

LEGAL PROTECTION OF CHILDREN INVOLVED IN VIOLENT CRIME

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Abstract— Violence is something action injure physique somebody with in a way on purpose or No not intentionally deliberately that has been arranged in the Criminal Code Article 336. Violence is also carried out by a person child. Involvement child in the case criminal law in Indonesia for adults This show very worrying development. The more Lots intersecting children in Indonesia with law show exists change from self a child emerges Because various factor. Study This aim For study about protection law to children involved in No criminal violence. With use approach review literature and methodology study law normative. In terms of Here, old man must involved to child in educate, care for and protect children No do things that don't justified in law especially children who come along involved in follow criminal violence. (Abstract)

Keywords: Legal Protection, Children, Violence.

I. INTRODUCTION

There are many non-criminal cases where the criminal perpetrators are minors. In the positive legal context in Indonesia, minor perpetrators still have to be held accountable for their actions. In taking responsibility for their actions, juvenile criminals receive special legal protection starting from the level of inquiry, investigation, prosecution, until a court decision is handed down. Underage criminals have the right to receive assistance from a legal advisor during the trial, and usually the courtroom used is the juvenile courtroom. Law enforcement carried out against minor criminals must be specific, this is to protect children's rights in accordance with Law no. 11 of 2012 concerning the Juvenile Criminal Justice System. In this case, there are still those who treat underage criminals the same way they treat adult criminals, thus law enforcement for underage criminals is still not implemented well. Article 1 point (1) of Law Number 3 of 1997 concerning Children's Courts which states that a child is a person who in a child case has reached the age of 8 years but has not yet reached 18 years and is not yet married. In order to be held responsible for his actions, the maker still needs to have the condition that the person who committed the action made a mistake. In other words, the maker must

be accountable for his actions or if we look at it from the perspective of his actions, his actions must be accountable to that person. In this case, the principle "There is no crime without error applies". Law and truth, is a question that will never end in one word.¹

Criminal law is scope law public focus to interests of many people. Criminal law contains such norms important for life public so that enforcement of these norms No can submitted to party private but must organized and implemented in a way firmly by the authorities in matter This is government.² Understanding violence is something actions that refer to attitudes or behavior that is not humane, so can hurting other people who are victims of violence that and also of course harms the person who does it violence Because Certain will get punishment in accordance applicable law. Definition violence is a expression well done in a way physique or verbally which reflects on action aggression and attacks on freedom or dignity someone who can carried out by individuals or group of people. Generally violence related with authority and when translated in a way free violence can meaning that all authority without heed validity use or action arbitrariness the entered in formulation violence This. In the beginning at first term follow violence or child abuse and neglect originates and begins known from the world of medicine around in 1946. Caffey, a radiologist, reported case form of injury symptoms clinic like broken bone compound lengths (multiple fractures) in children or baby accompanied subdural hemorrhage without know the cause (unrecognized trauma). In the world of medicine case This known with the term Caffey Syndrome. Henry Kempe said case neglect and abuse experienced children with The term Battered Child Syndrome is : "Each circumstances caused lack of care and protection to children by parents or nanny other."Here is what it means as follow violence to child No only wound heavy of course, but including wounds bruised or swelling though and followed failure child For develop Good in a way physique nor intellectual.³

¹ Bambang Fitrianto, T. Riza Zazani, Anto Simanjuntak, Legal Science Analysis of Normative Studies of Truth and Justice, SOUMATERA LAW REVIEW Volume 4, Number 1, 2021, p. 94

²Rika Jamin Marbun, Implementation of Indonesian

labor law from the perspective of the Central Java welfare state: Eureka Media Aksara, p. 20

³Rahmayanti, & Ismaidar, 2023. The Influence of Domestic Violence (KDRT) on the Level of Harmony in the Household. Central Java: Eureka Media Aksara, p. 2



Violence is action intimidation carried out more party strong to more party weak, violent can form diverse form that is violence physical, mental, and sexual. Violence is action aggression and violations (torture, beatings, rape, etc.) that cause or intended For cause suffering or hurt others, and to some extent action hurt animal can considered as violence, depending on the situation and values related social with cruelty to animal. Violence also contains trend aggressive For do destructive behavior. Damage treasure object usually considered problem small compared to with violence towards people. Violence by nature classified to in two forms violence any, which includes violence in scale small or what not planned, and coordinated violence, carried out by groups group good given right nor No.⁴

Mischief child taken from term so- called foreigners as juvenile delinquency, this juvenile delinquency different with the mischief mentioned in the Article 489 of the Criminal Code. Juvenile means Young in English and means children or child young in Indonesian. Where, have distinctive characteristics in teenage years. Meanwhile, Delinquency is interpreted as Doing Wrong in English and means neglected or ignoring, which is then expanded meaning become evil, a- social, criminal, offender rules, maker commotion, troublemaker, terrorizer, no can repaired again, durjana, and dursila.⁵

Problem about crime child No Again become the only problem arise road scope small but, yes often happen especially in cities big⁶. Basically all child own right on protection from parents, family, society and the country accordingly with what was said in the Article 52 Paragraph (1) of the Law Number 39 of 1999. Every child who accepts and defends right For grow and thrive in life social in a way balanced and positive own meaning child the has accept treatment in a way fair and safe from detrimental threats.⁷

Based on description above, researcher submit formulation problem that is How protection law to children involved in follow criminal violence?

