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**ANALYSIS OF LEGAL PROTECTION FOR MINORS AS VICTIMS OF ABUSE:
IMPLEMENTATION OF THE FULFILLMENT OF CHILDREN'S RIGHTS**

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Abstrack: *Children are the young generation who are the successors of the nation and are the most important asset for the future. Therefore, they must be cared for, educated, cared for, and protected as best they can. However, the implementation of children's rights, especially for those who are victims of criminal acts, is often not optimally fulfilled in Indonesia. Although there are various laws that regulate the protection of children's rights, such as the Child Protection Law and the Witness and Victim Protection Law, their implementation still faces many challenges. The method used in this study is normative legal research which is carried out as an effort to obtain the necessary data in relation to the problem. The data used with secondary data consists of primary legal materials, secondary legal materials and tertiary legal materials. In addition, primary data is also used as a support for secondary data. For data analysts, it is carried out by qualitative juridical analysis method. The results of the study show that the fulfillment of children's rights as victims is often hampered by a lack of collaboration between the public prosecutor and related parties, which is more focused on prosecuting the perpetrators. In addition, to provide effective legal protection for children, socialization is needed and a special task force is created to educate the public more widely about rights and legal protection for children. Another step is the need to disseminate the identity of the perpetrator to use the internet so that the public knows and can anticipate avoiding the perpetrators.*

Keywords: : Child protection, victims of abuse, fulfillment of children's

1. Introduction

Children are the young generation of the nation's successors who are the main spearhead in the future of the nation. Therefore, children must be cared for, educated, guarded and protected . Protecting and protecting children is the duty of all parties, both families and communities as stated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection .

Legal protection of children has always been a serious concern from various countries in the world. One of them is an international convention that has been held to maximize and realize legal protection for children. Some of these conventions

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include: the Geneva Declaration on the Rights of the Child in 1924 which was recognized in the Universal Declaration of Human Rights in 1948, then on November 20, 1958. The UN General Assembly passed the Declaration of the Rights of the Child. Furthermore, the International instruments in the protection of children that are included in the Human Rights instruments recognized by the United Nations are the UN Rules for the Protection of Juveniles Deprived of Their Liberty; UN Standard Minimum Rules for Non-Custodial Measure (Tokyo Rules), UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines).

In connection with Presidential Regulation No. 75 of 2020 concerning the Implementation of the Rights of Child Victims and Child Witnesses, the existence of medical rehabilitation and social rehabilitation for child victims is the fulfillment of the right to mental rehabilitation for child victims which is recovery or healing of physical, psychological and social disorders experienced by a person to restore a person's condition as it was when carrying out his or her role again in the family, as well as the surrounding community, which can leave a big impact on a person's personality and behavior.

In essence, the rehabilitation carried out on the victim's child is not intended to make the child forget that the child has experienced something bad, but so that the child can still carry out activities according to his age and ability, even though the child still remembers the crime he experienced. This action also aims to allow children to increase their confidence and be able to get used to their environment after the crime occurs. Handling the victim's child also helps children not to experience mental disorders or mental illnesses.

The implementation of the rights of children who are victims of crimes, including social and medical rehabilitation, is often not optimally fulfilled in Indonesia. Although there are various laws governing the protection of children's rights, such as

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the Child Protection Act and the Witness and Victim Protection Act, their implementation still faces many challenges.

Sexual crimes against children are an example of human rights violations, especially the rights of children. The fact that there are many cases of sexual crimes experienced by children, indicates that children tend to receive less attention, protection and often feel the best of their existence by the environment.

The presence of Law Number 35 of 2014 concerning Child Protection has provided the widest possible opportunity for children to grow and develop optimally both physically and mentally so that an ideal generation will be created, but in reality not all existing rules have a positive impact on Indonesian children because they see the reality that the police are still experiencing obstacles in providing legal protection for victims who are experience sexual crimes against children that will have an impact on psychological conditions.

