

Legal Protection of Children as Victims of Domestic Violence

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ABSTRACT

This study aims to discuss the legal basis for child protection as a victim of domestic violence (KDRT) and examine the legal protection policy by the state for children who are victims of domestic violence. A type of normative juridical research, which discusses certain legal phenomena and analyzes them based on laws regulations, and norms that live in society. The results of this study show that the legal regulation of children as victims of domestic violence is regulated in Law Number 35 of 2014 concerning Child Protection, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, and Law Number 11 of 2012 concerning the Child Criminal Justice System. Legal policies for children who are victims of domestic violence include: physical and psychological protection, legal assistance, social and psychological rehabilitation, as well as protection in the legal and judicial process. This protection not only ensures protection like a child but also comprehensive recovery or rehabilitation.

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INTRODUCTION

The background of the birth of Law Number: 23 of 2002 as amended into Law Number: 35 of 2014 concerning Child Protection is the obligation of the state to ensure the welfare of each citizen, including the protection of children's rights which is a Human Right as contained in the 1945 Constitution and the United Nations Convention on the Rights of the Child [1]. Domestic violence is a serious social problem and has a wide impact, not only for married couples but also for children involved in a family environment full of violence.

Domestic violence includes various forms of physical, psychological, sexual, and neglectful violence, which can cause deep trauma to children, both those who are directly victims and those who only witness the event. Based on data from the Ministry of Women's Empowerment and Child Protection (PPPA), 21,241 children were victims of violence in Indonesia in 2022. These various types of violence are not only physical, but also psychological, sexual, neglect, human trafficking, and exploitation [2].

Children are the most vulnerable group in the family with great potential to become victims of domestic violence. Most children who are exposed to domestic violence experience psychological, emotional, and behavioral disorders. Many of them experience anxiety, depression, and sleep disorders, and some even grow up to be individuals at risk of repeating these violent patterns in the future [3]. Therefore, legal protection for children as victims of domestic violence is very important to create a safe, healthy, and

conducive environment for their development [4].

Indonesian law has provided various instruments to protect children from violence, such as Law Number 23 of 2002 concerning Child Protection and Law Number 23 of 2004 concerning the Elimination of Domestic Violence. In addition, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System also provides special protection for children who are victims or witnesses in domestic violence cases, taking into account their rights not to be treated like adults in the legal process [5].

Although there are currently various regulations governing child protection, the implementation and implementation of legal protection still face various challenges. One of the main challenges is the lack of public awareness of children's rights in the context of domestic violence[6]. Many victims, especially children, do not know that they are entitled to legal protection, while on the other hand, the limited facilities and resources to handle domestic violence cases at the local and regional levels are also a significant obstacle in handling cases effectively [7].

Cultural barriers and social stigma often prevent children from reporting or seeking help. In some cultures, domestic violence is often considered a private family affair and not a matter that should be processed legally. This leads to a lack of reporting of violence, both by the child himself and by outsiders who know of domestic violence [8].

Support from various parties, both the government, non-governmental organizations, and the wider community, is needed to ensure that children who are victims of domestic violence get the protection they need and deserve [9]. Thus, the background of legal protection for children as victims of domestic violence includes the urgency to provide optimal protection to children, face various challenges in the application of the law, and ensure that every child who is a victim of violence can obtain their full rights, both in legal, psychological, and social aspects [10].

METHOD

The type of legal research carried out is normative juridical research or research that analyzes written law, jurisprudence, and norms that live in society. The approach is descriptive-analytical which aims to take data systematically, factually, and accurately on a problem based on applicable laws and regulations and legal norms. The data collection technique is carried out using library research, which is to obtain data by reviewing literature materials including primary and secondary legal materials [11].

RESULT AND DISCUSSION

Legal Basis for Child Protection as a Victim of Domestic Violence

The purpose of the law on child protection is to protect children from all forms of physical, emotional, social, and sexual violence, neglect, harmful acts, exploitation; economic, sexual, and discrimination due to their economic, political, religious, socio-cultural, and parental backgrounds so that children's rights to live, grow, develop, and participate optimally, receive protection from violence and discrimination to realize quality, moral and prosperous Indonesian children. Child protection is sought by everyone, whether parents, family, community, government, or state [12].

Indonesian legal instruments include several aspects that aim to protect children from violence and ensure that their rights are protected following applicable laws and regulations. Article 20 of Law Number 23 of 2002 as amended by Law Number 35 of 2014 states that local governments, communities, and parents or guardians are obliged and responsible for the implementation of child protection. Legal protection for children as victims of domestic violence in Indonesia includes various forms, which aim to maintain the physical and psychological well-being of children and ensure that their rights are protected [13]. This protection is provided by the state, related institutions, and the community through various legal mechanisms that have been regulated in laws and regulations. The basis for legal protection for children who are victims of domestic violence includes [14]:

Law Number 35 of 2014 concerning Child Protection

Article 59 stipulates that children who are victims of violence have the right to receive protection from the state and society. In addition, Articles 80-83 mentioned acts of violence against children both in the household and outside the household that result in physical or mental harm to children. This law also regulates the mechanism of legal recovery and protection for children victims of violence.

Law Number 23 of 2004 concerning the Elimination of Domestic Violence (KDRT)

Article 1 point 2 is Domestic violence can include physical, psychological, sexual, or neglect of family members, including children. Article 4 states that the state is obliged to protect victims of domestic violence, including children. In addition, Article 8 also regulates the right of victims to receive protection, medical assistance, and legal assistance.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

Article 1 point 2 states that children who are victims or witnesses in criminal cases, including cases of domestic violence, are entitled to protection. In this case, juvenile justice focuses on the recovery and welfare of children involved in criminal cases, either as victims, witnesses, or perpetrators. Juvenile justice prioritizes the best interests of children.

