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# LEGAL REGULATIONS ON CHILD VIOLENCE ACCORDING TO THE PERSPECTIVES OF CRIMINOLOGY AND VICTIMOLOGY

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#### ABSTRACT

Violence against children is a serious problem that has a detrimental impact on the physical, mental and emotional development of children throughout the world. This research aims to conduct an in-depth analysis of legal regulations related to child violence from a criminological and victimological perspective. Through a normative and descriptive legal research approach, this research reveals that, although there have been efforts to regulate and protect children's rights, there are still weaknesses in the legal system that require further improvement. The results of this study highlight the need to improve the implementation of existing laws and the important role of understanding criminological factors and victim protection from a victimology perspective in handling child abuse cases. It is hoped that this research can provide guidance for improving policies, more effective implementation, and better protection for children who are victims of violence, creating a safer society and caring for children's welfare.

Keywords: Child Violence, Criminology, Victimology

#### **ABSTRAK**

Kekerasan terhadap anak merupakan salah satu permasalahan serius yang memiliki dampak yang merugikan pada perkembangan fisik, mental, dan emosional anak-anak di seluruh dunia. Penelitian ini bertujuan untuk melakukan analisis mendalam terhadap pengaturan hukum terkait kekerasan anak dengan sudut pandang kriminologi dan viktimologi. Melalui pendekatan penelitian hukum normatif dan deskriptif, penelitian ini mengungkapkan bahwa, meskipun telah ada upaya untuk mengatur dan melindungi hak-hak anak, masih terdapat kelemahan dalam sistem hukum yang memerlukan perbaikan lebih lanjut. Hasil kajian ini menyoroti perlunya peningkatan implementasi undang-undang yang ada dan peran penting pemahaman faktor-faktor kriminologis serta perlindungan korban dari perspektif viktimologi dalam penanganan kasus kekerasan anak. Diharapkan penelitian ini dapat memberikan panduan bagi perbaikan kebijakan, implementasi yang lebih efektif, serta perlindungan yang lebih baik terhadap anak-anak yang menjadi korban kekerasan, menjadikan masyarakat yang lebih aman dan peduli terhadap kesejahteraan anak-anak.

Kata Kunci: Kekerasan Anak, Kriminologi, Viktimologi.

#### INTRODUCTION

Child abuse is an issue that has been in the news and public concern around the world. This abuse may come in many forms, from physical violence to sexual abuse, from psychological intimidation to destructive exploitation.<sup>1</sup> At various levels, violence against children touches on vital aspects of children's lives, damaging their futures, and raising many questions about how countries around the world can protect children from this threat. Indonesia, as a country with a large child population, is not immune to this challenge. Child violence often occurs in various levels of society, regardless of social or economic background. It can occur in families, schools, social settings, or even in institutional contexts. The issue is often hidden, making it difficult to identify and eradicate effectively. Child violence has serious impacts on children's physical, mental, and emotional development, which in turn can damage their futures and their contribution to society. Although the issue of child violence often appears in the news and in public conversations, existing legal arrangements often still need to be improved and refined. Prevention and law enforcement efforts have not reached an adequate level to protect children from violence. Therefore, there is a need for a more holistic and in-depth approach to analyzing this problem, combining legal aspects with insights from fields such as criminology and victimology<sup>2</sup>.

Based on data from the Ministry of Women's Empowerment and Child Protection (PPPA), the number of cases of child violence continues to increase every year. It was recorded that the number of children who became victims of violence reached 21,241 children in 2022. This figure is higher than the previous year which reached 14,517 victims.

<sup>&</sup>lt;sup>1</sup> Ario Ponco Wiguna, "Kajian Viktimologi Terhadap Anak Sebagai Korban Tindak Pidana Kesusilaan," *Jurnal Ilmu Hukum Legal Opinion* 53, no. 9 (2013): 1689–99, https://media.neliti.com/media/publications/149884-ID-kajian-viktimologi-terhadap-anak-sebagai.pdf.

<sup>&</sup>lt;sup>2</sup> Yeni Kurniati. "Keadilan Restoratif Dalam Perspektif Viktimologi", Prosiding Seminar Nasional Viktimologi, hlm. 283. 2019

#### Jumlah Angka Kekerasan Terhadap Anak Berdasarkan Jenisnya



Figure 1. Diagram of the Number of Violence Against Children Source: Ministry of Women's Empowerment and Child Protection (PPPA)

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection is a law that focuses on protecting the rights and welfare of children in Indonesia. This law stipulates various provisions related to child protection, including children's rights, parental obligations, and the state's responsibility to protect children. This includes provisions that prohibit acts of violence against children and regulate legal sanctions for perpetrators of child violence. This regulation contains provisions that emphasize the importance of recovery and rehabilitation for children who are victims or perpetrators of acts of violence. This includes psychological support, recovery, and rehabilitation that are appropriate to the needs of these children. It also provides authority to institutions and organizations that play a role in child protection, such as the Indonesian Child Protection Commission (KPAI), to take actions that support the fulfillment of children's rights and handling of child violence issues. Although this law is an important foundation in the legal regulation of child violence, it is important to remember that having the law alone is not enough in handling this problem. A broader approach is needed, including a criminological and victimological approach, to address child violence effectively.

