

The Role of the Police in Providing Legal Protection for Child Victims of Indecent Acts (Case Study of Natuna Regency)

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Abstract. *Protection of the life and livelihood of children is still the responsibility of various parties, namely both parents, their families, society, and also the state. This protection can be in the form of clothing, food, and shelter. Not only that, the protection given to a child can also be in the form of protection against the psychological or mental condition of the child, especially their mental development. This means that the child can develop and live normally, not only in terms of physical development but also in terms of mental or psychological development. Furthermore, protection against the form of protection is legal protection against victims of criminal acts, which can be interpreted as protection to obtain legal guarantees for the suffering or loss of the party who has become a victim of a criminal act. Philosophically, children are the future of the nation, and as the next generation of the struggle, a child who has problems means becoming a problem for the nation, therefore the best interests of the child are the interests that must be prioritized in dealing with children who have problems or who are in conflict with the law. Children must be protected so that they do not become victims of anyone's actions (individuals or groups, private or government organizations) either directly or indirectly. Victims are those who suffer losses (mental, physical, social), due to passive actions, or active actions of other people or groups (private or government), either directly or indirectly. The crime of indecent assault is not only regulated in the Criminal Code but also regulated in Law No. 23 of 2002 concerning Child Protection. The Criminal Code states that indecent assault is contained in Article 289 of the Criminal Code which states that: "Anyone who by violence or with the threat of violence forces someone to do or allow an act to be done to him shall be punished for his wrongdoing in committing an act violating decency with a maximum imprisonment of nine years."*

Keywords: *Child; Protection; Provividing; Victims.*

1. Introduction

Protection of the life and livelihood of children is still the responsibility of various parties, namely both parents, their families, society, and also the state. This protection can be in the

form of clothing, food, and shelter. Not only that, the protection given to a child can also be in the form of protection against the psychological or mental condition of the child, especially their mental development. This means that the child can develop and live normally, not only in terms of physical development but also in terms of mental or psychological development. Furthermore, protection against the form of protection is legal protection against victims of criminal acts, which can be interpreted as protection to obtain legal guarantees for the suffering or loss of the party who has become a victim of a criminal act. Philosophically, children are the future of the nation, and as the next generation of the struggle, a child who has problems means becoming a problem for the nation, therefore the best interests of the child are the interests that must be prioritized in dealing with children who have problems or who are in conflict with the law. Children as the younger generation are an effort to prepare and realize the future of the nation and state, but if children do not get enough attention from their closest environment, it is easy for them to do things that deviate from the legal norms that apply in society. Against people who violate the rules and cause harm to others, action will be taken in the form of compensation or fines, while for someone who commits a crime, criminal sanctions will be imposed in the form of corporal punishment, either imprisonment, detention or a fine.¹

Children must be protected so that they do not become victims of anyone's actions (individuals or groups, private or government organizations) either directly or indirectly. Victims are those who suffer losses (mental, physical, social), due to passive actions, or active actions of other people or groups (private or government), either directly or indirectly. In essence, children cannot protect themselves from various actions that cause mental, physical, social losses in various areas of life and livelihood. Children must be assisted by others in protecting themselves, considering their situation and condition. Children need protection so that they do not experience losses, whether mental, physical or social.² Basically, a crime or criminal act can happen to anyone and can be done by anyone, whether male, female, or child. Children are the next generation of the nation and the successor to development, namely the generation that is prepared as the subject of implementing sustainable development and the holder of control of the future of a country, including Indonesia. Protection of Indonesian children means protecting the potential of human resources and building the whole Indonesian people, towards a society that is existent and prosperous, spiritual material based on Pancasila and the 1945 Constitution.³

Discussions about children and their protection will never stop throughout the history of life, because children are the next generation of the nation and the successor to development, namely the generation that is prepared as the subject of the implementation of sustainable development and the holder of control of the future of a country. The Criminal Code (hereinafter abbreviated as KUHP), the definition of indecency can be found in Article 285 and Article 289. Article 285 states that anyone who with violence or threat of violence forces a woman who is not his wife to have sexual relations with him, is punished, for rape, with a maximum imprisonment of 12 (twelve) years. While in Article 289 of the Criminal Code it

¹Maidin Gultom, *Legal Protection for Children and Women*, (Bandung: PT Refika Aditama, 2018). Page 35

²Ibid. p.69

³Nashriana, *Criminal Law Protection for Indonesian Children* (Jakarta: Rajawali Pers, 2011). Page 1.

states that anyone who with violence or threat of violence forces someone to do or allow someone to do indecent acts to him, is punished for damaging decency with a maximum imprisonment of 9 (nine) years.⁴

The purpose of legal protection is to provide a sense of security for victims. A sense of security is being free from danger, free from disturbance, peaceful, not feeling afraid or worried about something.⁵ According to Retnowulan Sutianto (Retired Supreme Court Justice), child protection is a field of National Development. Protecting children is protecting humans and building humans as whole as possible. The essence of National Development is the development of Indonesian humans as whole with noble character. Ignoring the issue of child protection means not strengthening national development. The absence of child protection will cause various social problems that can disrupt law enforcement, order, security, and national development. Therefore, child protection must be pursued if we want to strive for satisfactory national development.⁶

The crime of indecent assault is not only regulated in the Criminal Code but also regulated in Law No. 23 of 2002 concerning Child Protection. The Criminal Code states that indecent assault is contained in Article 289 of the Criminal Code which states that: "Anyone who by violence or with the threat of violence forces someone to do or allow an act to be done to him shall be punished for his wrongdoing in committing an act violating decency with a maximum imprisonment of nine years."⁷ According to Article 1 number 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, a child is "a person who is not yet 18 (eighteen) years old and is even still in the womb".⁸ Children must be protected by law because it is regulated in Article 21 Paragraph (2) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, namely:⁹ Article 21 Paragraph (2). The Criminal Code (KUHP) actually regulates provisions regarding criminal sanctions against perpetrators of violent sexual abuse, but sexual abuse against children has been regulated through Law Number 35 of 2014 concerning Child Protection and a different judicial system than in general through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

2. Research Methods

This study uses an empirical legal approach. Empirical legal approach is a legal research conducted by first reviewing secondary data, namely applicable legal norms, then continuing

⁴Abintoro Prakoso, *Child Protection Law* (Yogyakarta: Presindo, 2016).

⁵*Ibid.*, p. 6

⁶Romli Atmasasmita, *Juvenile Justice in Indonesia*, Mandar Maju, Bandung, 2007, p. 55

⁷Criminal Code

⁸Article 1 number 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

⁹Article 21 Paragraph (2) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

with the collection of primary data through field research to determine the application of these norms in reality.¹⁰

3. Results and Discussion

3.1. Legal Protection for Child Victims of Indecent Acts in Natuna Regency

1. Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) states: "Every child has the right to survive, grow and develop and has the right to protection from violence and discrimination." This provision confirms the state's commitment to protecting children's rights, including from criminal acts of sexual abuse.
2. Law Number 17 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection.
 - a. This law regulates the protection of children from various forms of violence, including sexual. Some relevant articles include:¹¹
 - b. Article 76E: Everyone is prohibited from committing violence or threats of violence, fraud, trickery, or persuading a child to commit or allow indecent acts to be committed.¹²
 - c. Article 82 paragraph (1): Any person who violates the provisions in Article 76E shall be punished with imprisonment of at least 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah).
 - d. Article 82 paragraph (2): In the event that a criminal act is committed by a parent, guardian, child caretaker or educator, the penalty shall be increased by one third of the criminal threat as referred to in paragraph (1). This law also provides the victim with the right to receive restitution, rehabilitation and legal and psychological assistance during the legal process.

3. Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS)

The TPKS Law provides further protection for victims of sexual violence, including children. Some important provisions include:

- a. Article 4 paragraph (2) letter c: The state is obliged to provide protection to victims of sexual violence, including children.
- b. Article 23: Crimes of sexual violence cannot be resolved through mechanisms outside the judicial process.

This law also regulates legal and psychological assistance for victims as well as medical and social rehabilitation.

4. Criminal Code (KUHP)

Several articles in the Criminal Code that regulate criminal acts of child molestation include:

- a. Article 289: Anyone who uses violence or the threat of violence to force someone to commit an indecent act shall be subject to a maximum prison sentence of nine years.¹³
- b. Article 290: Anyone who commits an indecent act with someone who he knows or should reasonably suspect is underage, shall be punished by imprisonment for a maximum of seven years.

¹⁰ Soekanto, Soerjono. Introduction to Legal Research. Jakarta: UI Press, 1986.

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- c. Article 64 paragraph (1): If there is a connection between several acts, even though each is a crime or violation, such that they must be viewed as one continuing act, then only one criminal regulation may be imposed, and if different, the one imposed shall contain the most severe principal criminal threat.

