities (regardless of the outcome), indecent exposure (of the genitals, female nipples, etc.) to a child with intent to gratify their own sexual desires or to intimidate or groom the child, physical sexual contact with a child, or using a child to produce child pornography. (Anderson, et.al., 1993)

Child sexual abuse can occur in a variety of settings, including home, school, or work (in places where child labor is common). Child marriage is one of the main forms of child sexual abuse; UNICEF has stated that child marriage "represents perhaps the most prevalent form of sexual abuse and exploitation of girls". According to Roosa et.al., (1999), Widow CS (1999), Levitan et.al., (2003), Roth et.al., (1997), Meessman-Moore, et.al., (2000) and Dinwiddie, et.al., (2000) the effects of child sexual abuse can include depression, post-traumatic stress disorder, anxiety, complex post-traumatic stress disorder, propensity to further victimization in adulthood and physical injury to the child, among other problems. Sexual abuse by a family member is a form of incest, and can result in more serious and long-term psychological trauma, especially in the case of parental

incest.(Curtois, 1988)

Under the law, child sexual abuse is an umbrella term describing criminal and civil offenses in which an adult engages in sexual activity with a minor or exploits a minor for the purpose of sexual gratification.(SEC, 2001). The American Psychiatric Association (1999) states that "children cannot consent to sexual activity with adults", and condemns any such action by an adult: "An adult who engages in sexual activity with a child is performing a criminal and immoral act which never can be considered normal or socially acceptable behavior."

2.2 The role of the National Police in dealing with a criminal act of sexual abuse against children

Role of National Police dealing with a criminal act clearly stated in Law No 2 years 2002 which 2 article stated that: National Police function is one of government function in society security and order, law act, protection, guidance and service to society. Based on statement, that role of National police is as one of law establishment. Law establishment is one of main duty which is plays by police officer. Meanwhile role of police in law protection effort to sexual abuse are by doing prevention and eradication of crime. Nawawi (2004) stated that victim protection can see as law protection to become not a crime victim.

Related with the purpose of this research and based on the Law No. 2 years 2002 about the Indonesian National Police and associated with the Law No. 23 2002 about the Child Protection and the Government Regulation No. 2 years 2002 on Procedures for Protection Against The victim and Witnesses in heavy violation of Human Rights heavy, then the role of the police in its role deal with a criminal act of sexual abuse as follows:

- a. Catch the perpetrators of law enforcement, of course every criminal act that occurred in the community police always shows role as protector of society. The results showed that the role of the police in dealing with a criminal act sexual abuse in children in particular in the capture the perpetrators are always active, it is proved by capturing actors who do sexual abuse in children that occurred in Indonesia specially Jakarta all actors has been arrested and processed in the law.
- b. Looking for the evidence Police in doing so role as law enforcement, it must be selective. This means that before catching criminal's sexual abuse the police before capturing the perpetrators have to find evidence strong to capture the perpetrators. It is done so that the police do not arbitrarily arrested actors without any strong evidence.
- c. Complete the legally after getting strong evidence and capture the police, then the role of the police next is complete the case by law legal settlement is handed over the case to the court and escorting the case until completely

2.3 Problems faced by the Police and measure in the crime prevention

In reality, that the crime prevention of violence against children by using a means of penal that is by the application of criminal law in the end is the imposition of criminal sanctions to the perpetrators are not shown satisfactory results. As previously described, that the crime rate of sexual abuse against children still remained stable in the number of the number of the case. Other words, which the number occurrence of violent crime is, still remain high enough.

It is showing that the application of criminal sanctions for perpetrators of violence has been unable to suppress the speed of violent crime is. This fact raises an inspiration that for the future of an integral approach between policy penal (penal policy) and non penal policy (without using the criminal law in the crime prevention) must be done because approaches of the criminal law application only have limitations.