The criminological approach provides a strong foundation for understanding the motivations and characteristics of child abusers. By identifying the factors that drive violent acts, such as social, economic or psychological background, this approach helps in the development of more effective prevention policies. For example, through criminological analysis, we

can identify whether child abuse is related to factors such as poverty, alcoholism or lack of education, so that prevention measures can be targeted at the root causes. Victimology, on the other hand, focuses on the impact of violence on victims, who are often children. This approach helps us understand the experiences of victims, their psychological effects and the long-term impact of the violence. By understanding the perspective of the victim, we can develop appropriate services and support to help victims of child abuse in their recovery process.

Criminology and victimology also help in designing more effective law enforcement strategies. By understanding the patterns of perpetrator behavior and how this violence affects victims, law enforcement can better gather evidence, approach victims with sensitivity, and prosecute perpetrators according to the law. This approach allows the criminal justice system to be more responsive to cases of child abuse. In addition, this approach can also reveal patterns of violence that may not be immediately detected by formal law. Child abuse often occurs within the home and can be hidden from public view. Criminology and victimology help in documenting and analyzing such cases, so that further action can be taken to protect victims. The use of criminology and victimology approaches also promotes a holistic approach to addressing the problem of child abuse. By combining an understanding of perpetrators and victims, we can develop more comprehensive and sustainable solutions that include not only law enforcement, but also prevention, protection, and support for all involved in the problem.

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, although an important law in child protection in Indonesia, does not explicitly include a restorative approach in handling child violence. A restorative approach is an approach that emphasizes reconciliation and mutual understanding between victims and perpetrators, and this is often not expressly regulated in the law. The absence of restorative elements in this law means that the legal regulations provided tend to be more punitive, with a focus on law enforcement and criminal sanctions against perpetrators. Although it is important to impose sanctions on perpetrators of child violence, a restorative approach can provide a more holistic approach in handling cases of child violence. In this analysis, researchers will focus on the restorative legal system in cases of child violence from a criminological and victimological perspective. This analysis is expected to present important innovations in handling acts of violence against children. These two disciplines play an important role in formulating a more effective

approach in legal regulation of child violence. Based on a criminological perspective, the restorative approach recognizes that child abuse is not just a legal issue, but also its root causes that need to be addressed. In this regard, the restorative legal system helps identify the risk factors and causes that drive perpetrators to commit acts of violence. This allows for more effective preventive measures, such as early intervention and rehabilitation programs. Meanwhile, from a victimology perspective, this approach emphasizes the importance of the recovery of victims of child abuse. It recognizes that victims need to receive appropriate support to recover physically and emotionally.

In the context of a restorative legal system, victims have the opportunity to talk about their experiences, feel heard, and receive compensation or reparations that can help in their recovery. The importance of this approach is that through dialogue between victims and perpetrators, a shared understanding of the consequences of violent acts is created. This creates an opportunity to stop the cycle of violence by engaging perpetrators in a reconciliation process and motivating them to avoid similar acts in the future. The use of the restorative legal system in cases of child abuse, viewed from a criminological and victimology perspective, paves the way for a more holistic and prevention-oriented and recovery-oriented treatment. This approach acknowledges the complexity of the problem of child abuse and seeks to create more positive changes in society, not only through punishment but also through understanding, reconciliation and repair.

### **RESEARCH METHODS**

The research method used in this study is a combination of normative legal approach and descriptive approach. The combination of these two approaches is considered relevant and comprehensive to explore a deeper understanding of the legal regulations on child violence from the perspective of criminology and victimology. The normative legal approach is used as the initial step in this study. This approach allows researchers to systematically analyze various existing legal regulations related to child violence in Indonesia. This includes national legislation such as the Child Protection Act, the Domestic Violence Act, and other related regulations. This normative analysis will allow us to understand the existing legal framework to protect children from violence, as well as identify weaknesses or gaps in the legal regulations that may need improvement. We will review the contents, provisions, and regulations in the legislation, and compare them with the principles of international law relating to children's rights. Furthermore, a

descriptive approach is used to understand how these legal regulations are implemented in practice and their impact on children as victims of violence.

In this stage, we will collect empirical data through various sources, including literature studies, interviews with legal experts, legal practitioners, and activists who focus on child protection issues, as well as analysis of concrete cases related to child violence. The descriptive approach will also include an understanding of how law enforcement agencies, such as the police, prosecutors, and the judicial system, deal with cases of child violence and the extent to which the implementation of the law has achieved the goal of child protection. This combined approach will provide a comprehensive framework for analyzing the legal arrangements for child violence in Indonesia. This will allow us to dig as far as possible into this problem, not only looking at the legal aspects, but also how the law is reflected in the real lives of children who are victims of violence. Thus, the results of this study are expected to provide deeper insights and more sustainable solutions in efforts to protect children from the threat of violence and promote their welfare in society.

#### RESULTS AND DISCUSSION

## Legal Regulation Based on Criminology and Victimology

Legal arrangements in the context of handling child violence are a critical foundation in efforts to protect children from acts of violence and provide fair law enforcement. The first thing that needs to be done is to ensure that there are clear and firm laws that regulate acts of child violence as a criminal offense. This includes a precise definition of what is considered child violence, including various types of physical, psychological, or sexual violence against children. With a clear definition, the legal system can identify and pursue perpetrators more efficiently. In addition, an effective criminal justice system must also establish appropriate and effective sanctions for perpetrators of child violence. This includes adequate penalties against violators of the law, which reflect the seriousness of their actions and can have a deterrent effect. However, sanctions must also consider factors such as the rehabilitation of the perpetrator, especially in the case of child perpetrators. A holistic approach must include efforts to prevent perpetrators of child violence from repeating by involving them in appropriate rehabilitation and supervision programs.

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection is an important legal instrument in efforts to protect the rights and welfare of children in Indonesia. In this law, there are

several provisions that regulate sanctions related to violations that can include acts of violence against children. In Law Number 35 of 2014, sanctions related to violations involving children can cover several aspects, such as the right to protection and the right of children to live and grow in a safe and healthy environment. These sanctions can include:

- a. Criminal Sanctions: Criminal Sanctions: This law stipulates criminal sanctions for perpetrators who commit acts of violence against children. This includes various types of physical, psychological, or sexual violence against children. However, in some cases, criminal sanctions may not be effective enough to prevent perpetrators from committing acts of violence again.
- b. Revocation of Parental Rights: The Child Protection Law also provides a legal basis for the revocation of the rights of parents or guardians who are proven to have committed violence against children. This aims to protect the child from further harm, but must also be followed by appropriate rehabilitation and recovery measures for the child.

The sanctions contained in the law may not cover the entire spectrum of violent acts or may not always achieve the desired deterrent effect. The need to approach this issue from two perspectives, namely criminology and victimology, becomes clear. Therefore, there is a need to approach this issue from both criminology and victimology perspectives to ensure a more holistic and effective response to child abuse. In the context of addressing child abuse, an approach that includes both criminology and victimology has a very important role in ensuring a holistic and effective response to this problem. A criminology approach allows for a deeper dive into the root causes and motives behind acts of violence against children. This involves an in-depth analysis of the criminological factors that drive the perpetrators, such as their social, economic and psychological backgrounds. With a better understanding of what drives acts of violence, the criminal justice system can design more effective and relevant sanctions to prevent future cases of child abuse.

Social factors such as poverty, inequality, and social change can be triggers for acts of violence. In criminological analysis, it is necessary to investigate how economic inequality and access to education and health services can influence the level of child abuse. Similarly, understanding psychological factors, such as mental health problems or a history of family violence, can help identify potential perpetrators who may commit similar acts in the future. In addition, through careful criminological analysis, we can identify patterns of perpetrator behavior and implement more effective

preventive measures, such as rehabilitation programs or strict supervision for perpetrators. On the other hand, a victimology approach is important to understand the impact of violence on children and identify appropriate ways of recovery and rehabilitation. Victims of child abuse often experience serious physical and psychological impacts, including physical injuries, emotional trauma, and developmental disorders. Therefore, adequate psychological support and access to mental health services are key in the recovery process. In addition, secondary prevention efforts that focus on victims, such as counseling or therapy, can help reduce the long-term impact of acts of violence.

The victimology approach also considers the importance of protecting victims during the legal process. Child victims must be protected from further pressure, threats or abuse, and they must be given access to a fair justice system. This includes protecting the identity of child victims, where appropriate, and a deeper understanding of how the justice system can support them through the justice process. Combining these two approaches can create a more solid foundation for addressing child violence. With a better understanding of the causal factors, the profile of the perpetrator, and the impact on the victim, we can design more effective policies to prevent, enforce the law and support recovery. In addition, this approach also allows for the implementation of appropriate rehabilitation programs for perpetrators that can help them stop committing violent acts. Thus, by combining the criminology and victimology approaches, we can create a safer and more supportive environment for children, which encourages healthy growth and development, without fear of violence.

### Implementation of Restorative Approach in Handling Child Violence

Handling of victims of child violence in the context of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection is an important part of efforts to protect the rights and welfare of children in Indonesia. This law includes a number of provisions that focus on protecting victims of child violence, including their right to receive adequate protection, support, and recovery. However, although this law is an important step in handling child violence, there are still several considerations that need to be considered. First, the implementation of this law in the field may still face challenges in terms of human and financial resources. The justice system and institutions responsible for implementing this law may need more resources to be able to provide adequate services to victims. In addition, public understanding and awareness of children's rights and how to report

child violence can also be factors that affect the effectiveness of this law. Wider educational efforts and social campaigns may be needed to increase public understanding of the problem of child violence and the importance of reporting it. Law Number 35 of 2014 is a positive step in handling victims of child violence in Indonesia.

However, there is still room for improvement, especially in terms of implementation, public understanding, and providing more appropriate support to victims. Efforts to combine legal approaches with restorative approaches can help create a safer and more supportive environment for children who are victims of violence. Article 80 (1) in conjunction with Article 76 c of Law Number 35 of 2014 concerning Child Protection is also one of the legal instruments used in handling violence against children in Indonesia. This article has an important purpose in providing punishment for perpetrators of violence against children and at the same time protecting children's rights. However, to comprehensively understand how this article plays a role in handling cases of violence against children, we need to outline several important aspects related.

First of all, in the context of Article 80 (1) in conjunction with Article 76 c, it is important to understand what is meant by "violence against children." Violence against children includes various forms of acts that harm children, both physically and psychologically. This can include physical violence, sexual abuse, verbal abuse, or other inhumane treatment that can harm children physically or emotionally. The Child Protection Law establishes a clear legal basis for identifying, addressing, and sanctioning perpetrators of such acts. Article 80 (1) in conjunction with Article 76 c establishes criminal sanctions for perpetrators of violence against children. Perpetrators can be punished with imprisonment for a maximum of 3 (three) years and 6 (six) months and/or a maximum fine of IDR 72 million. This is a legal step that aims to provide punishment that is appropriate to the severity of the act of violence. The criminal penalties stipulated in this article have two important components: imprisonment as a form of separation from society to protect children and a fine as a form of financial sanction. In addition to providing sanctions for perpetrators, Article 80 (1) in conjunction with Article 76 c also has a strong dimension of protection for children's rights. Children's rights are human rights that must be respected and protected. In the context of violence against children, this article aims to protect the child's right to live free from violence, the right to protection, and the right to adequate recovery. The criminal sanctions given to the perpetrators aim to convey the message that this kind of action is a serious violation of children's rights and will have legal consequences.

It is important to note that Article 80 (1) in conjunction with Article 76 c emphasizes the principle of proportional punishment. This means that the punishment given must be in accordance with the severity of the violent act committed by the perpetrator. This gives the court flexibility to assess each case individually and provide a punishment that is commensurate with the level of violation that occurred. This is important because acts of violence can vary in severity, and heavier punishments can be given for more serious cases. In addition to providing sanctions to the perpetrator, Article 80 (1) in conjunction with Article 76 c also has a preventive and deterrent dimension. The punishment imposed is expected to be a factor that influences potential perpetrators and potential perpetrators not to commit acts of violence against children. When perpetrators know that they will face serious legal consequences, this can be an encouragement not to commit such acts. Therefore, this article is not only about providing punishment, but also about preventing future cases of child abuse. The key to Article 80 (1) in conjunction with Article 76 c is its application in practice. The Child Protection Act establishes an important legal basis for protecting children from violence, but to achieve effective results, its implementation in the criminal justice system and law enforcement is essential. This includes investigation processes, fair trials, and efficient law enforcement.