Children are particularly vulnerable to violence perpetrated by those around them, in public spaces, even in their own homes. Violence against children predominantly occurs in the home which can actually provide a sense of security, and what is very regrettable are cases of violence against children which have been considered a normal problem and are not considered criminal offenses, and often occur, namely acts of violence against children accompanied by criminal acts of molestation against children.

In this case, the child is also an individual who is still weak, does not have the ability to take care of himself. For this reason, parents and the community must jointly play a role in protecting and protecting children. In social environmental interactions, children are often victims of violence both physically, non-physically, and sexually. The provision of protection for children is given since they are still in the womb.

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In general, children who are victims of sexual violence will experience psychological distress such as fear, shame, stress, and even some want to commit suicide because they are unable to rise from the depression they experience. It is very difficult when healing the trauma of a child, especially if the child becomes more and more depressed, feeling afraid that even in the future if he has grown up, he can vent his grudges that he has experienced in the past. Because physically and psychologically, they are helpless when facing violence committed by adults .

Based on the decision of the Karawang district court number 380/Pid.Sus/2022/PN. Kwg who had shocked the public and social media in 2022 where the incident began when the defendant invited the victim to pick guava. After the victim agreed and followed the Defendant, he was taken to the back of the warehouse. At the location, the defendant opened the victim's pants and committed an obscene act by groping and exposing the victim's intimate parts. This case highlights the importance of child protection in society. There is a need for better awareness and education about children's rights and protection from acts of violence. Communities and related institutions must work together to create a safe environment for children.

The second case is based on the Purwakarta court decision number Purwakarta court decision number 71/Pid.Sus/2021/PN Pwk. Having a case that is quite shocking to the public in 2021 where the child was fucked by his friend's parents, besides that the irony is that the child was forced to watch pornographic videos 5 times, based on the above verdict the author is of the view that the victim was accompanied by the public prosecutor and accompanied by the Purwakarta district child protection office, However, the author's view is that the trauma experienced by the victim is not enough assistance for only a few minutes, it needs assistance to recover the victim for a long time, A more comprehensive approach is needed in

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handling cases of child abuse to ensure justice for the victim and prevent the recurrence of similar crimes in the future.

Based on this background, the need for a more specific discussion in this study, the author will examine it from the perspective of child protection and children as victims because of the need to analyze what factors make the rights of victims not fulfilled. Such as children's rights in terms of access to the fulfillment of the right to obtain health services and social security in accordance with physical, mental, spiritual and social needs as an effort to restore the condition of children as victims of sexual violence and provide legal assistance and legal protection.

2. Method

Research Approach Method In this study, the author uses a Normative Juridical approach. This approach focuses on the analysis of applicable legal norms. The specification of this research is descriptive and analytical. This means that the author describes the data obtained from the observations, then analyzes them and presents them in a systematic form. In obtaining legal sources, the author uses two types of data: Primary data such as laws and court decisions while secondary data is obtained through observations and interviews. With a clear approach and research specifications, it is hoped that the results of this research can make a significant contribution to the understanding of the issues being researched.

3. Analysis or Discussion

A. Efforts to fulfill the rights of children as victims of abuse in the law enforcement process

"Victimology is a part of criminology that has the same object of study, namely crime or criminal sacrifice (*criminal victimization*) and everything related to the criminal sacrifice, including causes and consequences that can be a victim or criminogenic factor (causing victims and crimes).

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Talking about victims cannot be separated from victimology, therefore in this study we discuss the theory of victimology because it is in harmony with what is discussed through research, besides that victimology also studies the position and role of crime victims in addition to the relationship between victims and perpetrators. Arif Gosita outlined some of the benefits obtained by studying victimology, which are as follows:

Victimology studies the essence of who is the victim who causes the victim, what it means to victimize and the victimization process for those involved in the victimization process, as a result of this understanding, definitions, criminal etiologies, and concepts of preventive, repressive, and follow-up efforts will be created in responding to and overcoming the problem of criminal victimization in various fields of life and livelihood.

