

Application of Criminal Sanctions in Handling Cases of Abuse Crime on Students

Muchamad Hisyam Maulana¹⁾ & Andri Winjaya Laksana²⁾

¹⁾ Faculty of Law, Sultan Agung Islamic University (UNISSULA), E-mail: mhisyamml@gmail.com

²⁾ Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), E-mail: andriwinjaya@unissula.ac.id

Abstract. Children are considered a valuable asset for a nation, they are the next generation who need protection and guarantee of welfare. The importance of the role of children in national development is reflected in the 4th paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, which emphasizes the aim of the Indonesian state to "protect the entire nation and all of Indonesia's blood, promote general welfare, educate the life of the nation, and participate in implementing world order." In the context of child protection, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection states that children, as shoots, potential, and the next generation of young people who will continue the ideals of the nation's struggle, have a strategic role with the characteristics and special characteristics that require protection from all forms of inhumane treatment that could result in violations of human rights. Therefore, legal protection and fulfillment of the rights of victims of sexual abuse are considered an urgent necessity. This research uses qualitative research methods, by in-depth analyzing court decision number 194/Pid.Sus/2022/PN.Btg. who handles cases of criminal acts of sexual abuse committed by a teacher against his students. The research results show that legal protection for children who are victims of abuse by teachers is regulated in Law Number 35 of 2014, as an amendment to Law Number 23 of 2002 concerning Child Protection. This research also reveals the basis for the judge's consideration in imposing a crime on the perpetrator of a crime that forces a child to commit obscene acts. This analysis provides a deeper understanding of the legal protection framework, especially in the context of the relationship between teachers and students. It is hoped that these findings will make a significant contribution to improving policy and legal implementation to more effectively protect children's rights in cases of abuse.

Keywords: *Crime; Obscenity; Sanctions; Students.*

1. Introduction

The Unitary State of the Republic of Indonesia guarantees the welfare of its citizens, including the protection of children's rights, which is one of the human rights. Article 1 number 1 of Law Number 35 of 2014 states that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. Viewed from a national and state perspective, children are the heirs and portraits of the future of 3 nations in the future, the next generation of national ideals, so that children have the right to protection from acts of violence and discrimination as well as civil rights and freedoms.¹

Children are the nation's assets and are the nation's next generation who must be protected and whose welfare must be guaranteed. This is reflected in the 4th paragraph of the preamble to the 1945 Constitution of the Republic of Indonesia which states that the aim of the Indonesian state is "to protect the entire nation and all of Indonesia's blood, promote general welfare, educate the life of the nation, and participate in implementing world order."²

In Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, it is stated that children as shoots, potential, and the next generation of young people who will continue the ideals of the nation's struggle have a strategic role, characteristics and special characteristics so they must be protected from all forms of inhumane treatment that result in violations of human rights.

Efforts to protect children are carried out through various policies and programs, such as providing quality education, good health and a safe environment. Apart from that, the law also has an important role in protecting children's rights and taking firm action against perpetrators of violence or crimes against children. Education has a central role in shaping the character and well-being of children. However, child safety and protection is a serious challenge in the educational environment, especially in the context of criminal acts of sexual abuse against students.

Child protection efforts must be started as early as possible. In Article 2 paragraphs (3) and (4) of Law of the Republic of Indonesia Number 4 of 1979

¹Lilik Mulyadi, *Children's Courts in Indonesia "(theory, practice and problems)"*, Mandar Maju, Bandung, 2005, p.3-4

²Alenia IV of the Constitution

concerning Child Welfare, it is stipulated that: "Children have the right to care and protection during pregnancy and after birth. Children have the right to environmental protections that may harm or inhibit normal growth and development." These two verses provide the basic idea that child protection aims to strive for correct and fair treatment, to achieve child welfare. Because it can affect the child's growth, which may disrupt his mental health so that it can become a mental burden for the rest of his life.

Recently, a case of sexual abuse was revealed by an Islamic teacher and student council supervisor at SMPN 1 Gringsing, Batang Regency, which harmed 23 (twenty three) of his students. This incident was recorded in the Batang Regency area, specifically in Gringsing District, where an Islamic teacher and OSIS supervisor at SMPN 1 Gringsing committed acts of sexual immorality against 23 (twenty three) of his female students. This action violates Article 82 of Law Number 17 of 2016 concerning the stipulation of PERPPU No. 1 of 2016 concerning the second amendment to Law Number 23 of 2002 concerning Child Protection. This incident has certainly raised concerns in society, especially for parents who have entrusted their children to Islamic religious teachers and OSIS supervisors at school. Similar cases show that teachers who are supposed to be positive role models and coaches can commit despicable actions that have a negative impact on the lives of their students. In this context, students become victims of the Islamic teacher's inability to control their desires. Considering the negative impact of these actions on students' daily lives and the potential for legal losses for teachers, it is necessary to take firm steps in enforcing the law against the perpetrators.

As is usual, every act or implementation will definitely give rise to responsibility for the implementer, even if the implementation of the role goes well or as it should.³In terms of criminal acts, teachers who commit sexual abuse against their students are of course completely undesirable by interested parties such as students, parents, and leadership along with the entire implementation of the activities of educational institutions. Teachers who lack professionalism, because they commit criminal acts of sexual abuse against their students, should be held accountable for their actions. Because the consequences of this teacher's actions cause psychological injuries to the victim, and can destroy the victim's future, the victim should receive legal protection in accordance with the provisions that regulate it. In cases of sexual abuse where the perpetrator is a teacher, the criminal liability is of course different, considering that a teacher is someone who works as an educator, so there are special regulations that govern it.

³A. Ridwan Halim, *Educational Crimes in the Principles of Indonesian Criminal Law*, Ghalia Indonesia, Jakarta, 1986, p. 193

Legal protection for victims of criminal acts is very important and requires serious attention. In every criminal case handling, law enforcement officers are often faced with conditions that require them to serve two interests which are felt to be very contradictory, namely the interests of the victim who must be protected in order to recover from the suffering of having been a victim of a criminal act and the interests of the perpetrator of the criminal act, who even though he guilty but still a human being who has human rights that must be upheld. One of the cases of a teacher who committed a criminal act of sexual abuse against a student, namely has been decided by the judge in Batang District Court Decision Number 194/Pid.Sus/2022/PN Btg. The case began when the teacher, who was named as defendant AM, committed acts of violence or threatened violence, coerced, carried out deception, committed a series of lies, or persuaded children to commit or allow obscene acts to be committed against children. Based on this description, the author wants to study this problem and explain it in the form of a thesis with the title "Application of Criminal Sanctions in Handling Cases of the Crime of Sexual Abuse against Students (Study of the Decision of the Batang District Court Number 194/Pid.Sus/2022/PN Btg)."

2. Research Methods

The approach method used in this research is normative legal research. This normative legal research uses a statutory approach and a case approach.⁴Meanwhile, the research specifications used in this research are analytical descriptive. With data collection methods, literature studies use qualitative analysis.

3. Results and Discussion

3.1. Legal process in the criminal act of sexual abuse against students (Case Decision Study Number: 194/Pid.Sus/2022/PN.Btg)

The legal process in punishing the crime of sexual abuse against students (Case Decision Study Number: 194/Pid.Sus/2022/PN.Btg) involves a series of stages in the criminal justice system. The following is a general sequence of the process:

1. Reporting and Investigation: Reporting: This case may begin with a report from a knowledgeable party or the victim himself. Investigation: The police conducted a preliminary investigation to collect evidence and information related to the crime.

⁴Marzuki, Peter Mahmud. (2022). Legal Research. Jakarta: Kencana Prenada Media Group. h. 133-136.

2. Arrest and Detention: Arrest: If there is sufficient evidence to support the alleged crime, the suspect may be arrested. Detention: The suspect may be detained during further investigation and examination.

3. Investigation and Examination: Investigation: Investigators collect further evidence, examine witnesses, and involve forensic experts if necessary. Examination of Suspects: Suspects are examined to gather information that can be used in the trial.

4. Prosecution: Public Prosecutor: If there is sufficient evidence, the public prosecutor can charge the suspect to court. Indictment: The indictment is prepared by detailing the criminal offense charged and its legal basis.

5. Trial at the District Court: Panel of Judges: The trial begins at the District Court (PN) with a panel of judges presiding over the trial. Witness Examination: Witnesses and evidence are presented to be tested at trial. Victim's Testimony: The victim provides information about the events he experienced. Legal Considerations: The judge considers the arguments from both sides before making a decision.

6. Verdict and Sentencing: Verdict: After hearing all the information, the panel of judges gives a verdict or decision on the case. Sentencing: If the defendant is found guilty, the judge decides the punishment to be applied in accordance with the law.

7. Appeal and Cassation: Appeal: If one party is dissatisfied with the court's decision, they can appeal to a higher level court. Cassation: The cassation process can be carried out if the party who loses the appeal wants to file an objection to the decision.

8. Execution of the Decision: Execution of the Sentence: If the decision is final and cannot be appealed or cassated again, the sentence can be carried out.

9. Recovery and Rehabilitation: Victim Recovery: After conviction, attention is paid to the victim's recovery, including psychological support and guidance. Rehabilitation of Suspects: If necessary, suspects can undergo a rehabilitation program.

It is important to remember that each case can be unique, and the above process may vary depending on the legal regulations applicable in a particular jurisdiction. A study of the decision in case Number 194/Pid.Sus/2022/PN.Btg will provide a more detailed picture of how this process took place in the context of this specific case.

3.2. Efforts to protect children who are victims of the criminal act of sexual abuse against students in case 194/Pid.Sus/2022/PN Btg

Efforts to protect children who are victims of the criminal act of sexual abuse against students (in case 194/Pid.Sus/2022/PN Btg) involve a number of steps and actions to ensure the safety, welfare and recovery of the victim. Here are some protective measures you can take:

1. **Physical and Psychological Protection:** Providing a safe and comfortable place for victims where they can feel protected from threats or intimidation that may arise from the perpetrator or related parties. Providing psychological support through counseling or assistance to help victims overcome the emotional and psychological impact of acts of abuse.
2. **Confidentiality of Identity:** Keeping victims' identities confidential during the investigation, trial, and post-prosecution process to protect them from stigmatization or potential threats.
3. **Personal Security:** Provide information to victims regarding steps to increase their personal security, such as not providing personal information to unknown people and avoiding risk situations.
4. **Legal Assistance:** Providing competent legal assistance and legal assistance to ensure that victims' rights are maintained and fought for during the legal process.
5. **Health Services:** Provides fast and confidential access to health services to examine and treat victims, including forensic examinations if necessary. **Outreach and Information:** Provide clear and in-depth information to victims regarding the ongoing legal process, their rights, and the support available to them.
6. **Assistance during the trial:** Providing assistance during the trial so that the victim feels safer and supported while giving testimony in court.
7. **Providing Special Protection:** Ensuring that child victims receive special protection in accordance with the child protection laws applicable in that jurisdiction.
8. **Prevention of Threats or Intimidation:** Identify potential threats or intimidation against victims and take preventive steps to prevent this, including involving witness protection agencies if necessary.

9. Family and Community Support: Involving families and communities in providing support to victims to help their recovery process.

10. Creation of a Protection Plan: Drawing up a special protection plan for the victim, which may include security measures, psychological support, and protective arrangements during and after the legal process.

11. Consult with Child Protection Agencies: Consult with child protection agencies or non-governmental organizations that focus on children's rights for additional guidance and support.

These protection efforts must be holistic and sustainable, and need to involve cooperation between law enforcement agencies, child protection agencies, the community and other related parties to ensure that the rights and welfare of child victims are prioritized in the entire case handling process.

3.3. Factors that become obstacles in handling the criminal act of sexual abuse against students in case 194/Pid.Sus/2022/PN Btg

Several factors that can become obstacles in handling the criminal act of sexual abuse against students in case 194/Pid.Sus/2022/PN Btg may involve various aspects, including:

a. Age of Victim and Difficulty in Giving Information: Children who are victims of abuse may have difficulty communicating their experiences clearly. Their very young age can make it difficult for them to understand questions or provide detailed information, making case management complex.

b. Dishonesty or Fear of Victims: Children often feel afraid or embarrassed to reveal lewd acts they have experienced. These factors can make victims unwilling or reluctant to provide information openly, hampering the process of gathering evidence needed to strengthen the case.

c. Lack of Witnesses or Strong Evidence: Sexual abuse often occurs without witnesses who can provide strong information or evidence. This condition can make investigation and prosecution difficult, especially if the incident only involves the perpetrator and victim without any other witnesses.

d. Threats or Intimidation against Victims or Witnesses: Threats or intimidation carried out by perpetrators or related parties can create pressure on victims or witnesses, perhaps even making them withdraw or withdraw their testimony. This can make the judicial process not run smoothly and fairly.

e. Non-Compliance with the Legal Process: Non-compliance or violation of legal procedures by law enforcement, courts or other related institutions can be an obstacle in handling cases. Processes that are not up to standard can weaken the integrity of the case.

f. Lack of Resources and Experts: Lack of human resources, finances, and experts in the fields of child psychology, forensics, or law can slow down the treatment process. Optimal efforts are needed in investigation and assistance so that the results are maximum.

g. Lack of Public Awareness and Socialization: The public's lack of understanding about the importance of reporting criminal acts of sexual abuse and children's rights can hinder efforts to prevent and handle cases. Ineffective socialization can result in minimal reports and support from the community.

h. Lack of Education and Awareness in Schools: The absence of education and awareness programs in schools regarding abuse and children's rights can create a lack of understanding and awareness among students and educators. This education can be an effective preventive measure.

i. Ineffective Governance and Case Management: Ineffective governance and case management can slow down the case handling process, cause confusion in coordination, and hinder desired progress.

j. Limited Facilities and Infrastructure: Lack of facilities such as a special room for examining children or adequate forensic facilities can hinder the examination process and collecting evidence needed to support the case.

Efforts to improve and improve these aspects are important so that the handling of cases of sexual abuse against students can be effective, fair, and involve active participation from all relevant parties.

4. