



Article History	Received: 28 -12-2024	Reviewed:07-03-2025	Accepted: 28-05-2025	Published: 01-06-2025
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APPLICATION OF SANCTIONS FOR PERPETRATORS OF PHYSICAL VIOLENCE AGAINST CHILDREN COMMITTED BY PARENTS IN THE JURISDICTION OF THE PEKANBARU CITY POLICE BASED ON LAW NUMBER 35 OF 2014 CONCERNING CHILD PROTECTION

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ABSTRACT

Article 80 paragraph (1) Jo. Paragraph (4) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Jo. Article 44 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence Jo. Article 351 paragraph (1) of the Criminal Code Jo. Article 356 paragraph (1) of the Criminal Code, regulates the prohibition and legal sanctions for parents who commit physical violence in the form of ordinary abuse against their children. The research method is sociological legal research, legislative and case approaches; research location Pekanbaru Police; population and samples from relevant sources; data sources are primary, secondary and tertiary; data collection techniques are observation, non-structural interviews and document studies; data analysis is qualitative; conclusion: inductive. The application of sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru Police based on the regulation has been implemented but the results have not been optimal in 2021 to 2023, as evidenced by several perpetrators not being prosecuted because there was peace between the perpetrators and victims. The obstacles are the law enforcement/government factor, the facility/facility factor and the community factor. Third, efforts to overcome these obstacles are Against the law enforcement/government factor, namely increasing the number of investigators; The police increase cooperation and coordination with the Pekanbaru City Social Service (child social workers); The police implement appropriate policies by prioritizing the interests of children (victims). Against the facility/facility factor, namely the local police increase the budget. Against the community factor, namely the victim is accompanied by a child social worker from the Pekanbaru City Social Service and involves the role of the victim's family who knows the condition of the victim and perpetrator in peace efforts; Investigators maximize separate examinations between the perpetrator and the victim; Investigators apply the right techniques in examining the perpetrator; during the examination the child is not confronted with his parents (perpetrators).

Keywords: Abuse, Children, Pekanbaru

ABSTRAK

Pasal 80 ayat (1) Jo. Ayat (4) Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak Jo. Pasal 44 ayat (1) Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga Jo. Pasal 351 ayat (1) KUHP Jo. Pasal 356 ayat (1) KUHP, mengatur larangan dan sanksi hukum bagi orang tua yang melakukan kekerasan fisik berupa penganiayaan biasa terhadap anaknya. Metode penelitian ialah penelitian hukum sosiologis, pendekatan perundang-undangan dan kasus; lokasi penelitian Polresta Pekanbaru; populasi dan sampel dari narasumber relevan; sumber data yaitu primer,

sekunder dan tersier; teknik pengumpulan data yaitu observasi, wawancara non struktural dan studi dokumen; analisis data yaitu kualitatif; kesimpulan: induktif. Penerapan sanksi bagi pelaku tindak pidana kekerasan fisik terhadap anak yang dilakukan oleh orang tua di wilayah hukum Polresta Pekanbaru berdasarkan regulasi tersebut sudah dilaksanakan namun hasilnya belum maksimal pada tahun 2021 sampai 2023 dibuktikan beberapa pelaku tidak dipidanakan karena terjadi perdamaian antara pelaku dan korban Hambatannya ialah faktor aparat penegak hukum/ pemerintah, faktor sarana/ fasilitas dan faktor masyarakat. *Ketiga*, upaya mengatasi hambatan tersebut ialah Terhadap faktor aparat penegak hukum/ pemerintah yaitu menambah jumlah penyidik; Pihak kepolisian meningkatkan kerjasama dan koordinasi dengan Dinas Sosial Kota Pekanbaru (pekerja sosial anak); Pihak kepolisian menerapkan kebijakan yang tepat dengan mengedepankan kepentingan anak (korban). Terhadap faktor sarana/ fasilitas yaitu kepolisian setempat menambah anggaran. Terhadap faktor masyarakat yaitu korban didampingi oleh pekerja sosial anak Dinas Sosial Kota Pekanbaru serta melibatkan peran keluarga korban yang mengetahui kondisi korban dan pelaku dalam upaya perdamaian; Penyidik memaksimalkan pemeriksaan terpisah antara pelaku dan korban; Penyidik menerapkan teknik yang tepat dalam pemeriksaan terhadap pelaku; selama pemeriksaan anak tidak dikonfrontir dengan orang tuanya (pelaku).

Kata Kunci: Penganiayaan, Anak, Pekanbaru

INTRODUCTION

The state upholds human rights, including children's human rights, which are marked by the guarantee of protection and fulfillment of children's rights in the 1945 Constitution of the Republic of Indonesia and several provisions of laws and regulations, both national and international. Because fundamentally the state has the goal of providing protection for its people according to the mandate of the preamble to the 1945 Constitution.

In international law, the birth of child protection is through the Convention on the Rights of the Child through Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child. The Convention also established a Committee on the Rights of the Child which oversees the implementation of the provisions of the Convention and discusses reports submitted by member countries.¹ Then in Indonesia the convention was ratified and ratified through Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child. The State, Government, Regional Government, Society, Family and Parents are obliged to provide protection and guarantee the fulfillment of children's human rights in accordance with their duties and responsibilities.

Children are an inseparable part of human survival and the survival of a nation and state. The definition of a child when correlated with age limits varies, both those that have been determined and agreed upon nationally and internationally. One of these definitions in the context of international conventions and national regulations states that: "Referring to the UN Convention on the Rights of the Child, the definition of a child: "A child means every human being under the

¹ Boer Mauna, *Hukum Internasional (Pengertian Peranan dan Fungsi Dalam Era Dinamika Global*, Cetakan ke-3, (Bandung: Alumni, 2001), hlm. 607.

age of 18, unless according to the laws applicable to children, adulthood is achieved earlier. For this reason, Law Number 23 of 2002 concerning Child Protection defines a child as someone who is not yet 18 (eighteen) years old, including children who are still in the womb."² Where the regulation on child protection has now been amended in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

In order to be able to be responsible for the sustainability of the nation and state in the future, every child needs to get the widest possible opportunity to grow and develop optimally, both physically, mentally, and socially. For this reason, it is necessary to make protection efforts to realize the welfare of children by providing guarantees for the fulfillment of their rights without discriminatory treatment. This guarantee is a form of legal protection for children.

Lili Rasjidi and I.B Wisa Putra are of the opinion that "law can be used to create protection that is not only adaptive and flexible, but also predictive and anticipatory."³ More specifically related to legal protection for children, the conceptual review states that: "Child protection is an effort and activity of all levels of society in various positions and roles, who are fully aware of the importance of children for the nation and state in the future. If they have matured in physical, mental and social growth, then it is time to replace the previous generation."⁴

Meanwhile, regarding legal protection for children, "Legal protection for children should be interpreted as an effort to protect the law against various responsible freedoms and children's basic rights (fundamental rights and freedoms of children) as part of Human Rights and various interests of children related to the realization of children's welfare. Meanwhile, regarding legal protection for children, "Legal protection for children should be interpreted as an effort to protect the law against various responsible freedoms and children's basic rights (fundamental rights and freedoms of children) as part of Human Rights and various interests of children related to the realization of children's welfare."⁵

Referring to Article 20 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, in addition to the state, the family as the smallest community group is also required to provide protection for children. In the eyes of the law, the protection in question is given from a broader perspective, namely the perspective of Human Rights (HAM). The birth of HAM is based on the theory of natural rights. "John Locke stated that there are natural rights inherent in every human being, namely the right to life, the right to freedom, and the

² M. Nasir Djamil, *Anak Bukan untuk Dihukum*, (Jakarta: Sinar Grafika, 2013), hlm. 10.

³ Lili Rasjidi dan I.B Wisa Putra, *Hukum Sebagai Suatu Sistem*, (Bandung: Remaja Rosdakarya, 1993), hlm. 118.

⁴ Maidin Gultom, *Perlindungan Hukum Terhadap Anak*, (Bandung: Refika Aditama, 2014), hlm. 40.

⁵ Waluyadi, *Hukum Perlindungan Anak*, (Bandung : Mandar Maju, 2009), hlm.1.

right to property.”⁶ That children's rights must be obtained from the time a child is born into the world based on applicable laws and regulations.

In order to realize protection for children, violence against children is not justified and is prohibited in Indonesian portif law, especially Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. "Violence is often termed as abuse which means violence, persecution, wrong treatment or torture.”⁷ In the conceptual review, Soeroso provides a specific definition of violence against children. He states that: “Violence against children is an act against a child that results in misery and suffering, both physical and psychological, whether it occurs in public or in private life. Violent acts, in addition to physical acts, are also non-physical (psychological) acts. Physical acts can be directly felt by the victim and can be seen by anyone, while non-physical (psychological) acts that can be felt directly are only the victim, because these acts are directly related to offending a person's conscience or feelings.”⁸

Article 5 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, forms of violence are divided into five, "namely physical violence, psychological violence, sexual violence and domestic neglect." In accordance with the focus of this research, what is categorized as physical violence is slapping, kicking, hitting/punching, strangling, pushing, biting, hitting, threatening with sharp objects and so on.”⁹ “Where the victims of this type of violence have injuries that are directly visible on the victim's physical body, such as: bruises, bleeding, broken bones, unconsciousness and other forms with more severe physical conditions.”¹⁰ Physical violence in the Criminal Code, hereinafter abbreviated as KUHP, is termed as abuse, one type of which is ordinary abuse in accordance with the focus of this thesis research. "Ordinary abuse is essentially all abuse that is not serious abuse and not minor abuse.”¹¹

The prohibition on violence against children by their parents, especially physical violence that occurs within the scope of the household which is included in the category of ordinary abuse is regulated in Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Jo. Article 5 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic

⁶ Miriam Budiarjo, *Dasar – Dasar Ilmu Politik*, (Jakarta: Granedia Pustaka Utama, 1991), hlm. 121.

⁷ Flanagan Kelly, dkk., “*The Potential of Forgiveness as a Respinse For Coping With Negative Peer Experiences*,” *Journal of Adolenscence*, Vol. 3 No.1 Tahun 2020, hlm. 1219.

⁸ Soeroso, *Dasar-Dasar Ilmu Hukum*, (Jakarta: Sinar Grafika, 2013), hlm. 2.

⁹ Purnama Rozak, “*Kekerasan Terhadap Anak Dalam Rumah Tangga Perspektif Hukum Islam*,” *Jurnal SAWWA*, Vol. 9 No. 1 Tahun 2020, hlm. 47.

¹⁰ Bagong Suyanto dan Sri Sanituti Ariadi, *Krisis & Child Abuse*, (Surabaya: Airlangga University, 2002), hlm. 114.

¹¹ Hiro R. R Tompudung, “*Kajian Yuridis Tindak Pidana Penganiayaan yang Mengakibatkan Kematian*,” *Jurnal Lex Crimen*, Vol. X No. 4 April 2021, hlm. 68.

Violence Jo. Article 351 paragraph (1) of the Criminal Code Jo. Article 356 paragraph (1) of the Criminal Code, with the text of the article, namely Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which states that: "Everyone is prohibited from placing, allowing, committing, ordering, or participating in committing Violence against Children." Article 5 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, reads "Everyone is prohibited from committing domestic violence against people within the scope of their household, by means of: physical violence." Article 351 paragraph (1) of the Criminal Code states, "Assault is punishable by a maximum prison sentence of two years and eight months or a maximum fine of four thousand five hundred rupiah." Then Article 356 paragraph (1) of the Criminal Code states, "The punishment stipulated in Articles 351, 353, 354 and 355 may be increased by one third if the perpetrator commits the crime against his mother, his legal father, his wife (husband) or his child."

However, based on initial research conducted by the author through observation, it is known that in 2021 to 2023 in the jurisdiction of the Pekanbaru Police, there were still criminal acts of violence against children, especially violence that was actually carried out by their own parents in the context of ordinary abuse in the household, as many as 7 (seven) cases. The legal definition of parents is contained in Article 1 number 4 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, that: "Parents are biological fathers and/or mothers, or fathers and/or stepmothers, or adoptive fathers and/or mothers."

Violation of the prohibition is a criminal act (*Straf-baar Feit*). According to Professor Pompe, a criminal act (*Straf-baar Feit*) can be defined as follows: "A violation of norms (disruption of legal order) which has been intentionally or unintentionally committed by a perpetrator, where the imposition of punishment on the perpetrator is necessary for the sake of maintaining the law and ensuring the public interest."¹²

So that violations of the provisions of Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 Jo. Article 5 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence Jo. Article 351 paragraph (1) of the Criminal Code Jo. Article 356 paragraph (1) of the Criminal Code committed by parents against their children as a form of physical violence categorized as ordinary abuse in the household can be subject to legal sanctions as regulated in Article 80 paragraph (1) Jo. Paragraph (4) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 Jo. Article 44 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence Jo. Article

¹² P. A.F Lamintang dan Franciscus Theojunior Lamintang, *Dasar – Dasar Hukum Pidana di Indonesia*, Cetakan Ketiga, (Jakarta: Sinar Grafika, 2018), hlm. 180.

351 paragraph (1) of the Criminal Code Jo. Article 356 paragraph (1) of the Criminal Code.

The text of the articles is Article 80 paragraph (1), which reads "Any person who violates the provisions as referred to in Article 76C, shall be punished with imprisonment for a maximum of 3 (three) years and 6 (six) months and/or a maximum fine of Rp. 72,000,000.00 (seventy-two million rupiah). While Article 80 paragraph (4), reads "The penalty is increased by one third of the provisions as referred to in paragraph (1), paragraph (2), and paragraph (3) if the perpetrator of the abuse is the parent." Article 44 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, reads "Any person who commits an act of physical violence within the scope of the household as referred to in Article 5 letter a shall be punished with imprisonment for a maximum of 5 (five) years or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah)." Article 351 paragraph (1) of the Criminal Code states, "Assault is punishable by a maximum prison sentence of two years and eight months or a maximum fine of four thousand five hundred rupiah." Then Article 356 paragraph (1) of the Criminal Code states, "The punishment stipulated in Articles 351, 353, 354 and 355 may be increased by one third if the perpetrator commits the crime against his mother, his legal father, his wife (husband) or his child."

In order to ensure the effectiveness of the law in protecting children who are victims of physical violence by their parents, law enforcement is necessary. "Law enforcement is a concern and enforcement, which consists of unlawful acts that occur now (Onrecht in actu) and unlawful acts that may occur in the future (Onrecht in Potentie)."¹³ This law enforcement is a form of legal protection effort carried out by the Republic of Indonesia National Police (Polri), where the Polri is the government that carries out the law enforcement function.

The obligation to provide legal protection for children is specifically regulated in Article 59 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which states that: "The government and other state institutions are obliged and responsible for providing special protection to children in emergency situations, children in conflict with the law, children from minority and isolated groups, children who are exploited economically and/or sexually, children who are traded, children who are victims of abuse of narcotics, alcohol, psychotropics, and other addictive substances (napza), children who are victims of kidnapping, sale and trade, children who are victims of physical and/or mental violence, children with disabilities, and children who are victims of mistreatment and neglect."

¹³ Romli Atmasasmita, *Sistem Peradilan Pidana Kontemporer*, Cetakan Ke-2, (Jakarta: Kencana, 2011), hlm. 7.

The form of law enforcement when viewed from the concept of punishment where criminal sanctions are needed with the aim of providing a deterrent effect to society has not been fulfilled, then the impact is the number of cases that cannot be minimized. This is in line with the opinion of Paul Anselm van Feurbach who said that: "only by making criminal threats will not be sufficient, but it is necessary to impose a sentence on the criminal."¹⁴

However, based on observations made by the author in the initial research, it is known that all efforts of the Pekanbaru City Police in enforcing the law against criminal acts of physical violence against children committed by their parents still encounter obstacles, so that cases of criminal acts of physical violence against children in question still occur throughout the year, especially from 2021 to 2023. This condition shows the lack of realization of children's rights to legal protection and the government's obligations in this case the Pekanbaru City Police in providing legal protection for these children have not run as they should. Details of the case as presented by the author in the following table:

Table 1
Number of Cases of Physical Violence Against Children Perpetrated by
Parents as a Form of Common Abuse in the Regional Law of the Pekanbaru City
Police Resort 2021 to 2023

No.	Year	Number (Cases)
1.	2021	1
2.	2022	2
3.	2023	4
Total Cases 2021 to 2023		7

Source: Pekanbaru City Police, 2021 to 2023

Based on the background of this research, it is known that there has been a gap between the laws and regulations (Das Sollen), namely Article 80 paragraph (1) Jo. paragraph (4) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 Jo. Article 44 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence Jo. Article 351 paragraph (1) of the Criminal Code Jo. Article 356 paragraph (1) of the Criminal Code with the Implementation/application of the law (Das Seins), namely law enforcement against criminal acts of physical violence against children committed by their parents as a form of ordinary abuse in the household still encounters obstacles, so that the cases in question still occur throughout the year, especially in 2021 to 2023 as many as 7 (seven) cases.