The scope of victimology includes how a person (can) become a victim determined by a *victimity* that is not always related to the problem of crime, including victims of accidents, and natural disasters apart from victims of crime and abuse of power. The scope or object of victimology and criminology study can be said to be the same, the difference is the starting point of the observation in understanding a criminal victimization, namely victimology from the perspective of the victim while criminology from the perspective of the perpetrator. Each of them is the components of an interaction (absolute) whose interaction results in a criminal or criminalistic victimization¹.

For children who are victims, according to Arif Gosita there are several rights that must be fought for to be implemented together, namely:

1. Before the trial:
 - a. The right to receive services due to their mental, physical and social suffering;

¹ H.R Abdussalam, *Victimology*, (Jakarta: PTIK, 2010), pp. 6-7

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- b. The right to be noticed by the report submitted with a responsive and sensitive follow-up without remuneration (cooperative);
 - c. The right to protection against acts that are detrimental, causing mental, physical, social suffering to anyone (various threats, persecution, extortion);
 - d. The right to obtain a companion, counsel in order to prepare to participate in the upcoming trial with the prodeo;
 - e. The right to access facilities to participate in facilitating the examination as a reporter, witness or victim.
2. During the Trial
 - a. The right to obtain facilities to face the trial as a victim (transportation, counseling);
 - b. The right to obtain an explanation of the trial procedure and the case;
 - c. The right to protection against adverse acts that cause mental, physical, social suffering (e.g. various threats, persecution, murder);
 - d. The right to express opinions;
 - e. The right to compensation for the loss of his suffering;
 - f. The right to request a closed hearing.
3. After the Trial
 - a. The right to protection against adverse acts that cause mental, physical, social suffering (e.g. various kinds of threats, persecution, killings);
 - b. The right to services in the mental, physical and social fields.

The law protects the interests of a person, including the child, by allocating a power to him in a measured manner, in the sense of determining the extent and within it, to act in the context of his interests, which is called a right. So, not every power in society can be called a right, but only a certain power, that is, that which is given to a person by law."

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The right for children is one side of the approach to protect Indonesian children. In order for children's rights to be carried out in an orderly, orderly and responsible manner, legal regulations are needed that are in line with the development of Indonesian society which is fully imbued with Pancasila and the 1945 Constitution².

In the object of research that the author took above, there are things that need to be studied and analyzed and become a matter of consideration, namely a demand on which the basis of the rights of victims of sexual violence against children is not fulfilled. The demands made by the public prosecutor do not concern the fulfillment of victims' rights such as restitution, because basically restitution can be submitted during the investigation process to the prosecution process as stipulated in article 71D of Law 35 of 2014 concerning Child Protection.

In providing restitution, it is to develop the justice and welfare of the victim as a member of society and the benchmark for its implementation is by giving the opportunity to the victim to develop his rights and obligations as a human being. On that basis, the program to provide restitution to victims should be a combination of efforts from various approaches, both the approach in the field of social welfare, the humanitarian approach and the criminal justice system approach.

Restitution is more directed at the responsibility of the perpetrator for the consequences caused by the crime so that the main goal is to overcome all the losses suffered by the victim, although in this case it will be difficult for the victim to recover from the trauma he suffered, especially the child who is a victim of molestation.

In 2017, the government issued a regulation on the implementation of restitution for children, in the regulation regulating the implementation of restitution and compensation in Article 1 paragraph (3) of Government Regulation Number 43 of 2017 concerning the

² Wagiyati Soetodjo, *Child Criminal Law*, (Bandung: PT. Refika Aditama, 2008), p. 67.

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Implementation of Restitution for Children who Are Victims of Crimes, explaining that "The Witness and Victim Protection Institution, hereinafter abbreviated as LPSK, is an institution that is tasked and authorized to provide protection and other rights to witnesses and/or victims in accordance with the provisions of laws and regulations".

This means that in this case, in order to fulfill the rights of children as victims, there is collaboration between several institutions to participate in helping and providing rights to children as victims. Furthermore, in the above decision, one of the bases of the problem where there was no discussion about the fulfillment of the rights of the victim was that it was not submitted by the public prosecutor for consideration or can be granted by the panel of judges so that later the victim gets his rights that have been violated by the consequences of sexual violence against minors.

However, in this case, it is difficult to implement because of the lack of collaboration between institutions, so that the public prosecutor as the interpretation of the victim focuses more on the demand for detention, not on the demand for compensation that focuses on the recovery of the victim.

In addition, often the obstacle to fulfilling the rights of victims is that the relevant agencies do not participate in assisting the child as a victim, so that in this case the juvenile justice process who is a witness is only accompanied by parents and the public prosecutor.

Attention to the interests of victims can be seen as an important element in the context of correct and appropriate law enforcement efforts, in this case the main focus is on the correct or appropriate treatment of the victim, especially the provisions on the provision and provision of information that can be understood by the victim who suffers as a result of a criminal act by law enforcement officials and the Public Prosecutor.

Settlement through criminal justice, in this case, the victim feels confused because often law enforcers often do not see that he represents the victim. This can be seen from the

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handling process that only conditions the victim as a witness without seeing and analyzing the suffering experienced by the victim.

Ideally, victims' rights are comprehensively regulated in the Criminal Procedure Code (KUHP) as a central reference in the criminal justice process, but in reality, the rights of victims of criminal acts such as compensation and restitution are regulated partially, namely separately from the Criminal Procedure Code (KUHP). Thus, it becomes a new challenge for the implementation of the rights of crime victims. Institutions that represent authority in the criminal justice system such as the police, the Prosecutor's Office, the District Court as well as newly formed institutions such as the Witness and Victim Protection Institute and the Child Protection Institution.

The process of submitting an application before it is approved often confuses witnesses or victims to get the right to compensation and restitution as well as other protections. Moreover, there are certain conditions for victims to get protection.

This often makes witnesses or victims feel reluctant to ask for their rights and protection, besides that victims often do not know the procedures and conditions to get protection set by the Witness and Victim Protection Institution where the conditions to obtain protection for victims are listed in Article 28 paragraph (1) of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims. "LPSK protection of witnesses or victims is given under the following conditions: The nature of the importance of witness or victim information, the level of threat that endangers the witness or victim, the results of the analysis of the medical team or psychologist on the witness or victim, the track record of criminal acts that have been committed by the witness and the victim".

What needs to be important attention in the implementation of restitution payments to victims is the need to strive so that the restitution system is implemented simply and concisely so that what is the victim's right can be realized immediately. If the period of time

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required to realize this restitution payment takes a long time, it is feared that the concept of victim protection in relation to restitution payments will be neglected.

According to the author, the core purpose of providing compensation is none other than to develop the justice and welfare of victims as members of society and the benchmark for its implementation is to give opportunities to victims to develop their rights and obligations as human beings. On that basis, the provision of compensation to victims should be a combination of efforts from various approaches, both approaches in the field of social welfare, humanitarian approaches and criminal justice system approaches.

B. Legal protection of minors as victims of abuse is in line with developments and better legal needs.

Child protection is all efforts made to create conditions so that every child can carry out his or her rights and obligations for the development and growth of children in a reasonable manner, both physically and mentally and socially. The protection of children is a manifestation of justice in a society, thus the protection of children is sought in various fields of state and community life. Child protection activities have legal consequences, both in relation to written and unwritten laws. In relation to the issue of legal protection for children, Article 34 of the 1945 Constitution has affirmed that "The poor and abandoned children are cared for by the State". This shows that there is serious concern from the government for children's rights and their protection. Furthermore, the regulation on children's rights and their protection is separate in various provisions of laws and regulations, including:

1. In the field of law with Law Number 3 of 1997 concerning Juvenile Court;
2. In the health sector with Law Number 9 of 1960 concerning Health Principles, it is regulated in Article 1, Article 3 paragraph (1) and Article 9 paragraph (2).
3. In the field of education with Article 31 paragraph (1) of the 1945 Constitution and Law Number 12 of 1954 concerning the Basics of Education and Teaching in schools, it is regulated in Article 19 and Article 17.

