



# LEGAL EFFORT AGAINST CHILDREN AS VICTIMS OF DOMESTIC VIOLENCE (KDRT)

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## ABSTRACT

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*Children are a mandate and gift from God Almighty, who has inherent dignity and worth as a whole human being. Children are also the next generation of the nation's ideals and human resources for future national development. Domestic violence often occurs in human life. The protection of a child against the law and the elimination of crime and violence in a household are very interesting problems to study and research because children are the potential and successors of the nation's cadres which have basically been placed by the previous generation. The formulation of the problem is how to take legal action against children as victims of Domestic Violence (KDRT). Efforts to protect children must be carried out as early as possible, so that in the future children can participate optimally and can socialize in the surrounding environment and also as heirs and continuation of the future of a nation and state. Efforts to protect children need to be implemented firmly. Article 1 paragraph (2) of Law Number 23 of 2002 concerning Child Protection. The purpose of this research is to find out legal protection for children as victims (Domestic Violence (KDRT) and legal remedies against children as victims of Domestic Violence (KDRT). This research uses descriptive analytical research method, the approach used is normative juridical. The approach method used in this research is the statutory approach.*

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## INTRODUCTION

Violence often occurs in the life of every child, the experiences that occur in every child who experience violence are of many kinds, namely violence that occurs from the scene, the perpetrator and the cause of the violence. Crimes or violence committed by parents that often occur are scolding their children and hitting their children using brooms, belts and objects around them. Many say that parents who abuse their children are mild forms of abuse, but the act is done intentionally to cause pain to a child's body, which can be fatal for children who have experienced violence from their own parents (Adami Chazawi: 2003).

Children are children who need to be taken care of, they should get the protection they should get. The family is a place where children take refuge and feel safe. Efforts to protect children must be carried out as early as possible, so that in the future children can participate optimally and can socialize in the surrounding environment and also as heirs and continuation of the future of a nation and state. Efforts to protect children need to be implemented firmly. Article 1 paragraph (2) of Law Number 23 of 2002 concerning Child Protection contains provisions that: child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with their dignity, and human dignity, and receive protection from violence and discrimination.

The problems experienced by children are very dramatic and heartbreaking, because they are experienced by children whose physical and mental abilities are still very limited to protect themselves from the various risks and dangers they face. Children still depend on adults who are around them to protect them. Various efforts have been made, but it is fully realized that in society there are still many children who need special protection efforts (Sholeh Soeaidy: 2001). The reality in society is that there are still many children who are victims of physical violence. The problems in this research are How are legal remedies



against children as victims of Domestic Violence (KDRT). Thus, every occurrence of domestic violence, the victim must report the perpetrator to the competent authority.

## **LITERATURE REVIEW**

### **Legal Protection**

#### **Legal Understanding**

Hans Kelsen defines law as a rule (rule) as a system of rules (rules) about human behavior. Thus the law does not accumulate on a single rule (rule) but a set of rules (rules) which have a unity so that it can be understood as a system, the consequence is that it is impossible to understand the law if it only pays attention to one rule (Jimly Asshidiqie and Ali Safa'at: 2006). Another understanding of law, was conveyed by Sudikno Mertokusumo, which defines law as a collection of rules or rules in a common life, the whole regulation of behavior that applies in common life, which can be enforced with a sanction. Law as a collection of rules or rules has a general and normative content.

#### **Definition of Legal Protection**

Legal protection is to provide protection for human rights that are harmed by others and this protection is given to the community so that they can enjoy all the rights granted by law or in other words legal protection is various legal remedies that must be provided by law enforcement officials to provide legal protection. a sense of security, both physically and mentally from disturbances and threats from any party. According to Setiono, legal protection is an act or effort to protect the public from arbitrary actions by authorities that are not in accordance with the rule of law, to create order and peace so as to enable humans to enjoy their dignity as human beings (Setiono: 2004). According to Mohsin, Legal protection is an activity to protect individuals by harmonizing the relationship of values or rules that are manifested in attitudes and actions in creating order in the social life between fellow humans. Legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, legal protection of crime victims as part of community protection, can be realized in various forms, such as through the provision of restitution, compensation, medical services, and legal assistance.

#### **Understanding Children**

Children are shoots, potential, and the next generation of the nation's ideals. Children have a strategic role in ensuring the existence of the nation and state in the future. In order for them to be able to assume that responsibility, they need to get the widest possible opportunity to grow and develop optimally, physically, mentally, and spiritually. They need to get their rights, need to be protected, and prospered. Therefore all forms of violence against children need to be prevented and overcome. Marsaid quotes the definition of a child in the General Indonesian Dictionary, as a human being who is still small. Marsaid also quotes from Soedjono Dirjisisworo who stated that according to customary law, minors are those who have not yet determined concrete physical signs that they have matured (Marsaid: 2015).

#### **Definition of Victim**

The definition of victim according to several experts or from international conventions regarding victims of criminal acts that befell him, among others, can be seen from the understanding of victims from experts, namely:

- a. Arief Gosita, as a victim who suffers physically and spiritually as a result of the actions of others who seek their own interests and those with an interest in human rights are harmed.
- b. According to Bambang Waluyo in his book entitled *Victimology of Victim and Witness Protection*, that what is meant by a victim is "a person who has suffered physical or mental suffering, lost property or resulted in death due to an act or attempt of a minor offense committed by a criminal act and others". Here it is clear what is meant by "people who suffer physical suffering and so on" are victims of violations or criminal acts.

Muladi, victims (victim) are people who both individually and collectively have suffered harm, including physical or mental harm, emotional, economic, or substantial disruption of their fundamental rights through acts or commissions that violate criminal law in each country. , including abuse of power (Muladi, 2005). Referring to the definitions of victims, it can be seen that the victims above can be seen that victims are basically not only individuals or groups who directly suffer as a result of actions that cause suffering losses for themselves or their groups, in fact.



### **Definition of Household**

Various studies have stated that the household also generally gives the understanding of a family consisting of husband, wife and children in general. The family is an institution that holds long-lasting issues and problems. The problems that arise from married life or family are always actual, especially in situations and patterns of society that are always changing. Conditions like this require a leader who is capable and has advantages to solve problems, thus the preservation of the purpose of family life (harmony, peace, calm and serenity) (Zaitunah Subhan, 2015).

### **Definition of Domestic Violence**

Violence against women has grown in line with the growth of human culture, but it has only become an international concern since 1975. According to the United Nations Declaration on the Elimination of Violence Against Women, Article 1, violence against women is any form of violence based on violence against women. gender that results in or will result in physical, sexual, psychological pain or suffering to women, including threats, restrictions on freedom, coercion, whether occurring in public or domestic areas.

According to the Law of the Republic of Indonesia No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT) article 1 paragraph 1 states; Domestic violence is any act against someone especially women which result in physical, sexual, psychological misery or suffering, and/or neglect of the household including threats to commit acts, coercion, or unlawful deprivation of liberty within the household (UU RI No. 23 of 2004).

## **METHOD**

This research method is analytical descriptive describing problems regarding legal remedies against children as victims of Domestic Violence (KDRT). The approach used is normative juridical. The approach method used in this research is a statute approach. Secondary data includes primary and secondary and tertiary legal materials. The primary legal material is in the form of laws and regulations. Secondary legal materials consist of text books, law journals, previous research results, opinions of scholars, and other publications. Tertiary Legal Materials which provide instructions or explanations of primary and secondary legal materials such as legal dictionaries, encyclopedias and others (Johnny Ibrahim, 2005: 295-296). Drawing conclusions is done in a deductive way, namely drawing conclusions from a general problem to a concrete problem.

## **RESULTS AND DISCUSSION**

The Child Protection Act provides legal protection for children's rights, especially for children who are victims of violent crimes. Article 1 of the Child Protection Law provides an understanding of child protection, namely all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally from violence and discrimination. Special protection is intended to protect children in emergency situations, children who are in conflict with the law, children from minority groups and being exploited economically and/or sexually, trafficked children, children who are abused by narcotics, alcohol, psychotropic substances and other addictive substances, abducted children. , sales and trafficking, children who are victims of physical and/or mental violence, children with disabilities, and children who are victims of abuse and neglect.

Law No. 23 of 2002 as amended by Law No. 35 of 2014 concerning child protection, concerning child protection is contained in. In Article 80 which reads: Everyone is prohibited from placing, allowing, committing, ordering to do, or participating in committing violence against children from Article 76C. In paragraph (1) any person who violates the provisions as referred to in Article 76C, shall be sentenced to a maximum imprisonment of 3 (three) years and 6 (six) months and/or a maximum fine of Rp. 72,000,000.00 (seventy two million). rupiah). In paragraph (2) if the child is seriously injured, the perpetrator shall be sentenced to a maximum imprisonment of 5 (five) years and or a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah). In paragraph (3) if it causes death, then the perpetrator shall be sentenced to a maximum imprisonment of 15 (fifteen) years and/or a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah). In paragraph (4), the penalty is added by one third of the provisions as referred to in paragraph (1), paragraph (2), and paragraph (3) if it is their own parents who perpetrate the abuse.

Article 1 number 2 of Law No. 23 of 2002 has been amended by Law No. 35 of 2014 concerning child protection which states that legal protection for children is "all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate actively optimally in accordance with the rights and dignity and receive protection from violence and discrimination. Child protection is an effort that supports the implementation of the rights and obligations of a child who obtains and maintains the right to grow and



develop in a balanced and positive life means getting fair treatment and avoiding threats that harm child protection efforts can be a legal action. which has legal consequences

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