3.1.1. Overview of Criminal Acts

1. Definition of Criminal Acts

Criminal acts are a term that contains a basic understanding in legal science as a term formed with awareness in giving certain characteristics to criminal law events. Criminal acts have an abstract meaning from concrete events in the field of criminal law, so that criminal acts must be given a scientific meaning and clearly determined to be able to separate it from the terms used everyday in community life.¹⁴

According to Prof. Moeljatno, a criminal act is "an act that is prohibited by a legal rule, the prohibition of which is accompanied by a threat (sanction) in the form of a certain penalty for anyone who violates the prohibition.

According to E. Utrecht, the definition of a criminal act is a criminal event which is often also called a crime, because the event is an act (*handelen or doen positief*) or an omission (*natalenne negatief*), or its consequences (conditions caused by the act or omission).

Criminal acts are a basic concept in criminal law, criminal acts are a legal concept, unlike the term act or crime which is interpreted legally or criminologically. Barda Nawawi Arief stated that "criminal acts in general can be interpreted as acts that are against the law both formally and materially".

According to Prof. Moeljatno, the elements of a criminal act are as follows:¹⁵

1. Actions.
2. Which is prohibited (by legal rules).
3. Criminal threats (for violating the prohibition).

According to R. Tresna, criminal acts consist of the following elements:

1. Action/series of actions;
2. Which is contrary to statutory regulations;
3. Punitive action was taken.

Although the formulation above looks different, in essence there is a similarity, namely not separating the elements regarding his actions or regarding other people. In criminal law, formal and material crimes are known. What is meant by formal crimes is crimes whose

¹⁴Kartonegoro, Criminal Law Lecture Guide, Student Lecture Center, Jakarta, 2010, p. 62

¹⁵Adami Chazawi, Op., cit., p. 79

formulation emphasizes actions that are prohibited and threatened with punishment by law. Here the formulation of the act is clear, for example Article 362 of the Criminal Code concerning theft. As for material crimes, they are crimes whose formulation emphasizes the consequences that are prohibited and threatened with punishment by law. In other words, only the formulation of the consequences of the act is mentioned, for example Article 338 of the Criminal Code concerning murder.

Criminal acts are divided into several types, namely as follows:¹⁶

1. Formal criminal acts (delicts) are criminal acts that have been committed and the act truly violates the provisions formulated in the relevant Article of the law. Example: Theft is an act in accordance with the formulation of Article 362 of the Criminal Code, namely taking someone else's property with the intention of possessing the goods unlawfully.
1. Material criminal acts (delicts) are prohibited criminal acts, namely the consequences arising from the act. Example: murder. In the case of murder, what is considered a crime is the death of a person as a result of someone's actions.
2. Criminal act (delik) dolus, is a criminal act that is done intentionally. Example: premeditated murder (Article 338 of the Criminal Code).
3. Criminal act (delict) culpa, is a criminal act that is not intentional, due to negligence resulting in injury or death of a person. Example: Article 359 of the Criminal Code concerning negligence or negligence.
4. A complaint offense is a criminal act that requires a complaint from another person. So, before there is a complaint, it is not yet a crime. Example : Article 284 concerning adultery or Article 310 concerning Insults.
5. Political crimes are crimes or criminal acts aimed at state security, either directly or indirectly. Example: Article 107 concerning rebellion against the overthrow of a legitimate government.

3.2. Police Implementation of Child Victims as a Criminal Act of Molestation in the Future in Natuna Regency

The police, especially through the Criminal Investigation Unit (Satreskrim) and the Women and Children Protection Unit (PPA), are tasked with receiving and following up on public reports regarding alleged child molestation crimes. They conduct investigations and inquiries to gather evidence and ensure the process. Natuna Resort Police (Polres), through the Criminal Investigation Unit (Satreskrim) and the Women and Children Protection Unit (PPA), have a central role in enforcing the law against child molestation cases. In several cases, Natuna Police have succeeded in uncovering and arresting perpetrators of criminal acts of molestation against minors.

¹⁶Yulies Tiena Masriani, Introduction to Indonesian Law, Sinar Grafika, Jakarta, 2004, p. 60

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In addition to law enforcement, the police also play a role in providing protection to victims. This is done through cooperation with related agencies, such as the Natuna Regency Women's Empowerment, Child Protection, Population Control and Family Planning Service (DP3AP2KB). This agency provides legal and psychological assistance to victims, especially those living on the buffer islands.¹⁷

Legal assistance aims to help children understand their rights and obligations as victims and to help them face the legal process. Meanwhile, psychological assistance helps children recover their mental condition so they can return to normal life, including going to school and socializing as usual.