II. METHODOLOGY

Research methods used in study This is method juridical normative, as consequence logical from characteristic law, with using secondary data that is material primary law and materials law secondary. Primary legal materials are material binding law, then in study This material primary law consists from Constitution Republic of Indonesia Number 11 of 2012 concerning System Justice Child Crime (SPPA Law) no know Again term child naughty, will but more known with the term Conflicted Child with the Law (ABH). Legal materials secondary namely the data obtained from study literature and documentation, ie results research

and processing of others, who have available in form literature or documentation.

III. RESEARCH RESULT

Protection article child below This arrange penalty fines and penalties for anyone who violates it provision in the Child Protection Law (UU PA). Children need I got just hands from impact ne gative pe rke mbangan fast,current, and current development i globalization in the field communication and information, moving i science i knowledge technology, etc pe ru materials style and manner life p cell of the parent who has away I brought i pe ru materials basic social in ke live pan a very deplorable society i face to i values and behavior i child.⁸

1) *Article 80 Child Protection Law*

Article 80 of the PA Law contains: penalty confinement and divide whoever is proven do cruelty, violence, and threats violence against children, from what causes it wound heavy until cause child die.

Perpetrator will worn confinement prison with minimum sentence of 3 years 6 months until verdict maximum as much as 10 years. However after changed with the latest PA Law 2014, verdict maximum to 15 years. The latest 2014 PA Law also changes this the original fine was IDR 200,000,000 (two hundred million rupiah) as maximum fine to IDR 3,000,000,000 (three billion rupiah) in article 80 which contains fine will prohibition violence to child.

2) *Article 81 of the Child Protection Law*

Article 81 of the PA Law regulates penalty penalties and fines for whoever gives it threat violence, persuade, give hoax ruse For do intercourse with him or with other people to child below age.

The 2002 PA Law imposes criminal imprisonment for a minimum of 3 years and a maximum of 15 years with fine of 60 million rupiah to 300 million rupiah. Meanwhile, in the 2014 PA Law, it will drop criminal confinement for perpetrator from a minimum of 5 years and a maximum of 15 years with fine maximum as much as 5 billion Rupiah.

3) *Article 82 of the Child Protection Law*

In art This load punishment to the perpetrators who did it or let molestation to child below age. Together with chapter previously, article 82 of the 2002 PA Law provided criminal imprisonment for a minimum of 3 years and a maximum of 15 years and a fine of 60 million rupiah to 300 million rupiah.

⁴Ismaidar & Rahmayanti, 2023. Legal Protection for Children as Victims of Domestic Violence. Central Java: Eureka Media Aksara, p. 6-7

⁵Wagiati Soetodjo, Child Criminal Law, (Bandung: PT Refika Aditama, 2006), pp. 8-9.

⁶Y. Bambang Mulyono, Juvenile Delinquency from the Perspective of a Sociological, Psychological Approach and its Management, (Jakarta: Gramedia, 2006), p. 11.

⁷Moch. Faisal Salam, Procedural Law for Juvenile

Justice in Indonesia, (Bandung: Cv. Mandar Maju, 2019), p. 1.

⁸Syaiful Asmi Hasibuan, Ediwarman, Marlina, Edy Ikhsan, Formulation of State Protection for Children Who Commit Domestic Violence (Case Study at the Medan District Court), Usu Law Journal, Vol 4 No. 2 (March 2016), p. 30.

Not even in the 2014 PA Law Far different with article 81, sanctions for perpetrator molestation sentenced punishment The minimum sentence is 5 years and the maximum is 15 years with fine maximum as much as 5 billion Rupiah.

4) *Constitution Child Protection Number 35 of 2014*

Constitution Number 35 of 2014 concerning Change on Constitution Number 23 of 2002 concerning Child Protection is present For increase effectiveness maintenance protection to children in Indonesia. It's rampant case crime to child, one of them crime sexual, and also a lot regulation about the definition of ' child ' makes government revise a number of article in PA Law Number 23 of 2002. Several amended and added articles like protection special For child victims of crime sexual and addition criminal prison and fines for whoever does it crime to child expected capable emphasize rule this is in the field.

Protection child is A National field with mainly is For protect child. Protect child have a goal to get it build generation young as good as Possible. Protection child relate tightly with 5 pillars, namely parents, family, government, government fifth region and country own connection One same as organizer protection to child.⁹ There is a number of factors that make a child can do follow criminal such as a) association free, influenced by social media, lack of supervision, lack of religious teaching as well proper moral b) values given by parents child the.

Indonesia has ratify Convention on the Rights of c) the Child along with the protocol, via Presidential Decree No. 36 of 1990 and Law no. 5 of 1998 as ratification to Convention Against Torture and Treatment or Another cruel punishment. Degrading inhumanity dignity man. Therefore, in fact law bound For carry out convention it and make it part d) from laws and regulations current regulation. In Indonesia, regulations about protection child has published in accordance with needs in Indonesia, the role of the international world in supervise fulfillment based on the Convention of the Right of a Child give positive effect for development protection children in Indonesia. Constitution Number 35 of 2014 Concerning protection child confirmed that organizer protection child are parents, family, government and state, a burden First in maintenance protection child falls on the parents, however in the modern e) era like Now This mostly parents Busy with his work and started ignore his son. Various regulation Good in laws, religious and cultural teachings has Lots discuss about protection child, however still just from year to year violation protection child Keep going increase along developments over time, consequences from form regulations that lack visionary so tend seen as A problem new. Universal Declaration of Human Rights in 1948 f) became base *Convention Of The Rights Of A Child*, however convention need analyzed more OK, p This intended because the word "violence "in Indonesia is interpreted as nature (p certain) loud, activities violence, coercion, cruelty. ¹⁰The term violence in dictionary big Indonesian convention This

more Lots accommodate nuanced values and culture Europe so that a number of circles evaluate culture Asia No accommodated in it. So that government moment That considered haste in ratify *Convention Of The Rights of a Child*, p This can seen from availability facilities, devices support and sanctions from protection child, as examples in the field supervision and types sanctions besides threat criminal prison.

In order to realize source Power quality Indonesian human beings, have Power competitive and capable lead as well as look after unity and oneness nation in unitary state A Republic of Indonesia based on Pancasila is needed coaching in a way Keep going continuously for continuity life based child right basic man. Mental, physical growth and development as well as social, protective from all the possibility that will endanger for every child. Child as A a very unique and personal person distinctive characteristics. Development child with ability himself do something very influenced by the environment in form behavior child. So that role from parents, teachers and adults others are very much needed in form behavior children for the future child One form protection child is with realization certainty law for child.

As for understanding protection child in a way general can also be formulated in a way simple, namely :

An embodiment of justice. This justice is social justice, which is the main basis for child protection;

An effort to protect children to carry out their rights and obligations humanely and positively;

a human problem that is a social reality. According to the actual proportion, in terms of dimensions, child protection has mental, physical and social aspects, this means that the understanding, approach and handling of children is carried out in an interdisciplinary and interdepartmental manner;

A result of interaction between certain parties, due to the existence of an interrelation between existing phenomena and their mutual influence. So it needs to be researched, understood and appreciated by everyone (legal objects and subjects) involved as a component of the existence (existence) of child protection. Apart from that, it is also necessary to research, understand and appreciate which symptoms influence child protection. Child protection is a complex and difficult problem so that its handling must be carried out simultaneously and in the same way;

An individual is influenced by certain social elements, such as interests that can be motivation, social institutions (family, school, Islamic boarding school, government and so on), social values, norms (law), status, roles and so on. In order to properly understand and appreciate the reasons why people carry out child protection as individuals (singlely or collectively), the elements of the social structure involved must be understood;

Can is a law that can have legal consequences that must be resolved guided by and based on the law. There needs to be regulations based on law to prevent and take action against the implementation of Child Protection which causes mental, physical and social suffering to the child concerned;

⁹Rini Fitriani, The Role of Child Protection Organizers in Protecting and Fulfilling Children's Rights, Journal of the Faculty of Law, Samudra University, Vol 11,

No.1, (May, 2017), p.2.

¹⁰WJS Purwodarminto, Big Indonesian Dictionary, (Jakarta: Balai Pustaka, 1984), p.489

- g) It must be pursued in various areas of livelihood and family life, society, state and nation. The level of child protection in a country or nation is a benchmark for the level of that civilization and nation;
- h) It is a field of national law. Ignoring child protection issues will disrupt the national welfare of the people and children. Taking part in national affairs is the right and obligation of every citizen;
- i) It is a field of voluntary service (voluntarism) that is broad in scope with a new style (innovative, unconventional).