Government Regulation (PP) Number 4 of 2006 concerning the Implementation of the Child Protection Law

This regulation further regulates the rights to protection for children, including the rights of children who are victims of domestic violence. The government, through various institutions, must ensure the protection and recovery of children

Legal Protection Policy for Children Who Are Victims of Domestic Violence

The implementation of the protection of children as victims of domestic violence has many challenges. Although there is a concrete legal framework for child protection in domestic violence, there are still several challenges or obstacles, including:

- a. Lack of Understanding, many parents or children do not understand their rights or have difficulty accessing legal protection and aid services;
- b. Social Stigma, Children who engage in domestic violence often face social stigma, which can affect their recovery process;
- c. Limited Services and Facilities, in some areas child protection facilities, such as safe houses, psychological rehabilitation institutions, and legal aid institutions, are still limited [15].

In overcoming these challenges and obstacles, an effective policy formulation is needed in efforts to protect children as victims of domestic violence, including:

- a. Physical Protection and Security is Temporary Protection

Children who are victims of domestic violence deserve immediate physical protection to ensure their safety. For example, they can be placed in safe houses or shelters provided by the government or non-governmental organizations (NGOs) for children whose safety is at risk. This protection is carried out to prevent children from returning to dangerous environments. As well as protection by officers such as the Police who play a role in securing children from the potential for further violence, including detaining the perpetrators of violence if necessary [16].

- b. Legal Aid

Children of domestic violence victims have the right to legal assistance, either directly through a legal representative or through a legal aid institution provided by the state. The state guarantees access to free legal aid for children who are victims. In addition to legal assistance, victims' children are also entitled to psychological assistance or counseling to help recover from trauma due to the violence experienced. Child protection institutions or psychologists have an important role in providing emotional and mental support to children victims of domestic violence [12].

- c. Reporting and Legal Process Protection

In the process of investigation and examination, children victims of domestic violence must be protected from situations that can add to their psychological distress. The examination is carried out by investigators who are trained in handling cases of violence against children without adding to the burden of trauma on the child. Putting the best interests of the child first. In every legal process involving child victims of domestic violence, the principle of the best interests of the child must be the main reference. Legal proceedings are carried out by paying attention to the physical and psychological condition of the child, as well as avoiding processes that can reveal further trauma [17].

- d. Legal Protection in the Judicial System

In the criminal justice system, children of domestic violence victims are often protected by judicial mechanisms that specifically handle cases involving children. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System provides provisions on how children as victims or witnesses of violence cases should be treated, with principles that minimize trauma and stigma against children. When the perpetrator of domestic violence is a family member, for example, a parent or a married couple, the law can impose severe criminal sanctions on the perpetrator, as well as provide rehabilitation or recovery efforts for child victims [18].

- e. Rehabilitation

Children of domestic violence victims are entitled to social and psychological rehabilitation aimed at restoring their mental and emotional state. This rehabilitation can include psychological therapy, counseling, and education to help children return to living a normal life. Children who are victims of domestic violence also have the right to education and social access that can help them overcome the impact of violence and develop their potential. The state is obliged to ensure that children continue to get their right to education, even in traumatic conditions [19].

f. Reporting and Monitoring by Child Protection Agencies

The Child Protection Agency (LPA) and other social organizations play an important role in monitoring cases of violence against children. LPA also functions as a mediator between the victim's child and law enforcement officials and can provide technical assistance to the victim. Monitoring by Komnas Perlindungan Anak (Komnas PA) in monitoring the implementation of child protection throughout Indonesia and providing recommendations for improving the child protection system [20].

Children who experience domestic violence are often in very vulnerable situations, both physically, emotionally, and psychologically. Legal Protection Measures for Children as Victims of Domestic Violence. Some steps that can be taken to protect children who are victims of domestic violence include [21]:

- a. Early intervention of children who are at risk or have experienced domestic violence through reports from authorities, the community, or educational institutions. Early detection is very important so that children immediately get the help they need;
- b. Providing shelters for children in situations of violence. This place can be a temporary safe place for children to stay away from violence and get legal and psychological help;
- c. Psychological assistance that children who are victims of domestic violence need psychological assistance to overcome the trauma experienced and rebuild their confidence;
- d. Education and rehabilitation: Providing education to children about their rights and how to protect themselves, as well as providing social rehabilitation to help children adapt to a healthier life after coming out of a violent situation.

CONCLUSION

Legal arrangements related to children as victims of domestic violence in Indonesia focus on protection, recovery, and assistance. Through various laws, children who are victims of domestic violence are entitled to legal protection, medical assistance, and psychological rehabilitation. However, challenges in implementation still exist and require further attention from the government and the community. The forms of legal protection provided to children as victims of domestic violence in Indonesia include various measures involving physical protection, legal assistance, social and psychological rehabilitation, as well as protection in legal and judicial processes. All of these forms of protection aim to ensure that children who are victims of domestic violence are not only protected from further violence but are also given the opportunity for comprehensive recovery.

Despite various challenges in implementation, the Indonesian legal system continues to strive to strengthen the protection of children who are victims of domestic violence. The protection of abandoned children victims of domestic violence is a shared responsibility between the government, social institutions, families, and communities. To create a safe and supportive environment for children, there needs to be strict law enforcement against perpetrators of violence as well as effective recovery and protection for children victims of domestic violence. Understanding children's rights, community involvement, and support for victims' families are important keys to dealing with this problem.

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