There are two sides of the limitations of criminal law this. First, in terms side of a crime occurrence. Crime as a problem that dimension social and humanitarian caused by a variety of complex factors and are outside the

range of criminal law. Thus the criminal law will not be able to see in depth about the root of the issue of this crime when not be assisted by the disciplines to another. For that criminal law must be integrated approach to social. Second, the limitations of criminal law can be seen from the nature of the proper functioning of criminal law itself. The use of criminal law essentially only drug moment as a response symptoms alone and not a tool completion of the completed by eliminating the source of the cause illness. In this context, criminal law to function after the crime occurred. That is the criminal laws not leave a preventive effect before the crime occurs, so that criminal law does not able to reach the root of crime itself that dwells in the middle of public life.

According to Ceyskens et.al. (2002) Police procedures for investigating child abuse are as follows:

- Reporting any incident of suspected child abuse
- Adhering to the child abuse protocol throughout the investigation
- Recording the statements given by the victim, the suspect and appropriate witnesses through audio or video tapping
- Collecting and preserving evidence by obtaining search warrants, photographing the crime scene and the injuries of the victim processing sexual assault kits, etc
- Conducting background checks of individuals suspected of child abuse and reviewing previous allegations of child abuse when necessary
- Providing victim services

According to Ministry of Justice (2009), the primary duties of the police service are the protection of life and property, the preservation of the Queen's peace, and the prevention and detection of criminal offences. The police service has a number of key contributions to make in safeguarding and promoting the welfare of children. Whilst their principal role is the investigation of child abuse allegations, they also have a key role in preventing crime against or involving children and minimizing the potential for children to become victims. The police service contribution should also include:

- identifying vulnerable children in domestic violence cases;
- using police powers to take children into protective custody when appropriate;
- protecting the needs of children as witnesses or victims;
- working with partner agencies in the criminal justice system dealing with youth offenders to divert children away from crime; and
- Working with partner agencies to educate children and young persons on issues such as substance misuse and the prevention of crime.

In dealing with these issues, the aim of the police service is to protect the lives of children and ensure that the welfare of the child is paramount. The police service also has a significant contribution to make to safeguarding and promoting the welfare of children through:

- implementation of policy and dissemination of good practice which recognizes the welfare of children as the prime consideration, within the requirements of the criminal justice system;
- recognition that responsibility lies with all police officers and police staff and not just specialist child abuse investigation units within the force;
- prioritizing the investigation of crime and the protection of children from harm; and
- The commitment towards working with other agencies to ensure that the interests of the child are best served by effective partnership working between agencies.

Beside steps above, there are many steps that can solve criminal act especially sexual abuse against children that involved police as law enforcement such as making relation with other law enforcement such as KPAI, judge, prosecutor; need to add operational cost for investigator, need to add more of personnel; need to

make training; socialization for all about sexual abuse; need routine activities for socialization not only about sexual abuse but also abuse that could happen to child and everybody.

3. Conclusion

Based on the research and discussion, then can be drawn some conclusions as follows:

- a. The role of the police in dealing with a criminal act of sexual violence in children in general already showed his role with a maximum of law enforcement and guidance of society. In addition, the police also in dealing with the case of criminal act in particular in the case of criminal acts of sexual violence not always running in accordance with the expected, this is because by the time constraints and means in dealing with each case that there.
- b. Measures taken by national police to criminal acts of sexual violence in children is collecting evidence of a strong, giving protection to the victim and run cooperation with the local community even more international agent. With these steps are expected to maximize the police work in dealing with the case of sexual abuse in children

From the conclusion, it can be put forward suggestions as follows:

- a. to deal with a criminal act of sexual violence in children, should be the police attention to the factors influence it so that efforts handling and increase their role which is deal with a criminal act of sexual abuse. Not just reaction after there is report but try to prove their role as well as stated in Law and government regulation
- b. It should be the police conduct special measures to overcome various crimes that is in the community, so it does not disturbing the local community

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