Protection basically a child can done in a way direct nor in a way No directly, what is meant in a way direct is his activities direct addressed to child who becomes target handling direct. Activity like This can form among others, with method protect child from various threat from outside and inside himself, educate, develop, accompany child with various way, prevent child hungry and trying his health with various way, provide means development self, and so on. Protection child in a way No direct that is activity No direct addressed to child, but someone else did it or involved in business protection child. Protection efforts thereby for example done by parents or involved in efforts protection child to various threat from outside or from in self children, they are in charge nurturing, building, accompanying child with various way, those involved prevent child hunger, exertion, and so on with various way, they are the ones who provide it means develop self children and so on. Protection child attempted by everyone, parents, family, government as well as the country. Article 20 of the Law Number 35 of 2014 stipulates: "The State, Government, Regional Government, Community, Family, and Parents or Guardians are obliged and responsible answer to maintenance Child protection." So try it protection child is every member in accordance with his abilities with various type business in situation and condition certain. Every citizens follow responsible answer to implemented it protection children for welfare child That Alone. Happiness child is happiness, protected happiness is protective happines. There isn't any anxiety in children, because protection child held with Good. Well-being child have influence positive towards parents, family, government and state. Protection child beneficial for children and parents, family, government, and state.

Protection child done in accordance with his needs so that No impressed excessive or protection to child done with notice impact to environment and children That myself, that's all protection to child done in a way rational responsible and useful actions in a way effective and efficient. So, meaning from business protection child is creative efforts that make child can life independent, that is child own ability and will use their rights and implement them his obligations as a child.

Essence protection child Alone can differentiated into two parts according to author, the second part the is inner core elements protection child. As for the second Author section Meaning is:

- 1) Protection characteristic child juridical, includes:
 - a. Protection in field law and
 - b. Protection in field law civil.

- 2) Protection non - juridical children, including:
 - a. Protection in field social,
 - b. Protection in field,
 - c. Protection in field.

Protection rights the child is very close connection with arrangement legislation as guarantee certainty with consideration that child is group a very vulnerable age (dependent), and another thing too exists group children who experience obstacles and growth the development is good physically nor social. Protection child beneficial for children and their parents as well as his government, then coordination Work The same protection child need held in frame prevent imbalance activity protection child in a way whole.

Protection law for child in the judicial process No can released from What Actually objective or base thinking from Justice the child (Juvenile justice). Alone. From goals and grounds thinking here it is new can determined what and how essence as well as form from protection proper law given to child. Depart from problem - oriented approach well-being child or interest best for child, obviously seen necessity approach special in problem protection law for child in the judicial process. Such thing means need exists attention special, consideration specials, service and treatment special as well as protection special for child in problem law and justice. Based on A number of convention International governing about problem protection and handling to child in Justice criminal, as following:

1. Declaration of the Child or also called the 1959 Declaration of the Rights of the Child.
2. United Nations Standard Minimum Rules for the Administration of Juvenile justice (The Beijing Rules).
3. Convention on the Rights of the Child or also called the 1989 Convention on the Rights of the Child (UN MU Resolution 44/25).
4. United Nation Guidelines For The Prevention Of Juvenile Delinquency (The Riyadh Guidelines).
5. United Ntion Rules for the Protection of juveniles Deprived of their Liberty.

Based on a number of provision instruments International that has been outlined above, shows how importance protection child in effort reach well-being child. Specifically protection child in law criminal, various instrument International guide and organize start from the process of arrest, detention, prosecution, trial until child placed in institution, which respects rights basic child.

Principle protection law to child must in accordance with Convention on the Rights of the Child (Convention on the Rights of the Child) as has ratified by the government Republic of Indonesia by Presidential Decree Number 36 of 1990 concerning ratification of the Convention on the Rights of Your Child (Convention on Children's Rights).¹¹

Based on Law No. 11 of 2012 concerning System Justice Criminal Children, as stated in Article 3 which reads: Every Child in the Judicial Process Criminal entitled:

¹¹Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, general explanation p. 31.

- a. Treated humanely by paying attention to needs according to age.
- b. Separated from adults.
- c. Obtain legal and other assistance effectively.
- d. Doing recreational activities
- e. Free from torture, punishment or other cruel, inhumane and degrading treatment.
- f. Not sentenced to death or life imprisonment.
- g. Not be arrested, detained, or imprisoned, except as a last resort and for the shortest time.
- h. Obtain justice before a Children's court that is objective, impartial, and in a trial that is closed to the public.
- i. His identity was not published.
- j. Obtain the assistance of parents/guardians and people the child trusts.
- k. Gain social advocacy
- l. Get a personal life
- m. Gaining accessibility, especially for disabled children.
- n. Get an education.
- o. Obtain health services
- p. Obtain other rights in accordance with statutory provisions.

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