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4. In the field of labor with the ordinance dated December 17, 1925 concerning the Regulation on Restrictions on Child Labor and Night Work for women jo Ordinance dated February 27, 1926 stbl. Number 87 of 1926 was stipulated on May 1, 1976 concerning Regulations Regarding the Work of Children and Young People on Ships in conjunction with the Occupational Safety Law stbl. 1947 Number 208 jo Law Number 1 of 1951 which enacted Labor Law Number 12 of 1948 in the Republic of Indonesia.
5. In the field of Social Welfare, with Law Number 4 of 1979 concerning Child Welfare.

Looking at the description above, it is clear that in fact, child protection efforts have existed for a long time, both in terms of regulations and regulations, both by the government and social organizations. However, these efforts have not shown adequate results in accordance with the needs and development of the Indonesian people. This situation is due to the situation and conditions as well as the limitations that exist in the government and society itself have not made it possible to develop the provisions of existing laws and regulations.

Furthermore, on October 22, 2002, Law Number 23 of 2002 concerning Child Protection was born, which has been amended twice to become Law 17 of 2016, but in implementation there are still many and increasing child molestation. Protection of children is very necessary because there are many factors that put children at risk of violence, neglect, exploitation and other mistreatment.

Efforts to prevent the crime of sexual violence against children can be carried out by providing counseling and socialization to the public about the dangers of sexual violence against children to the future of the nation. So that the public is more careful and immediately reports to law enforcement officials if there is a crime of sexual violence against children. In addition, prevention efforts can also be carried out by disseminating and socializing the

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provisions of laws and regulations that protect children victims of crime, such as Law Number 35 of 2014 concerning Child Protection.

With these efforts, it is hoped that the crime of obscenity can be prevented. In efforts to handle and eradicate cases of abuse to protect their victims, obstacles are also encountered, such as evidence of cases of sexual violence against children. Because the victim did not want to report to the police. Often victims do not want to report to the police because they are ashamed or afraid of the incident that happened to them. The victim or the victim's family thinks that the incident that befell the victim is a disgrace that can make the family's good name tarnished if it is known by the wider community. In addition, victims of helpless children who choose to be resigned, silent or afraid to tell their experiences, distance themselves from association, feel humiliated, sinful and so on. The existence of seduction and threats from the perpetrator to the victim also caused the victim to be reluctant to report.

Therefore, in order to provide guarantees and provide better protection for children considering that molestation of minors is increasing day by day and has a negative impact on the nation's successors, it is necessary to state;

First, the policy of formulating violations in the law in Indonesia. There is a legal vacuum (*Vacuum Recht*), because there is no one that regulates expressly and limitatively regarding the provision of compensation to victims so that in efforts to recover children as victims are a little more effective and helpful.

Second, the author's view is the need to disseminate the identity of the perpetrator to use the internet so that the public knows and can anticipate avoiding perpetrators of obscenity, although in this case it will be contrary to the concept of human rights, but in overcoming so that other children do not become victims in the future, according to the author, this is very effective.

Third, the need for a special task force to handle and prevent the occurrence of sexual violence against children and counseling in the formal education sector and early childhood

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education to elementary school to protect children against sexual violence and early prevention to understand the dangers and sanctions in committing sexual violence, especially experienced by children. In the judiciary that handles the crime of sexual violence against children, it must be maximum in providing punishment to the perpetrators of sexual violence against children.

3. Conclusion

Based on the research carried out by the author, the author concludes as follows:

- A. Regulating the fulfillment of children's rights as victims of abuse in Indonesia still faces several challenges, including a lack of understanding of children's rights and complex legal procedures. The crime of child molestation is a serious offense that requires prompt and appropriate handling so that children's rights are protected.
- B. The implementation of legal protection for minors as victims of abuse in Indonesia still faces various challenges, although there have been several regulations governing child protection. Many children who are victims of abuse do not receive adequate protection, both in the legal process and in post-incident rehabilitation.

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