RESEARCH METHODS

This study uses sociological legal research. Sociological legal research is also often referred to as empirical research, namely: "A legal research method that

¹⁴ Erdianto Efendi, *Hukum Pidana Indonesia*, (Bandung: Refika Aditama, 2011), hlm. 142.

functions to be able to see the law in a real sense and examine how the law works in a community environment. Because this study is studying people in social relations, the empirical legal research method can also be called sociological legal research."¹⁵ "legal facts then seek solutions to the problems that arise in these social phenomena."¹⁶ Therefore, in this type of legal research, the requirement is that researchers basically have to know legal science and social sciences and have knowledge in social science research.

Sociological/empirical legal research prioritizes the existence of "field research" which is essentially a method for specifically finding out the reality of what is happening in society, so conducting research on several current problems/hottest issues that are currently raging and expressed in the form of social processes."¹⁷

RESULTS AND DISCUSSION

Implementation of Sanctions for Perpetrators of Criminal Acts of Physical Violence Against Children Committed by Parents in the Jurisdiction of the Pekanbaru City Police Resort Based on Law Number 35 of 2014 concerning Child Protection

Pekanbaru City is the capital city of Riau Province, so like other provincial capitals in general, it is complex with all the problems in the midst of all the activities of its people's lives which are quite dense. Such conditions based on observations made by the author are accompanied by a fairly high crime rate, as in line with the opinion in a journal which states that "Pekanbaru City is at a high crime rate with a ranking of five national levels, and the second highest crime rate in Sumatra in 2022 according to data from the Central Statistics Agency. With its role as the provincial capital, Pekanbaru City has high mobility."¹⁸

"Crime is all forms of actions and deeds that are economically and psychologically detrimental that violate the laws in force in the country of Indonesia as well as social and religious norms. It can be interpreted that criminal acts are all acts that violate the law and violate social norms, so that society opposes them."¹⁹ Based on observations made by the author, it is known that the crime rate is one of the crimes against children, as reinforced by the author's interview with the Head of the Criminal Investigation Unit of the Pekanbaru City Police, in this case represented by the Deputy Head of the Criminal Investigation Unit of the Pekanbaru City Police,

¹⁵ Soerjono Soekanto, *Sosiologi Suatu Pengantar*, (Jakarta: Rajawali Pers, 2012), hlm. 12.

¹⁶ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI-Pers, 1986), hlm. 43.

¹⁷ Hadari Nawawi, *Metode Penelitian Bidang Sosial*, (Yogyakarta: Gadjah Mada University Press, 1998), hlm. 63.

¹⁸ Rasyfa Malfira Salsabila dan Azhari Syarief, "Analisis Spasial Tingkat Kerawanan Kriminalitas Menggunakan Metode Nearest Neighbor Analysis Dan Kernel Density Di Kota Pekanbaru," *Jurnal Pendidikan Tambusai*, Vol. 8 No. 2 Tahun 2024, hlm. 28845.

¹⁹ Kartini Kartono, *Patologi Sosial*, (Jakarta: Raja Grafindo Persada, 199), hlm. 122.

that "The number of cases of crimes against children is quite high in Pekanbaru City, especially physical violence against children. Physical violence is identified by people and is legally known as abuse. This is also based on the characteristics of the form of the crime which is almost the same."²⁰ According to Article 3 of Law Number 35 of 2014 concerning Child Protection, it states that "child protection aims to ensure that children's rights are fulfilled so that they can live, grow, develop and participate optimally in accordance with human dignity and honor, and receive protection from violence and discrimination, in order to realize Indonesian children who are of high quality, have noble morals and are prosperous."²¹

Article 1 number 15a of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, "Child violence is any act against a child that results in physical, psychological, sexual misery or suffering, and/or neglect, including threats to commit acts, coercion, or unlawful deprivation of liberty." Child violence referred to by the Head of the Criminal Investigation Unit of the Pekanbaru City Police, in this case represented by the Deputy Head of the Criminal Investigation Unit of the Pekanbaru City Police as violence committed by parents against their children is domestic violence.

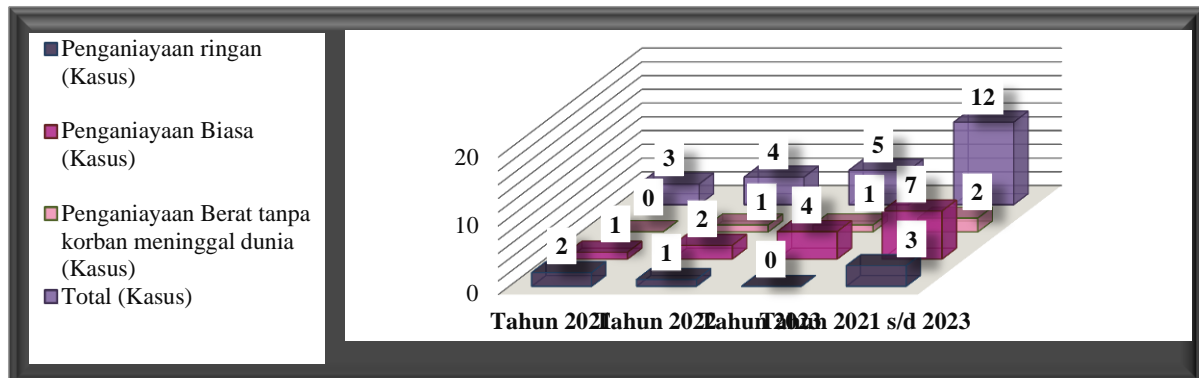
According to Article 1 number 4 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, that: "Parents are biological fathers and/or mothers, or fathers and/or stepmothers, or adoptive fathers and/or mothers," where based on observations made by the author, it is known that physical violence/abuse against children in the jurisdiction of the Pekanbaru City Police Resort is actually carried out by their parents in several cases.

Based on the results of the author's interview with the Investigator of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, it is known that many cases of physical violence/abuse against children committed by their parents occurred in 2021 to 2023, as the author presents in the form of a graph below:

²⁰ Author's Interview with the Head of the Criminal Investigation Unit of the Pekanbaru City Police Resort, in this case represented by Mr. AKP Markus Timbul Sinaga, S.H., M.H, as Deputy Head of the Criminal Investigation Unit of the Pekanbaru City Police Resort, on Friday, December 6, 2024, at 09.00 WIB, at the Pekanbaru City Police Resort Headquarters.

²¹ Syahrin, M. A. (2023). Critical Study Of Criminal Sanctions For Child Neglect By Parents In Indonesia. *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum*, 10(2), 95-105. <https://doi.org/10.24252/jurisprudentie.v10i2.42289.hlm.100>

Chart 1
Number of Cases of Physical Violence/ Abuse Against Children Committed by Their Parents in the Jurisdiction of the Pekanbaru City Police Department in 2021 to 2023



Source: Pekanbaru City Police, processed in 2024.

Graph of the Number of Cases of Physical Violence/ Abuse Against Children Committed by Their Parents in the Jurisdiction of the Pekanbaru City Police Resort in 2021 to 2023, based on the results of the author's interview with the Investigator of the Women and Children Protection Unit of the Pekanbaru City Police Resort Criminal Investigation Unit, which can be explained as follows:²²

1. The total number of cases of abuse/physical violence against children committed by their parents from 2021 to 2023 is 12 cases, with the following case breakdown per year:
 - a. 3 cases in 2021
 - b. 4 cases in 2022
 - c. 5 cases in 2023
2. Based on the category of abuse/physical violence, the total number of cases of abuse/physical violence against children committed by their parents from 2021 to 2023 is as follows:
 - a. Minor abuse from 2021 to 2023 was 3 cases, with the following case breakdown per year:
 - 1) 2021 was 2 cases
 - 2) 1 case in 2022
 - b. Ordinary abuse from 2021 to 2023 was 7 cases, with the following case breakdown per year:
 - 1) 1 case in 2021
 - 2) In 2022, there were 2 cases
 - 3) In 2023, there were 4 cases
 - c. Serious abuse without fatalities in 2021 to 2023, there were 2 cases, with the details of cases per year as follows:
 - 1) In 2023, there was 1 case

²² Author's Interview with Mr. AIPTU Rinto Tarihoran, S. Psi as Investigator of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, on Thursday, December 12, 2024, at 11.10 WIB, at the Pekanbaru City Police Headquarters.

2) In 2022, there was 1 case

Regarding the characteristics of the classification of criminal acts of physical violence/abuse against children by their parents in the categories/classifications of ordinary abuse, minor abuse and serious abuse, the author knows based on the results of the author's interview with the Head of the Women and Children Protection Unit of the Criminal Research Unit of the Pekanbaru City Police, as follows:²³

1. Minor abuse, is abuse that causes the victim to suffer minor injuries such as bruises, bleeding but does not prevent them from carrying out daily activities. Where in child crimes, minor abuse is not accompanied by certain circumstances.
2. Ordinary abuse, is abuse that causes the victim to suffer minor injuries such as bruises, bleeding but does not prevent them from carrying out daily activities. Where in child crimes, ordinary abuse in certain circumstances such as the perpetrator is the parent of the child who is the victim, then it cannot be imposed as minor abuse, but is classified as ordinary abuse.
3. Serious abuse, is abuse that causes serious injuries to the point that the victim is prevented from carrying out daily activities, causes disability to the victim and can even result in death for the victim.

In this study, the focus of the research conducted by the author is physical violence/ordinary abuse committed by parents against children in the jurisdiction of Pekanbaru City, where this criminal act is prohibited in Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection in conjunction with Article 5 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence in conjunction with Article 351 paragraph (1) of the Criminal Code in conjunction with Article 356 paragraph (1) of the Criminal Code, with the following article::

1. Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which states that: "Everyone is prohibited from placing, allowing, committing, ordering, or participating in committing Violence against Children."
2. Article 5 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, states "Everyone is prohibited from committing domestic violence against people within their household, by means of: physical violence."
3. Article 351 paragraph (1) of the Criminal Code states "Assault is punishable by a maximum imprisonment of two years and eight months or a maximum fine

²³ Author's Interview with Mrs. IPTU Mimi Wiraswarta, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, on Monday, December 9, 2024, at 09.50 WIB, at the Pekanbaru City Police Headquarters.

of four thousand five hundred rupiah." Then Article 356 paragraph (1) of the Criminal Code states "the punishment stipulated in articles 351, 353, 354 and 355 may be increased by one third if the perpetrator commits the crime against his/her mother, legal father, wife (husband) or child."

Based on observations made by the author, it is known that the handling of physical violence cases in the form of ordinary abuse, actually leaves problems that become obstacles to law enforcement in the jurisdiction of the Pekanbaru City Police Resort, with the non-application of criminal sanctions against the perpetrators. The results of these observations are reinforced by the results of the author's interview with the Head of the Women and Children Protection Unit of the Pekanbaru City Police Resort Criminal Investigation Unit, that: "The achievement of peace between the perpetrator and the victim in several cases based on public complaint reports actually has no positive impact, such as not providing a deterrent effect on the perpetrator, and even repeating it later. This certainly becomes an obstacle to the police's efforts to provide legal protection to children (victims) and an obstacle to law enforcement. While in several cases based on complaint reports that then failed to achieve peace between the perpetrator and the victim, it continued to the police report where in the police report stage, peace was attempted again and again failed to reach a peace agreement so that the case continued to the criminalization stage/next law enforcement process."²⁴

Implementation of sanctions for criminal acts of physical violence in the form of ordinary abuse committed by parents against their children by prioritizing restorative justice in the jurisdiction of the Pekanbaru City Police based on complaint reports.

Procedures for Applying Sanctions for Criminal Acts of Physical Violence in the Form of Ordinary Abuse Committed by Parents Against Children by Prioritizing Restorative Justice in Complaint Reports at the Pekanbaru City Police Resort, above based on the results of the author's interview with the Head of the Criminal Investigation Unit of the Pekanbaru City Police Resort, in this case represented by the Deputy Head of the Criminal Investigation Unit of the Pekanbaru City Police Resort, he can explain the following:²⁵

1. The occurrence of a child crime is known based on a public complaint report and can also be based on direct findings by members of the Pekanbaru City Police Resort;

²⁴ Author's Interview with Mrs. IPTU Mimi Wiraswarta, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, on Monday, December 9, 2024, at 09.50 WIB, at the Pekanbaru City Police Headquarters.

²⁵ Author's Interview with the Head of the Criminal Investigation Unit of the Pekanbaru City Police, in this case represented by Mr. AKP Markus Timbul Sinaga, S.H., M.H, as Deputy Head of the Criminal Investigation Unit of the Pekanbaru City Police, on Friday, December 6, 2024, at 09.00 WIB, at the Pekanbaru City Police Headquarters.

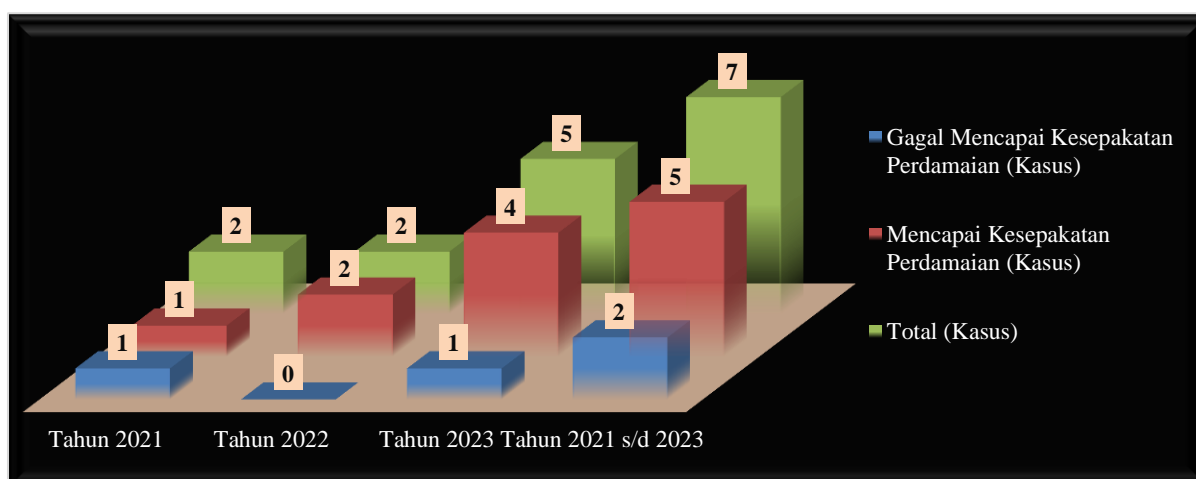
2. The settlement of the case is attempted through mediation before the issuance of a Police Report where the perpetrator, victim/family/other related parties in writing make a letter of application to the Pekanbaru City Police Resort. The letter of application must be accompanied by documents, namely a peace statement and evidence that the victim's rights have been restored;
3. Mediation is carried out by starting by inviting the conflicting parties by Bhabinkamtibmas or Sabhara of the Pekanbaru City Police Resort;
4. Bhabinkamtibmas or Sabhara Polres Pelalawan facilitate or mediate between the parties;
5. Bhabinkamtibmas or Sabhara of the Pekanbaru City Police Resort make a report on the results of the mediation implementation;
6. Recording in the Restorative Justice register book problem solving and termination of investigation.

The application of sanctions for the above criminal acts by prioritizing restorative justice based on the Police Report by the Pekanbaru City Police Resort based on the author's interview with the Head of the Women and Children Protection Unit of the Criminal Research Unit of the Pekanbaru City Police Resort.

Based on the results of the author's interview with the Head of the Women and Children Protection Unit of the Criminal Research Unit of the Pekanbaru City Police, according to him, the number of comparative cases in question is as presented by the author in the following graph.:

Chart 2

Comparison of the Number of Cases That Successfully Achieved Peace and Those That Failed to Achieve Peace in Physical Violent Crimes in the Form of Ordinary Abuse Committed by Parents Against Their Children in the Jurisdiction of the Pekanbaru City Police Department from 2021 to 2023



Source: Pekanbaru City Police, processed in 2024.

Comparative Chart of the Number of Cases that Successfully Achieved Peace and Those that Failed to Achieve Peace in Criminal Acts of Physical Violence in the Form of Ordinary Abuse Committed by Parents Against Their Children in the

Jurisdiction of the Pekanbaru City Police Resort from 2021 to 2023, above is based on the results of the author's interview with the Head of the Women and Children Protection Unit of the Pekanbaru City Police Resort Criminal Investigation Unit, he explained as follows:²⁶

1. The total number of cases in 2021 to 2023 is 7 cases, with the following details of the number of cases each year:
 - a. 2021, 2 cases
 - b. 2022, 2 cases
 - c. 2023, 5 cases
2. The total number of cases in 2021 to 2023 that successfully reached a peace agreement is 5 cases, with the following details of the number of cases each year:
 - a. 2021, 1 case
 - b. 2022, 2 cases
 - c. 2023, 3 cases
3. The total number of cases in 2021 to 2023 that failed to reach a peace agreement is 2 cases, with the following details of the number of cases each year:
 - a. 2021, 1 case
 - b. 2023, 1 case

Based on the results of the study as described by the author above, it is known that the application of sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police Resort based on Law Number 35 of 2014 concerning Child Protection has been implemented, but the results have not been optimal in 2021 to 2023, as evidenced by the fact that several perpetrators were not prosecuted because there was peace between the perpetrators and the victims.

Obstacles in the Implementation of Sanctions for Perpetrators of Criminal Acts of Physical Violence Against Children Committed by Parents in the Jurisdiction of the Pekanbaru City Police Resort Based on Law Number 35 of 2014 concerning Child Protection

Based on the results of observations conducted by the author in the research of this thesis, it is known that the obstacles in the application of sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police Resort based on Law Number 35 of 2014 concerning Child Protection, are community factors, namely "peace agreements that occur between the perpetrator and the victim."

²⁶ Author's Interview with Mrs. IPTU Mimi Wiraswarta, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, on Monday, December 9, 2024, at 09.50 WIB, at the Pekanbaru City Police Headquarters.

Based on the results of the author's interview with the Head of the Criminal Investigation Unit of the Pekanbaru City Police, in this case represented by the Deputy Head of the Criminal Investigation Unit of the Pekanbaru City Police, it is known that the obstacles in implementing sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police based on Law Number 35 of 2014 concerning Child Protection, originate from community factors, namely "a sense of pity for children who are victims of neglect towards their parents so that peace occurs between the two."²⁷

Based on the results of the author's interview with the Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, it is known that the obstacles in implementing sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police based on Law Number 35 of 2014 concerning Child Protection, are as follows:²⁸

1. Law enforcement/government factors, namely the limited number of investigators from the Women and Children Protection Unit of the Riau Regional Police Criminal Investigation Unit, resulting in the resolution of cases taking quite a long time.
2. Community factors, namely:
 - a. The child's pity for his parents so that he forgives his parents' actions and the child tries to withdraw his report;
 - b. The perpetrator (the victim's parent) who is good at manipulating the situation so that the child (victim) feels sorry for him so that peace occurs between the two and the case is automatically stopped;
 - c. The perpetrator who finds it difficult to be honest when questioned and investigated by the police, resulting in a long time for the evidence to be fulfilled.

Based on the results of the author's interview with the Investigator of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, it is known that the obstacles in implementing sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police based on Law Number 35 of 2014 concerning Child Protection, are as follows:²⁹

²⁷Author's Interview with the Head of the Criminal Investigation Unit of the Pekanbaru City Police, in this case represented by Mr. AKP Markus Timbul Sinaga, S.H., M.H, as Deputy Head of the Criminal Investigation Unit of the Pekanbaru City Police, on Friday, December 6, 2024, at 09.00 WIB, at the Pekanbaru City Police Headquarters.

²⁸ Author's Interview with Mrs. IPTU Mimi Wiraswarta, SH as Head of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, on Monday, December 9, 2024, at 09.50 WIB, at the Pekanbaru City Police Headquarters.

²⁹Author's Interview with Mr. AIPTU Rinto Tarihoran, S. Psi as Investigator of the Women and Children Protection Unit, Criminal Investigation Unit, Pekanbaru City Police, on Thursday, December 12, 2024, at 11.10 WIB, at the Pekanbaru City Police Headquarters..

1. Law enforcement/government factors, namely:
 - a. Lack of cooperation with local government agencies, especially the Pekanbaru City Social Service, so that sometimes children (victims) are not accompanied by Child Social Workers, this has an impact on the fear of children (victims) to reveal the real incident;
 - b. Lack of cooperation with local government agencies, especially the Pekanbaru City Social Service, also has an impact on the difficulty of obtaining Social Reports from Child Social Workers, even though if there is no peace between the perpetrator and the victim, then one of the requirements for the case to be P-21 is the existence of a Social Report;
 - c. Consideration of humanity that is not only seen by officers from the victim's side, but from the side of the perpetrator's other children if the perpetrator is imprisoned there is no one to take care of and support him.
2. Facilities/infrastructure factors, namely the minimal budget of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police Resort, while for the assessment and information gathering on children (victims) which are not only sufficient to be carried out at the police station but must also be carried out at the child's home (victim) and the environment where they live, it requires transportation support costs.
3. Community factors, namely the child (victim) seems to be intimidated by his parents who are the perpetrators of this crime so that the examination and investigation process takes quite a long time.