The police also play a role in prevention efforts through educating the public about the dangers of child molestation and the importance of reporting such cases. Legal counseling and early age sexual education are preventive measures taken to increase public awareness. The police provide protection to victims by maintaining the confidentiality of their identities, providing assistance during the legal process, and ensuring that victims receive the necessary rehabilitation. This is important to minimize trauma and support the victim's psychological recovery.

In handling cases of child molestation, the police work together with various institutions, such as the Women's Empowerment and Child Protection Service (DP3A), to provide counseling services and social assistance to victims. In Natuna Regency, the local government provides counseling to child victims of violence directly to their homes, demonstrating synergy between the police and the local government.

In addition to law enforcement, the police also play a role in prevention efforts through educating the public about the dangers of child molestation and the importance of reporting such cases. Legal counseling and Early age sexual education is a preventive measure taken to increase public awareness.

Legal protection for child victims of sexual abuse in Indonesia is regulated in several laws and regulations, including:

- a. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.¹⁸
- b. Law Number 17 of 2016 regarding the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 into Law, which regulates the increased penalties for perpetrators of sexual crimes against children.
- c. Law Number 12 of 2022 on Criminal Acts of Sexual Violence, which provides more comprehensive protection for victims of sexual violence, including children.
- d. Law Number 31 of 2014 regarding Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, which guarantees the rights of victims to receive protection and assistance.

¹⁷kepri.antaranews.com/berita/222597/pemkab-natuna-berikan-pendampingan-hukum-anak-korvican-kekerasan-seksual?utm_source=journal.dharmawangsa.

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- e. Natuna Regency Regional Regulation Number 8 of 2014 on the Implementation of Child Protection, which emphasizes the responsibility of local governments to protect children from all forms of violence.

To improve legal protection for child victims of sexual abuse in Natuna Regency, it is necessary:

- a. Capacity Building of Law Enforcement Officers: Through training and provision of adequate resources to handle cases of sexual violence against children.
- b. Community Socialization and Education: Increase public awareness about the importance of reporting cases of sexual violence and providing support to victims.
- c. Strengthening Inter-Institutional Cooperation: Improve coordination between the police, local governments, child protection agencies, and civil society organizations in handling cases of sexual violence against children.

To improve legal protection for children as victims of sexual abuse in the future, several steps that can be taken include:

- a. Capacity Building of Law Enforcement Officers: Through training and provision of adequate resources to handle cases of sexual violence against children.
- b. Strengthening Inter-Agency Cooperation: Improving coordination between the police, local governments, child protection agencies, and civil society organizations in handling cases of sexual violence against children.
- c. Community Socialization and Education: Increasing public awareness about the importance of reporting cases of sexual violence and providing support to victims.
- d. Development of an Easily Accessible Reporting System: Create a reporting system that is easily accessible to the public, such as a hotline service or online reporting application.

3.4. General Overview of Child Abuse Victims

3.1.4. Definition of Child Abuse

The definition of indecency or obscene in the Great Dictionary of the Indonesian Language is defined as follows: indecency is the root word of cabul, which is dirty and vile in nature, not in accordance with good manners (indecent) immoral, obscene: committing adultery, committing immoral crimes, obscene: committing adultery, raping, defiling women's honor, obscene films: pornographic films. Vile and dirty, indecent (violating morality, decency).¹⁹ The definition of indecent acts is all kinds of acts, whether done to oneself or to others concerning and related to the genitals or other body parts that can stimulate sexual desire. In line with the definition of indecent acts according to Adami Chazawi, indecent acts are all kinds of acts, whether done to oneself or to others concerning those related to the genitals or other body

¹⁹Department of Education and Culture, Big Indonesian Dictionary, Jakarta: Balai Pustaka, 2nd edition, 1994, p. 893

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parts that can stimulate someone to their lust, such as stroking the vagina or penis, kissing a woman's mouth, touching breasts, etc., which do not involve intercourse or the male genitals entering the female genitals. So it is more emphasized only holding, touching, kissing, stroking a woman's body.²⁰

Meanwhile, according to R. Soesilo, obscene acts are "all acts that violate morality (decency) or are vile acts, all of which are in the realm of sexual lust, for example: kissing, groping body parts, chest, genitals, etc."²¹

3.2.4. Forms of Indecent Acts Against Child Victims According to the Criminal Code

The legal basis for the crime of indecent assault is contained in the Criminal Code Articles 287 and 288.