Article 80 (1) in conjunction with Article 76 c of Law Number 35 of 2014 concerning Child Protection plays a crucial role in handling cases of violence against children in Indonesia. This article provides a legal basis for imposing appropriate sanctions on perpetrators, protecting children's rights, and preventing future violence. However, the success of this article depends on the effectiveness of the implementation and proper law enforcement in practice to protect children and eliminate violence against them. The application of a restorative approach in handling violence against children is a step based on the understanding that violence is not only a criminal act, but also a complex social problem. This approach focuses on reconciliation efforts, mutual understanding, and recovery, for both victims and perpetrators, with the ultimate goal of creating a safer environment and preventing future violence. In this context, actively involving victims and perpetrators is the core of the restorative approach. Victims have the opportunity to convey the impact they have experienced to the perpetrator, create awareness of the real consequences of violent acts, and begin the recovery process. In a dialogue or mediation

meeting between the victim and the perpetrator, both can speak openly about their experiences, their feelings, and their hopes regarding recovery. This aims to create mutual understanding, and perhaps result in a sincere apology from the perpetrator.

During the restorative process, the victim and perpetrator can reach a mutual agreement about concrete steps that need to be taken to repair the damage caused by the violent act. This agreement may include a commitment by the perpetrator to attend a rehabilitation program, pay compensation to the victim, or participate in other healing activities. It is important to remember that agreements are made with the consent of both parties and are aimed at restoring the damaged relationship. In situations where the perpetrator is a child, the restorative approach must be particularly careful. It involves an approach that focuses on rehabilitation, education, and behavioral change. The restorative process can help the child perpetrator understand the impact of their actions, evaluate their behavior, and take positive steps towards change. It is important to prioritize the protection and safety of the victim throughout the restorative process. The victim must feel heard, protected, and safe throughout this process. Robust mechanisms must be in place to address any potential threats or retaliation against the victim. In implementing this approach, it is important to strike a balance between providing opportunities for the perpetrator to take responsibility for their actions and ensuring adequate protection for the victim.

Finally, restorative approaches can be integrated into the wider criminal justice system. This can involve the use of alternative dispute resolution procedures, mediation, or meetings between victims and perpetrators as part of the justice process. This integration allows for more relevant sanctions that focus on recovery, rather than punishment alone. The application of a restorative approach to dealing with child abuse is a humanistic and comprehensive approach. It creates space for dialogue, understanding, and reconciliation that can repair the damage caused by the violence, while maintaining a focus on prevention and protection for children in the future. A restorative approach to dealing with child abuse has strong links to the fields of criminology and victimology, as it combines key elements from both disciplines. In the context of criminology, a restorative approach recognises the importance of understanding the root causes of child abuse. This includes an in-depth analysis of the criminological factors that drive the perpetrator, such as their social, economic and psychological background. With a deeper understanding of what drives the violence, a restorative

approach allows us to design sanctions that are more effective in preventing child abuse, as they can address the underlying root causes.

From a victimology perspective, the restorative approach places the protection and recovery of victims as the primary focus. This includes understanding the physical and psychological impacts experienced by victims of child abuse. In the restorative process, victims have the opportunity to communicate the impacts they have experienced to the perpetrator, create a shared understanding, and begin their healing process. This approach helps victims feel heard, valued, and receive the support they need. In addition, the restorative approach also allows for secondary prevention efforts, which is the primary focus of victimology. This includes actions aimed at preventing the long-term impacts of the violence on the victim. By understanding the impact and needs of the victim in more depth, we can design appropriate recovery programs, which help reduce the long-term impacts of the violence. The restorative approach integrates elements of criminology and victimology in a comprehensive way. This creates a stronger foundation for addressing child abuse by focusing on understanding the causes, appropriate treatment of the perpetrator, protection and recovery of victims, and effective prevention efforts. With this approach, we can create a safer and more supportive environment for children, while understanding that addressing child abuse involves complex and multifaceted aspects.

#### CONCLUSION

- 1. The sanctions contained in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection do not yet cover the entire spectrum of violent acts or may not always achieve the expected deterrent effect. The need to approach this issue from two perspectives, namely criminology and victimology, becomes clear. Therefore, there is a need to approach this issue from both criminology and victimology perspectives to ensure a more holistic and effective handling of child violence..
- 2 The restorative approach to dealing with child abuse is an approach that combines elements of criminology and victimology with the aim of creating a holistic and effective response to this problem. In the context of criminology, the restorative approach understands the importance of understanding the root causes of child abuse, by analyzing the criminological factors that drive the perpetrators. This allows for the design of more effective sanctions to prevent future child abuse. From a victimology perspective, the restorative approach places the protection and recovery of victims as the main focus. This includes understanding

the physical and psychological impacts experienced by victims of child abuse as well as secondary prevention efforts to reduce the long-term impacts of acts of violence. The restorative approach creates a stronger foundation in dealing with child abuse. This allows for understanding the causes, appropriate treatment of perpetrators, protection and recovery of victims, and effective prevention efforts. With this approach, we can create a safer and more supportive environment for children, while understanding that dealing with child abuse is a complex task that requires a comprehensive and recovery-centered approach..

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