Based on the results of the author's interview with other investigators from the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, it is known that the obstacles in implementing sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police based on Law Number 35 of 2014 concerning Child Protection, are derived from community factors, namely "feelings of fear of children (victims) towards the perpetrators (parents of the victim), so that in the end there is peace between the two."³⁰

Based on the results of the author's interview with one of the children who was a victim of a crime of physical violence committed by his parents in the jurisdiction of the Pekanbaru City Police, it is known that the obstacles in implementing sanctions for perpetrators of crimes of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police based on Law Number 35 of 2014 concerning Child Protection, come from community factors, namely as follows:³¹

³⁰Author's Interview with Mr. BRIPTU Aldo Setiawan, SH as Investigator of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, Monday, December 9, 2024, 11.45 WIB, at the Pekanbaru City Police Headquarters.

³¹Author's Interview with YL, as a Child Who Became a Victim of Physical Violence by Her Parents in the Jurisdiction of the Pekanbaru City Police Resort in 2023, Interview Conducted on

1. The perpetrator promises not to repeat his actions so that the victim forgives the perpetrator;
2. The victim's fear that if the perpetrator is later imprisoned, he will hold a grudge against him.

Based on the results of the author's interview with one of the parents who committed a crime of physical violence against his child in the jurisdiction of the Pekanbaru City Police, it is known that the obstacles in implementing sanctions for perpetrators of criminal acts of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police based on Law Number 35 of 2014 concerning Child Protection, come from community factors, namely as follows:³²

1. There is peace between the perpetrator and the victim;
2. The victim's fear that no one will take care of their siblings at home if the perpetrator is imprisoned.

Based on the overall research results conducted by the author as described above, the author analyzes that the obstacles in implementing sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police Resort based on Law Number 35 of 2014 concerning Child Protection, are as follows:

1. Law enforcement/government factors, namely:
 - a. limited number of investigators from the Women and Children Protection Unit of the Riau Regional Police Criminal Investigation Unit has an impact on the resolution of cases that take quite a long time;
 - b. Lack of cooperation with local government agencies, especially the Pekanbaru City Social Service, so that sometimes children (victims) are not accompanied by Child Social Workers, this has an impact on the fear of children (victims) to reveal the real incident, this also has an impact on the difficulty of obtaining a Social Report from a Child Social Worker, even though if there is no peace between the perpetrator and the victim, then one of the requirements for a case to be P-21 is the existence of a Social Report;
 - c. Consideration of humanity that is not only seen by officers from the victim's side, but also from the side of the perpetrator's other children if the perpetrator is imprisoned, there is no one to take care of and support him.
2. Facilities/facilities factor, namely the budget of the Women and Children Protection Unit of the Criminal Investigation Unit of the Pekanbaru City Police, while for the assessment and information gathering on the child (victim) which is not only sufficient to be done in the police but must also be done at the child's

Thursday, December 12, 2024, at 11.20 WIB, at Her Home, Located at Jl. Teratai, Pulau Karomah Village, Sukajadi District, Pekanbaru City.

³²Author's Interview with AL, as a parent who committed a crime of physical violence against his child in the jurisdiction of the Pekanbaru City Police in 2023, the interview was conducted on Thursday, December 12, 2024, at 14.10 WIB, at his house, located at Jl. Teratai, Pulau Karomah Village, Sukajadi District, Pekanbaru City.

home (victim) and the environment where he lives, it requires transportation support costs.

3. Community factors, namely

- a. The child's pity for his parents so that he forgives his parents' actions and the child tries to withdraw his report;
- b. The perpetrator (the victim's parent) who is good at manipulating the situation so that the child (victim) feels sorry for him so that a peace agreement is reached between the two;
- c. The perpetrator who finds it difficult to be honest when being questioned and investigated by the police, which causes the length of time for the evidence to be fulfilled;
- d. the child (victim) seems intimidated by his parents who are the perpetrators in this crime so that the examination and investigation process takes quite a long time.

CONCLUSION

1. The application of sanctions for perpetrators of physical violence against children committed by parents in the jurisdiction of the Pekanbaru City Police based on Law Number 35 of 2014 concerning Child Protection has been implemented but the results have not been optimal in 2021 to 2023, as evidenced by several perpetrators not being prosecuted because there was peace between the perpetrators and the victims.
2. Obstacles in the application of these sanctions are First, the law enforcement/government factor, namely the limited number of police investigators so that handling takes a long time; lack of coordination and cooperation between the local police and child social workers of the Pekanbaru City Social Service in assisting victims and preparing social reports; Considerations of humanity seen by officers from the side of the victim and the side of the perpetrator's other children if the perpetrator is imprisoned, who will take care of and support them. Second, the facility/facility factor, namely the budget of the Pekanbaru City Police Criminal Investigation Unit is limited for assessment and gathering information on children (victims) where reaching the location requires transportation costs. Third, the community factor, namely the withdrawal of the report because the child feels sorry for his parents; The perpetrator (the victim's parents) who are good at manipulating the situation so that a peace agreement is reached; The perpetrator finds it difficult to be honest when questioned by the police, which causes the evidence to take a long time to be fulfilled; the child (victim) seems intimidated by the perpetrator so that the examination and investigation process takes a long time.

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