Article 287

Article (1): "Anyone who has sexual intercourse with a woman who is not his wife, even though he knows or should suspect that she is not yet fifteen years old, or if it is not clear from the general public, that she is not yet ready to be married, shall be punished by a maximum prison sentence of nine years."

Article (2): "Prosecution is carried out only upon complaint, except if the woman is not yet twelve years old or if one of the things mentioned in Article 291 and Article 294 occurs."²²

Article 288

Article (1): "Anyone who in marriage has sexual intercourse with a woman who he knows or should suspect is not yet ready to be married, if this act results in injury, shall be punished by a maximum imprisonment of four years."

Article (2): "If the act results in serious injury, the penalty shall be a maximum of eight years' imprisonment."

Article (3): "If the act results in death, the penalty shall be a maximum of twelve years' imprisonment."

Article 289: "Anyone who by force or threat of force forces someone to commit or allow an obscene act to be committed, is threatened with committing an act that attacks the honor of morality, with a maximum prison sentence of nine years."²³

²⁰ Mertokusumo, Sudikno. Understanding the Law. Yogyakarta: Atma Jaya University, 2010.

²¹ R. Soesilo, Criminal Code, Bogor, Politea, 1981, p.: 212.

²² Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System

²³ Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection.

4. Conclusion

The Natuna Police Resort (Polres) has shown significant commitment in providing legal protection for child victims of sexual abuse. The steps taken include: Professional Case Handling: The Natuna Police have successfully uncovered and handled various cases of child molestation, such as what happened in January 2024, where a 48-year-old man was arrested on charges of child molestation. Legal and Psychological Assistance: In collaboration with the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA), the police provide legal and psychological assistance to victims. This assistance is carried out from house to house, especially for areas that are difficult to reach. Collaboration with Related Agencies: Natuna Police cooperate with Natuna District Attorney's Office and Natuna Regency Government in handling cases of violence against women and children. This collaboration includes socialization of child protection policies and prevention of child marriage. Challenges in Case Handling; Despite significant efforts, there are several challenges faced in handling child molestation cases: Social Stigma: Society tends to view cases of sexual abuse as a family disgrace, so victims and their families are reluctant to report it. Resource Limitations: Limited personnel and facilities in the PPA Unit can affect the effectiveness of case handling. Geographical Constraints: As an archipelagic region, access to the scene and victims is often difficult, which can hamper the investigation and handling of cases.

5. References

Books:

- Abintoro Prakoso, Child Protection Law (Yogyakarta: Presindo, 2016).
- Department of Education and Culture, Big Indonesian Dictionary, Jakarta: Balai Pustaka, 2nd edition, 1994,
- Kartonegoro, Criminal Law Lecture Guide, Student Lecture Center, Jakarta, 2010
- Maidin Gultom, Legal Protection for Children and Women, (Bandung: PT Refika Aditama, 2018).
- Mertokusumo, Sudikno. Understanding the Law. Yogyakarta: Atma Jaya University, 2010.
- Moh. Zainol Arief, Wiraraja University, Sumenep
- Nashriana, Criminal Law Protection for Indonesian Children (Jakarta: Rajawali Pers, 2011).
- R. Soesilo, Criminal Code, Bogor, Politea, 1981,
- Romli Atmasasmita, Juvenile Justice in Indonesia, Mandar Maju, Bandung, 2007,
- Soekanto, Soerjono. Introduction to Legal Research. Jakarta: UI Press, 1986.
- Ullly Tri Ellen Mahulae and Ari Wibowo Faculty of Law, Islamic University of Indonesia
- Yoga Julian, M. Firdaus, Janes S Patty, Law, Pamulang University, South Tangerang, Indonesia
- Yulies Tiena Masriani, Introduction to Indonesian Law, Sinar Grafika, Jakarta, 2004,

Master of Law, UNISSULA

Internet:

kepri.antaranews.com/berita/222597/pemkab-natuna-berikan-pendampingan-hukum-anak-korvican-kekerasan-seksual?utm_source=journal.dharmawangsa

Regulation:

Article 1 number 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

Article 21 Paragraph (2) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

Criminal Code

Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System

Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection.