

Legal Analysis of Criminal Acts of Children and Women Against Sexual Violence in the Study of Criminal Sociology Perspective

Masdiansyah Ritonga^{1*}, Abdul Hakim², Maya Jannah³

^{1,2,3} Faculty of Law, Universitas Labuhanbatu, Indonesia

*Email: ritongatt50@gmail.com, abdulhakim1846@gmail.com, mayaeriadihsb@gmail.com

ARTICLE INFO	ABSTRACT
Keywords: <i>Crime, Children and Women, Sexual Violence, Criminal Sociology.</i>	<i>Sexual violence against children and women is a pressing issue that impacts the safety and well-being of victims and society as a whole. This phenomenon is particularly concerning in various regions, including South Labuhanbatu Regency, where multiple factors contribute to its occurrence. Understanding these factors and implementing effective measures to address them is crucial for creating a safer environment. The purpose of this study is to determine criminal acts against children and women for sexual violence in the study of criminal sociology perspective. This research uses a Juridical-Sociological legal approach. The results of the discussion show several factors that influence the occurrence of sexual violence against children in the South Labuhanbatu Regency, namely economic factors, individuals, social environment, family relationships or conflicts, and gender. In addition, the Labuhanbatu Resort police's efforts to minimize cases of sexual violence involve two main approaches: preventive action through socialization, legal counseling, and education and training targeting children and women, and repressive action with law enforcement against perpetrators of sexual violence by applicable legal provisions. The implication of this research is the importance of increasing preventive efforts through more intensive education and counseling for the community, as well as strengthening law enforcement against perpetrators of sexual violence. In addition, this research emphasizes the need for collaboration between various parties, including the government, legal institutions, and the community, to create a safer and more supportive environment for children and women.</i>

INTRODUCTION

Violence against children and women has become an open secret in many countries, both Indonesia and countries around the world. Children and women are categorized as the weakest living beings, so they are often the targets of both physical and psychological violence. Although organizations have been established specifically to protect children and women, the number of victims of violence, especially sexual violence against children and women, is increasing from year to year. Even the State has intervened to protect children and women in the form of special regulations to provide legal certainty for the rights of children and women (Izziyana, 2019).

According to the 2020 Annual Report on Violence against Women, there were 299,911 reported cases of violence against women. This data was gathered from district and religious courts, partner service institutions of Komnas Perempuan, and the Service and Referral Unit. The types of violence varied widely, including violence in personal or private spheres, domestic violence, and personal relationships. The most prevalent form was violence against wives (KTI, Kekerasan Terhadap Istri), with 3,221 cases (49%). This was followed by dating violence, with 1,309 cases (20%), violence against girls with 954 cases (14%), and violence by ex-husbands, ex-boyfriends, and violence against domestic workers. Additionally, there were 962 cases (55%) of sexual violence, which included sexual abuse (166 cases), rape (229 cases), sexual harassment (181 cases), sexual intercourse in 5 cases, and the remainder were attempted rape and other forms of sexual violence.

This indicates that Indonesia has a legal protection emergency for children and women. The implementation of the Law on the Protection of Children and Women should guarantee that the rights of children and women have been fulfilled, but in reality, the number is increasing from year to year. Law enforcement that seems selective against perpetrators of sexual violence against children and women makes the protection of children and women only like a toy because the position of children and women is only as weak humans who do not need to be considered for their rights (Riza & Sibarani, 2021) even though we remember that children are state assets that we must protect their existence. Likewise, women, because the perpetrators of criminal acts are also born from a woman whose dignity must be maintained and protected, but in the facts in the field that sexual violence committed by the perpetrators of criminal acts without thinking long about committing such violence against women to cause a fatal impact on the survival of both children and women. Sexual violence against children and women will certainly cause very deep trauma for the victim; even whenever the violence will always be remembered and eventually become a scourge for him until, in the end, many victims prefer to commit suicide or lock themselves in the house because the mental burden and social burden they bear make victims no longer want to show themselves amid society. The moral and mental burden they bear is not enough; they also experience a cynical view of society and ridicule or scorn. Then what about the future of these children and women? Can society accept them? What about the children? Can they be given guarantees for their education after experiencing sexual violence, which has an impact on deep trauma, so they are unable to deal with the community? This is what we need to understand and know whether the application of legal protection for children and women has been realized as mandated by the Law. If so, the crime of sexual violence against children and women should have decreased because the punishment given to the perpetrators of these crimes is quite high for their actions. However, weak law enforcement does not enforce these penalties properly, so the penalties imposed on the perpetrators do not have a deterrent effect. So, other perpetrators may commit the same act in the future. Sexual violence occurs because of several factors behind it. This factor will become a benchmark for various parties to make various efforts to reduce the number of sexual violence that occurs against children and women.

Based on the background description above, the purpose of this study is to determine the criminal acts against children and women for sexual violence in the study of criminal sociology perspective. This research aims to provide a comprehensive understanding of the socio-economic, individual, and environmental influences on this crime. The benefits of this research include providing information to policymakers and law enforcement agencies to improve prevention and intervention strategies, enhance the legal framework, and foster public awareness and education to better protect vulnerable populations. In addition, this research also aims to advocate for stronger collaboration among government bodies, legal institutions, and community organizations to ensure a more supportive and safer environment for children and women.

METHOD

This study uses a Juridical-Social Legal research method with analytical descriptive research specifications. The data sources used are primary and secondary legal materials. Primary data was obtained from interviews with the South Labuhanbatu Police, while secondary data was obtained from books related to the research object, papers/journals, and other statutory regulations. In this study, law is understood as a representation of the symbolic meaning held by social actors, which can be seen in their interactions and social phenomena that exist in society. The real reality of life does not exist in the empirical realm which is the object of observation, and does not appear in the form of patterned and structured behavior objectively (especially normative), so it cannot be measured to produce quantitative data. The reality of life only exists in the realm of meaning that emerges through symbols and can only be understood after being interpreted. Such realities cannot be easily "captured" through external observation and measurement. This reality can only be understood through experience and internal appreciation which produces a comprehensive understanding (Wignjosoebroto, 2002). This research design is descriptive analytical. Analytical descriptive legal research is a method that outlines or provides an overview of the subject being studied using collected data or samples, without conducting analysis or drawing widely accepted conclusions (Sugiono, 2016).

RESULTS AND DISCUSSION

Factors that cause sexual violence against children and women in the Labuhanbatu Selatan Police jurisdiction:

Definition of Crime

A criminal offense is an action that is forbidden by a legal rule, with this prohibition accompanied by a threat (sanction) in the form of a specific penalty for those who violate it (Moeljatno, 2008). According to theory, every criminal offense in the Criminal Code can generally be categorized into two types of elements: subjective and objective (Sari & Saleh, 2022). Subjective elements pertain to the perpetrator or are related to the perpetrator, including their intentions. Objective elements relate to the circumstances under which the perpetrator's actions occur (Lamintang, 1984).

In Dutch, a criminal offense is called *strafbaar feit*. It can be interpreted as a criminal offense, offense, criminal act, or criminalized act (Padrisan Jamba & MH, 2023). A person can be said to have committed a criminal act if the act violates the rules set by the Law, by Article 1 paragraph (1) of the Criminal Code, which states: "no act can be punished except on the strength of the criminal rules in the legislation that has existed before the act is committed."

Children and Women

Generally, a child is defined as someone born from a biological relationship between a man and a woman. Some interpret children are men and women who are not yet mature or have not experienced puberty (a period when a child experiences physical and psychological changes and maturation of sexual functions) (Krisna, 2018).

Here are some definitions of children according to laws and regulations, as follows:

1. According to Law Number 13 of 2003 on Manpower, Article 1, point 26 states, "A child is any person under the age of 18 (eighteen) years."
2. According to Law Number 11 of 2012 concerning the Juvenile Justice System, Article 1 point 1 states, "Children in Conflict with the Law, hereinafter referred to as Children, are children who have reached the age of 12 (twelve) years but not yet 18 (eighteen) years old and are suspected of committing a criminal offense."
3. According to Law Number 35 of 2014 on the Amendment to Number 23 of 2002 on Child Protection Article 1 point 1 "A child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb."
4. According to Law No. 21/2007 on the Eradication of Trafficking in Persons Article 1 point 5, "A child is someone who is not yet 18 (eighteen) years old, including children still in the womb."
5. According to Law Number 44 of 2008 on Pornography Article 1 point 4, "A child is someone who is not yet 18 (eighteen) years old."
6. According to Law No. 39/1999 on Human Rights, Article 1 point 5 states, "A child is any human being under the age of 18 (eighteen) years and unmarried, including a child still in the womb if it is in his/her interest."

So the conclusion is that children are everyone who is not yet 18 years old, including children who are still in the womb who have the right to life and get priority in positions dealing with the Law. In addition, children are a gift that we must protect and nurture well in order to realize their welfare.

The term "woman" originates from the Arabic word "al-Mar'ah," with the plural being "alnisaa'," signifying an adult female, which contrasts with men. The term "an-nisaa'" translates to the female gender, comparable to the Arabic term "al-Rijal," which means male gender. In English, it equates to "woman" (with the plural being "women"), opposed to "man" (Ismail, 2003). Additionally, according to Nugroho: "Women are human beings with reproductive organs such as the uterus, birth canals, eggs, a vagina, and breastfeeding tools, all of which remain permanently unchanged and biologically inherent, often referred to as natural or divine provisions" (R. N. Nugroho, 2008). Therefore, it can be concluded from the above description that women are individuals who conceive and give birth, possess beauty, exhibit motherhood, and achieve emotional and affectionate maturity, embodying distinctive womanhood characteristics.

Sexual Violence

Sexual violence involves actions that degrade, humiliate, harass, or physically attack a person's body and reproductive functions (Fadia et al., 2021). These despicable actions risk causing psychological or physical suffering to the victim. What distinguishes sexual violence from other types of violence is its enormous and profound impact on victims. Sexual violence usually occurs because of the desire of the perpetrator and the opportunity to abuse. Women are more likely to be victims of sexual violence than men (F. T. Nugroho, 2023).

According to Law Number 35 Year 2014, Article 15a states: "Violence is any act against a child that results in physical, psychological, sexual, and neglectful harm or suffering, including threats to commit acts, coercion, or unlawful deprivation of liberty." Sexual violence encompasses any sexual act, attempted sexual act, verbal comment, or suggestion of sexual behavior, whether intentional or otherwise. It also includes offenses like forced

sexual intercourse with someone (Napitupulu & Julio, 2023). Moreover, sexual violence includes any instance of forced sexual activity involving an adult and a child, or between children. This definition also covers the commercial exploitation of children in sexual activities, coercing or soliciting children to engage in sexual acts, involving children in audio-visual media, and child prostitution (Cahyani et al., 2023). The factors that influence the occurrence of sexual violence against children in Labuhanbatu Selatan Regency are as follows:

a. Economic Factors

Sexual violence tends to occur in underprivileged economic groups, so children often dare to live outside in the hope of finding additional economic resources to meet family needs, without realizing that the perpetrators of sexual violence can act to do so because the child is not under parental supervision.

b. Individual factors

This factor is based on aspects of low education and the influence of alcohol and illegal drugs. Women with lower education will be more vulnerable to sexual violence, while on the other hand, women with higher education are usually better able to fortify themselves from perpetrators of sexual violence. With a person's low education, there will be less knowledge and understanding of the person to avoid sexual violence against him. In addition, the influence of illegal drugs also affects the occurrence of sexual violence in children.

c. Social, and environmental factors

Habits that have been cultivated that support the act of sexual violence will make it easy for sexual violence against children to occur. Violence is seen through the media, health, education, economic and legal weaknesses, and rules that are inappropriate or harmful to the individual nature of women or men. Moreover, the vulnerability of sexual violence can occur in the environment of commercial sex workers, where there is always physical contact that leads to sexual violence.

d. Family relationship/conflict factors

Family conflicts often come at the expense of children's suffering. Adults often vent their anger and resentment on children. So, if there is a family conflict, the child becomes an easy target for them to retaliate for all the annoyance and anger. When there is a conflict in the family, they often include other people in the resolution of the matter, but the person in question is not the person who helps solve the problem, but another person who helps to realize the resentment and the target is children.

e. Gender factor

One gender, namely women, is someone more vulnerable to becoming a victim of sexual violence. Because basically, women are better known as the weakest humans physically and mentally compared to men. So that sexual violence often occurs in women, especially children.

Labuhanbatu Selatan Police's efforts in minimizing cases of sexual violence against children and women

In minimizing cases of violence against children and women in the Labuhanbatu Selatan jurisdiction, the police must play a role in efforts to prevent and overcome sexual violence against children, namely through law enforcement. Law enforcement is carried out in the hope that criminals, especially in cases of sexual violence, can be overcome because this crime is very disturbing, especially when the victims are children and women. Where if violence occurs to children and women, the victims will feel that their future is no longer there. So, in cases that occur like this, victims are usually more likely to close themselves, or some even commit suicide because it is a disgrace that will always be remembered by many people and always be in the mass media news, such as TV, newspapers, and others.

The efforts of the Labuhanbatu Resort Police in minimizing cases of sexual violence are as follows:

1. Preventive Measures

Preventive action can be done in a way, two objects of the prevention system or overcoming crime by eliminating the factors that cause crime. Preventive action can be taken by conducting socialization, legal counseling, or education and training related to crimes of sexual violence whose targets are children and women so that children and women, in particular, will understand and understand the crime so that they avoid the behavior of sexual violence. This action is more effective in preventing the occurrence of sexual violence, so the motto is better to prevent than cure.

2. Repressive Measures

This action is taken after social deviation occurs, which aims to restore social life disturbed due to social deviation by imposing sanctions on the offense committed by the perpetrator of the crime. The prevention efforts carried out by the Labuhanbatu Selatan Resort Police in handling cases of sexual violence through preventive action are to enforce the Law against perpetrators of sexual violence against children and women

by applicable legal provisions. This effort is the last resort to improve the behavior of the perpetrators of the crime. The law enforcement must have a deterrent effect on the perpetrators of the crime because the offense committed is a criminal offense. This police repression can be carried out by sticking to the applicable proportional, professional, and responsible provisions.

CONCLUSION

Factors influencing the occurrence of child sexual abuse in Labuhanbatu Selatan Regency include several aspects. Firstly, economic factors, where challenging economic conditions can trigger violence. Secondly, individual factors, which encompass the personal characteristics of the perpetrator. Thirdly, social environmental factors, involving the influence of the surrounding environment. Fourthly, family relationship or conflict factors, where tension or conflict within the family can increase the risk of violence. Fifthly, gender factors indicate that girls are more vulnerable to sexual violence than boys. The Labuhanbatu Resort Police's efforts to minimize sexual violence cases involve two main approaches. Firstly, preventive measures are implemented through socialization, legal counseling, or education and training concerning sexual violence against children and women. Secondly, repressive measures involve enforcing the law against perpetrators of sexual violence in accordance with relevant legal provisions.

REFERENCES

- Cahyani, M. N., Tambunan, Y. D., Nurfadillah, S., & Salsabila, I. (2023). Peran Penting Pendidikan Seks Usia Dini, Upaya Pencegahan Kekerasan Seksual Terhadap Anak. *Causa: Jurnal Hukum Dan Kewarganegaraan*, 1(2), 51–60.
- Fadia, L., Rizki, M. F., & Pangestuti, R. (2021). Pencegahan Kekerasan Seksual di Kecamatan Cibitung dan Desa Kaliabang Tengah. *Community Engagement and Emergence Journal (CEEJ)*, 3(1), 52–66.
- Ismail, N. (2003). *Perempuan dalam Pasungan; Bias laki-laki dalam Penafsiran*. LKiS Pelangi Aksara.
- Izziyana, W. V. (2019). Perlindungan Hukum Bagi Pekerja Anak Di Indonesia. *Legal Standing: Jurnal Ilmu Hukum*, 3(2), 103–115.
- Krisna, L. A. (2018). *Hukum Perlindungan Anak: Panduan Memahami Anak yang Berkonflik dengan Hukum*. Deepublish.
- Lamintang, P. A. F. (1984). *Dasar-Dasar Hukum Pidana Indonesia*, Sinar Baru. Bandung.
- Moeljatno, A.-A. H. P. (2008). *Asas-Asas Hukum Pidana*. Jakarta.
- Napitupulu, Y. R., & Julio, B. A. (2023). Pelecehan Seksual Anak Di Bawah Umur Pada Anak Indonesia. *Jurnal Multidisiplin Indonesia*, 2(10), 3088–3095.
- Nugroho, F. T. (2023). *Pengertian Kekerasan Seksual, Bentuk dan Cara Pencegahannya*. https://www.bola.com/ragam/read/5373516/pengertian-kekerasan-seksual-bentuk-dan-cara-pencegahannya#google_vignette
- Nugroho, R. N. (2008). *Gender dan strategi pengarus-utamaannya di Indonesia*. Pustaka Pelajar.
- Padrisan Jamba, S. H., & MH, C. P. M. (2023). ISTILAH CHAPTER DAN PENGERTIAN II TINDAK PIDANA. *PENGANTAR HUKUM PIDANA*, 12.
- Riza, F., & Sibarani, F. A. (2021). *Prinsip The Best Interest of The Child dalam Proses Peradilan Anak* (Vol. 1). umsu press.
- Sari, N., & Saleh, K. (2022). Tinjauan yuridis penerapan sanksi pidana pada kecelakaan lalu lintas yang menyebabkan korban jiwa menurut pasal 310 undang-undang nomor 22 tahun 2009 tentang lalu lintas dan angkutan jalan. *Jurnal Politik Dan Pemerintahan Daerah*, 4(2), 282–292.
- Sugiono, S. (2016). Metode penelitian kuantitatif, kualitatif, dan r & d. *Bandung: Alfabeta*, 288.
- Wignjosoebroto, S. (2002). *Hukum: Paradigma, metode dan dinamika masalahnya*. (No Title).