

Advocacy and Legal Assistance for Child Victims of Sexual Violence

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ABSTRACT

Children as a vulnerable group require special protection, especially when they become victims of sexual violence. In practice, child victims often experience various obstacles in obtaining justice, including limited access to legal aid, psychological trauma, and suboptimal assistance during the criminal justice process. This study aims to analyze the forms of advocacy and legal assistance provided to child victims of sexual violence, the role of law enforcement agencies and child protection agencies in providing legal protection, and the obstacles encountered in its implementation. This study uses a normative legal research method with a legislative and conceptual approach. The results show that advocacy and legal assistance for child victims of sexual violence include legal assistance, protection of the victim's identity, psychological recovery, and fulfillment of the victim's rights during the judicial process. The role of institutions such as law enforcement officers, legal aid agencies, and child protection agencies is crucial in ensuring the comprehensive fulfillment of the rights of child victims.

Keywords:

Legal Advocacy,
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INTRODUCTION

In essence, children are an integral part of human survival and the survival of the nation and state, and these aspects cannot be separated. According to the Indonesian constitution, children play a crucial and strategic role, explicitly stating that the state will guarantee every child's right to survival, growth, and development, as well as protection against discrimination and violence.

Moral offenses and sexual harassment are two forms of violation of morality that are not only a national legal issue for a country, but also a global issue for all countries worldwide. Perpetrators of sexual violence are not predominantly from the middle or lower economic classes, let alone those with little or no education. Rather, perpetrators penetrate all social strata, from the lowest to the highest.

Various sensitive issues affect the lives of women and children, including sexual violence and sexual harassment. Sexual harassment and exploitation of both adult women and children are common, perpetrated by people known to the victims. Sexual violence can occur within families, offices, companies, or any other place that provides opportunities for people of the opposite sex to communicate with each other (Santoso, 2019).

The phenomenon of sexual violence has been increasing annually, with victims not only adult women but also children. The majority of perpetrators of sexual violence are those closest to the victim, including those within the family, school, and social environment. Women and children are particularly vulnerable to sexual violence because they are often viewed as weak and highly dependent on the adults closest to them (Iskandar et al., 2022).

The Ministry of Women's Empowerment and Child Protection reported 5,561 cases of sexual violence against women between January and March 2023. Of these, 5,023 cases were recorded, with domestic violence accounting for 58.1%.

According to End Child Prostitution in Asia Tourism, sexual violence against children is a relationship or interaction between a child and an older person or adult where the child is used as an object to satisfy the perpetrator's sexual needs. This includes not only sexual intercourse but also any act leading to sexual activity against a child. This includes any form of sexual penetration, including oral penetration of a child using an object or body part, forcing or forcing a child to engage in sexual intercourse, intentionally engaging in sexual activity in front of a child or failing to protect or prevent a child from witnessing sexual activity by others, creating, distributing, and displaying images or films containing indecent images, and showing children images, photographs, or films depicting sexual scenes (Darmawan et al., 2019).

Sexual violence cases are difficult to solve. Even when cases are identified, the investigation and prosecution process often lags significantly. If this continues and is left unchecked, it will inevitably have negative effects on the child victims, both short-term and long-term. Clearly observable symptoms include stress and significant, pathological changes in behavior (Agustini et al., 2021).

The increasing number of sexual violence cases requires protection for victims to fulfill all their rights and needs, as well as serious handling by various parties. Efforts to address violence against women and children continue to be carried out by both formal institutions such as the government and informal institutions such as non-governmental organizations (NGOs) and other community organizations. However, the problem is the gap between the provisions stipulated in the law and the reality that occurs in society. Factors and obstacles in the process of enforcing the law on violence against women and children are caused by two factors: the absence of public reports that will hamper the effectiveness of the law enforcement process. If public reports are not fully resolved by law enforcement officials, it will lead to public distrust in the law enforcement process.

A very important effort in protecting and enforcing the law against victims of sexual violence is by strengthening legal factors, law enforcement, means and facilities that support law enforcement, community factors and cultural factors (Iskandar et al., 2022).

METHOD

This research will utilize a normative legal approach whereby the analysis will entail both statute and conceptual approaches. Under the statute approach, the analysis will entail looking at laws and regulations that relate to protecting child victims of sexual offenses, such as legal aid, children's protection rights, and victim protection rights. On the other hand, the conceptual approach will be useful for analyzing legal doctrines, principles, and theories relating to advocacy and legal assistance. Secondary data are applied in this study; namely, primary legal sources such as legislation, secondary legal sources like books, articles, and legal writings, and tertiary legal sources like legal dictionaries and encyclopedias. The data collection process employs literature review and analysis that follows qualitative methods.

RESULTS AND DISCUSSION

Advocacy for Child Victims of Sexual Violence

While children and adults are fundamentally equal before the law, the law also places children in a special position. This means that the legal provisions applicable to children are different from those applicable to adults, and at least there are special guarantees for children in court proceedings.

Child victims of sexual violence are a highly vulnerable group and require special protection within the criminal justice system. This protection extends beyond law enforcement against perpetrators to the fulfillment of children's rights as victims. Therefore, advocacy and legal aid are crucial instruments in ensuring that child victims receive optimal protection and justice.

The special status of children in the eyes of the law is based on the consideration that children are human beings with all their biological and psychological limitations who are not yet able to fight for all their rights. Furthermore, it is also because the future of the nation depends on the future of children as the next generation. Therefore, children as subjects of state law must be protected, cared for and nurtured for the sake of the child's own welfare. In this case, it is inseparable from the principle that: "children cannot fight alone. Children with all their inherent limitations are not yet able to protect their own rights."

Advocacy for child victims of sexual violence is carried out through various forms of assistance, including legal assistance during the investigation, prosecution, and trial process. This assistance aims to ensure that the rights of child victims remain protected and prevent re-victimization during the legal process. Furthermore, advocacy also includes efforts to protect the victim's identity, provide clear information regarding the legal process, and ensure that child victims receive adequate recovery services.

The police, as the first agency to receive a report, play a strategic role in providing initial protection to victims. The investigation of child victims must be conducted sensitively and take into account their psychological well-being to avoid further trauma. Furthermore, the public prosecutor is responsible for ensuring that the prosecution process is conducted optimally so that the perpetrator can be held legally accountable.

In addition to law enforcement officials, child protection agencies and legal aid institutions also play a crucial role in providing support to child victims. These institutions provide psychological support, counseling, and rehabilitation, as well as ensuring that victims' rights are upheld throughout the legal process. Synergy between law enforcement officials and child protection agencies is essential to ensure comprehensive and recovery-oriented handling of child sexual violence cases (Shilfa & Panjaitan, 2023).

Advocacy institutions have several crucial roles: first, child protection policies, which include assisting victims of sexual violence and encouraging local governments to develop regional regulations to ensure the fulfillment of children's rights. Second, child support includes:

- a. Direct assistance and indirect protection for children who are facing and involved in the law
- b. Provide counseling and health services for children and women who are victims of violence.

Counseling is a common strategy used by the government, lawyers, and non-governmental organizations to resolve cases faced by members of the community. Counseling for victims of sexual violence is based on Regulation of the Minister of State for Women's Empowerment and Child Protection of the Republic of Indonesia Number 02 of 2011, Chapter IV, concerning Mechanisms for Handling Child Victims of Violence. Counseling by advocacy organizations is litigation counseling or legal protection, namely:

- a. Based on Law Number 23 of 2002 concerning Child Protection, Article 17 paragraph 2 states that every child who is a victim or perpetrator of sexual violence or who is in conflict with the law has the right to confidentiality. Therefore, child victims of sexual violence caught in raids can be protected from publicizing their identities.
- b. Based on Article 18 of Law No. 23 of 2002 concerning Child Protection, it is stated that every child who is a victim or perpetrator of a crime has the right to receive legal aid and other assistance.
- c. The non-litigation assistance provided is:
- d. Physical protection, namely by referring the victim to the Integrated Service Unit for Handling Victims of Violence (UPT PKTK)
- e. Placing children in safe homes is a form of collaboration between advocacy organizations and the Department of Social Services. Safe homes are tailored to the victim's needs. If the victim is deemed unsafe to remain in their environment, they are referred to a safe home.
- f. Psychological Protection, namely in the form of providing psychological and sociological counseling, psychological therapy is carried out to minimize psychological disorders that arise due to violence experienced by children when carrying out their profession, while sociological therapy aims to help children eliminate feelings of shame due to the negative stigma they receive from their environment.

After counseling, the next step is coaching. This coaching takes the form of educational services. This is because, although many child victims of sexual violence express frustration and mental retardation with their current circumstances, they still hold hope for change in themselves and their circumstances. If child victims of sexual violence do not wish to continue their education, advocacy organizations offer a variety of skills training options (Mawarni et al., 2023).

The final process for victims of sexual violence is reintegration of the child into their family and community. Reintegration of the child into a family that is unaware of their sexual violence involves strengthening the family's supervision and responsibility for the child. A different approach is taken if the child is a victim of their own parents. Support is provided by finding alternatives for the child to access institutions that can serve as permanent housing (Lubis, 2017).

Advocacy organizations face several obstacles and challenges in handling cases of sexual violence against children. These include the following:

- a. Obstacles due to funds, where this is due to the economic condition of the client or victim who is unable to afford it, causing the advocate handling the case to be willing not to receive service/transportation fees from the client, and he must even be willing to spend his own money to finance the case.

- b. The next obstacle that is often faced when advocacy institutions provide legal aid is the lack of coordination and support from other law enforcement officials such as the police and local non-governmental organizations (NGOs). This can slow down the process of providing protection to children who are victims.
- c. The next obstacle is that people know that a case of sexual violence has occurred, but they do not have the courage and are afraid to make a report or complaint about it to the authorities, whether to the police, legal institutions or local non-governmental organizations.
- d. Another obstacle is the strong sense of brotherhood and tolerance that the victim still has for the perpetrator, so that often cases of sexual violence are resolved amicably by both parties (Affandi & Marpaung, 2023).

CONCLUSION

Based on the discussion, it can be concluded that advocacy and legal assistance for child victims of sexual violence are essential components of efforts to fulfill victims' rights and provide legal protection for children. Advocacy and legal assistance are not limited to assistance during the criminal justice process but also encompass protection of the victim's identity, psychological support, trauma recovery, and the comprehensive fulfillment of children's rights in accordance with applicable laws and regulations.

The role of law enforcement officials, legal aid institutions, and child protection agencies is crucial in ensuring that the rights of child victims are effectively and fairly fulfilled. Synergy between these institutions is necessary so that the case handling process focuses not only on imposing sanctions on perpetrators, but also on protecting, restoring, and rehabilitating victims.

The role of advocacy institutions in providing legal protection for children as victims of sexual violence is provided in the form of assistance, monitoring and advocacy up to the final level. Many obstacles faced by advocacy institutions in providing protection for children who are victims of sexual violence, including the slowness of complaints and reports made to legal protection institutions or advocacy institutions, so that often the provision of protection is carried out after the child has experienced severe trauma. Obstacles due to funds, where this is due to the economic conditions of the client or the victim who is unable to cause the advocate handling the case to be willing to not receive service/transport fees from the client, even he must be willing to also spend his own money to finance the case.

However, advocacy and legal assistance for child victims of sexual violence still face various obstacles, such as limited resources, lack of coordination between institutions, and low public awareness of the importance of protecting child victims. Therefore, strengthening the child protection system is necessary by increasing the capacity of relevant institutions, optimizing inter-institutional coordination, and strengthening policies and programs that prioritize the best interests of children.

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