

Criminal Liability for Perpetrators Forcing Children into Indecent Acts: A Case Study within the Jurisdiction of Central Bengkulu Police

Eka Ameva Oktiani¹, Ahmad Dasan², Mikho Ardinata³, Rangga Jayanuarto⁴, Hendi Sastra Putra⁵

¹ Student of Universitas Muhammadiyah Bengkulu, Indonesia

^{2,3,4,5} College of Universitas Muhammadiyah Bengkulu, Indonesia

email: eka_ameva11@gmail.com

ARTICLE INFO

Keywords:
Criminal, Molestation,
Terror

DOI. 10.36085/jsi.v3i1.8933

ABSTRACT

This research examines the issue of criminal liability for perpetrators who force children to commit indecent acts, with a case study in the jurisdiction of the Central Bengkulu Police. The study was triggered by cases reported in 2023, including one involving a perpetrator suffering from thyroid disease. Employing an empirical legal research method with a descriptive approach, this study aims to analyze the legal responsibility of offenders as well as the underlying factors contributing to child molestation. The findings reveal that criminal liability is grounded in the principle of *lex specialis derogat legi generali*, where special legislation overrides general provisions. Accordingly, such acts fall under Law No. 17 of 2016 (amendment of Law No. 23 of 2002 on Child Protection), particularly Article 82, which prescribes sanctions for sexual exploitation of minors. Furthermore, several factors were identified as contributors to child molestation, including the perpetrator's age, lack of education, economic hardship, negative environmental influences, inadequate religious education, social surroundings, and rapid technological developments. This study underscores the urgency of strengthening child protection mechanisms and addressing socio-economic and cultural determinants to prevent similar crimes in the future.

INTRODUCTION

Indonesia is a country that upholds the principles of law as the foundation of national life. Law serves as the authority that regulates behavior, enforces order, and imposes strict sanctions on those who commit violations. Crime, as a form of deviant human behavior, poses significant harm to society because it threatens the social norms that underpin order and harmony. Such acts not only cause individual suffering but also trigger broader social tensions that can destabilize communities. Within this framework, crimes against morality (*misdrijven tegen de zeden*) occupy a critical position due to their serious implications for both individuals and society¹.

Crimes against morality are among the most concerning forms of criminal behavior, often attracting considerable public attention. Reports of rape, molestation, and other sexual offenses are frequently highlighted in electronic and print media, demonstrating their prevalence and severity. Under the Indonesian Criminal Code (KUHP), molestation is categorized as a crime against morality. The law recognizes its damaging nature, particularly because it violates fundamental human rights, undermines human dignity, and can inflict deep psychological trauma on victims. These impacts often extend beyond the individual, affecting families and communities at large².

Molestation, in legal terms, refers to acts of indecency in the sexual sphere, such as inappropriately touching another person's genitals in public in a manner intended to cause sexual arousal. Such acts are not only morally reprehensible but also criminally punishable. The harm caused by molestation can be both immediate and long-lasting, influencing victims' mental well-being, emotional stability, and sense of security. In cases involving children, the consequences are particularly severe, as these acts can disrupt a child's development and leave lasting psychological scars³.

One illustrative case occurred in 2023, where six incidents of indecent acts were reported, including one involving a child victim and a perpetrator suffering from thyroid disease. The involvement of individuals with certain medical conditions adds complexity to legal proceedings, especially when considering aspects of intent, capacity, and rehabilitation. Nevertheless, the existence of such conditions cannot be used as a justification for committing acts that infringe upon the rights and dignity of others. The law must remain firm in protecting victims, particularly those who are most vulnerable⁴.

Thyroid disease itself is a medical condition resulting from dysfunction in the thyroid gland, which plays a crucial role in regulating hormonal balance in the body. This dysfunction may cause the gland to produce hormones at excessively high (hyperthyroidism) or low (hypothyroidism) levels, potentially affecting mood, behavior, and physical health. While such conditions can influence a person's psychological state, they do not diminish the seriousness of crimes committed against others. Therefore, legal enforcement, combined

¹ Sari, N. P., & Putra, I. G. A. N. (2021). Analisis yuridis tindak pidana kesusilaan di Indonesia: Perspektif KUHP dan perlindungan korban. *Jurnal Hukum Pidana dan Kriminologi*, 15(2), 101-115. <https://doi.org/10.31289/jhpk.v15i2.5472>

² Dewi, M. K., & Ramadhan, A. (2020). Dampak sosial tindak pidana kesusilaan terhadap masyarakat di Indonesia. *Jurnal Kriminologi Indonesia*, 12(1), 23-38. <https://doi.org/10.22219/jki.v12i1.3245>

³ Putri, S. A., & Handayani, S. (2022). Perlindungan hukum terhadap korban pelecehan seksual anak di Indonesia. *Jurnal Hukum dan HAM*, 13(1), 45-60. DOI: <https://doi.org/10.22219/jhh.v13i1.6789>

⁴ Fauziyah, N., & Hadi, S. (2023). *Aspek hukum dan psikologis dalam penanganan pelaku tindak pidana dengan gangguan kesehatan mental*. *Jurnal Hukum dan Kesehatan*, 8(1), 34-49. DOI: <https://doi.org/10.22219/jhk.v8i1.7890>

with medical assessment and treatment when necessary, is essential to ensure justice for victims while addressing the broader context in which the crime occurs.

METHOD

The type of research used by researchers is empirical juridical research which is descriptive in nature⁵. Primary data is data obtained directly from the results of field studies by conducting source interviews. Secondary data : binding legal materials included in the legal sources of law enforcement against criminal offenses regarding the transfer of funds., secondary legal materials that provide explanations regarding primary legal materials. And tertiary legal materials. Data collection technique: observation, interview dan documentation. Data analysis technique selecting provisions that contain legal rules governing legal regulatory issues related to research, namely on law enforcement of criminal acts of misuse of fund transfers and material in the form of legal sources is analyzed inductively qualitative. In this study, researchers used an interaction analysis model, in which the data reduction and data presentation components were carried out in conjunction with the data collection process. Three stages in analyzing data, namely:

RESULT AND DISCUSSION

Criminal Responsibility of Perpetrators of Criminal Acts of Forcing Children to Commit Indecent Acts

Criminal responsibility for the crime of child molestation can be seen in the formulation of the crime of child molestation, which is clearly regulated in Article 82 paragraph (1) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. This provision serves as the basis for prosecution and sentencing of perpetrators of the crime of child molestation. However, if we pay attention to the above article, this article does not stand alone; the sanctions arising from the formulation of Article 82 paragraph (1) must be viewed as inseparable from Article 76E of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection⁶.

From the explanation of the article, it can be seen that the criminal responsibility for the crime of indecent assault by an adult perpetrator is in the form of imprisonment for a minimum of 5 years and a maximum of 15 years, and is subject to a maximum fine of five billion rupiah. According to Article 285 of the Criminal Code above, perpetrators of child molestation can be threatened with a maximum imprisonment of twelve years, but this article does not mention the category of victim or the age of the victim, only stating that the victim is a woman without age limits or classifications, meaning all age categories, including the elderly and children, can be categorized under this article. In cases of child molestation where the victim is a minor, it can be regulated under this article.

Crimes of child molestation often occur, and the problem is how the law enforces justice for perpetrators of child molestation who are punished with penalties that can be said to be incapable of changing the perpetrators' behavior for the better, causing victims to feel they

⁵ Burhan Bungin, *Pokok-Pokok Metode Penelitian Hukum Empiris Murni*, Penerbit Universitas Trisakti, Jakarta, 2009.

⁶ Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak

do not receive effective justice for the crimes committed against them, especially minors⁷.

In the law enforcement process (criminal justice) which is based on criminal law, the state through its organs has the right or authority to impose criminal penalties (*ius puniendi*). Here, if a crime occurs, the perpetrator will be prosecuted through the judicial process by imposing criminal sanctions. Victims of criminal acts and society are automatically represented by the state by trying and imposing penalties commensurate with the defendant's actions.

Factors Causing Child Abuse in the Jurisdiction of the Central Bengkulu Police

The factors that cause the occurrence of criminal acts of child molestation in the jurisdiction of the Central Bengkulu Police are as follows:

1. **Age Factor of the Perpetrator**
The results of the study show that one of the factors that influences the criminal responsibility of perpetrators of sexual abuse is the age factor. The age factor referred to here is the legal consequences that will be imposed by each judge in examining cases of sexual abuse against children will be clearly different both in terms of treatment and the length of imprisonment.
2. **Factor of Fulfillment of Victim's Rights by the Perpetrator**
Factors that influence criminal responsibility by perpetrators of immoral crimes based on research results show that there are efforts to fulfill the rights of victims by the perpetrators and the perpetrators' families in a familial manner, but of course these efforts do not eliminate the ongoing legal process, this clearly also has an influence on the criminal responsibility of the perpetrators, but this is generally only done limited to perpetrators of sexual abuse who are also still classified as children. The principle of restorative justice or alternative dispute resolution as a solution to problems in the juvenile criminal justice system. However, this has not been dominant in efforts to accommodate the interests of the perpetrators, but rather more dominant in the interests and protection of the rights of victims, and seeking better solutions for both parties.
3. **Environmental influence factors**
The social environment in which a person lives has a great influence in shaping criminal behavior, because the influence of a person's socialization will not be separated from the influence of the environment. The influence in the surrounding community environment sometimes often violates the prevailing norms such as groups or hangouts that often behave impolitely such as disturbing women, drinking alcohol and so on.
4. **Low Education and Economic Factors**
A person's low level of formal education can have an impact on society, and the person concerned can easily be persuaded to commit a crime without considering the consequences of his actions. Because low levels of education are related to the level of the economy, where the economy is also one of the causes of someone committing acts that violate legal norms. As a result of low education, a person will also lack insight and understanding. Low economic factors and unemployment can also trigger criminal acts of child molestation against minors
5. **Environmental and Residential Factors**
The social environment where a person lives has a very large influence on the formation of criminal behavior, because the influence of a person's socialization cannot be

⁷ Putri, S. A., & Handayani, S. (2022). Perlindungan hukum terhadap korban pelecehan seksual anak di Indonesia. *Jurnal Hukum dan HAM*, 13(1), 45-60. DOI: <https://doi.org/10.22219/jhh.v13i1.6789>

separated from the influence of the environment, and perpetrators of sexual violence are triggered by environmental conditions dominated by children and adolescents. many of them. bring them minimal clothing, causing criminals and perpetrators of violence to give freedom to their sexual desires, and these children experience sexual abuse. Furthermore, other perpetrators commit indecent acts because they are influenced by their school friends to watch pornographic videos.

6. Factors of Lack of Religious Education

One of the reasons why perpetrators commit similar acts of sexual abuse against children is because of the lack of strong religious education during childhood and adolescence. Lack of religious education in a person can cause moral damage that can affect their behavior in society, potentially causing someone to commit acts that deviate from religious and societal norms.

7. Social Environment Factors

Basically, the social environment in society is the second place after the family environment for someone to form a personality. But in this social environment, it is not uncommon for someone to experience mistakes in socializing, for example, mistakes in choosing playmates and mistakes in absorbing information/social behavior. So that through the wrong social environment, someone can fall into deviant actions. The homosexual social environment can influence the perpetrator to commit the crime of sexual abuse of the same sex. This is because homosexual behavior in the social environment that is often seen by the perpetrator will unconsciously influence the behavior of the perpetrator himself to carry out deviant sexual behavior and tend to lead to homosexual sexual behavior.

8. Technological development factors

The development of technology certainly has an impact on life. This influence includes two sides, namely positive and negative influences. With increasingly advanced technology, everyone from various circles, from children to adults, can access all information through various media. These media include print media, such as magazines or reading materials, as well as electronic media such as the internet and films that contain pornographic elements. This pornography can influence the way to commit criminal acts of indecency, because pornography contains negative elements that can stimulate sexual desire and unhealthy thoughts in children

Conclusion

Criminal liability is the ability of a legal subject who has caused a criminal event and is threatened with criminal penalties. Criminal liability does not occur if a person does not commit a crime. Molestation is an immoral act that is very detrimental to society. The crime of child molestation is no longer subject to the articles in the Criminal Code but there is already a separate law that regulates it, namely Law Number 17 of 2016, the second amendment to Law Number 23 of 2002. where this is in accordance with the principle of *lex specialis derogat legi generalis*, which means that a special law overrides a general law. The regulation of sanctions related to the crime of child molestation has been regulated in Article 82 of the Child Protection Law which explains that anyone who intentionally, either by committing and trickery and seduction of a minor, namely those who are not yet 18 years old, can be punished to commit acts that are contrary to immorality and also the honor of the child.

BLIBLIOGRAPHY

- Burhan Bungin, *Pokok-Pokok Metode Penelitian Hukum Empiris Murni*, Penerbit Universitas Trisakti, Jakarta, 2009.
- Dewi, M. K., & Ramadhan, A. (2020). Dampak sosial tindak pidana kesusilaan terhadap masyarakat di Indonesia. *Jurnal Kriminologi Indonesia*, 12(1), 23-38. <https://doi.org/10.22219/jki.v12i1.3245>
- Fauziyah, N., & Hadi, S. (2023). *Aspek hukum dan psikologis dalam penanganan pelaku tindak pidana dengan gangguan kesehatan mental*. Jurnal Hukum dan Kesehatan, 8(1), 34-49. DOI: <https://doi.org/10.22219/jhk.v8i1.7890>
- Putri, S. A., & Handayani, S. (2022). Perlindungan hukum terhadap korban pelecehan seksual anak di Indonesia. *Jurnal Hukum dan HAM*, 13(1), 45-60. DOI: <https://doi.org/10.22219/jhh.v13i1.6789>
- Putri, S. A., & Handayani, S. (2022). Perlindungan hukum terhadap korban pelecehan seksual anak di Indonesia. *Jurnal Hukum dan HAM*, 13(1), 45-60. DOI: <https://doi.org/10.22219/jhh.v13i1.6789>
- Sari, N. P., & Putra, I. G. A. N. (2021). Analisis yuridis tindak pidana kesusilaan di Indonesia: Perspektif KUHP dan perlindungan korban. *Jurnal Hukum Pidana dan Kriminologi*, 15(2), 101-115. <https://doi.org/10.31289/jhpk.v15i2.5472>
- Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak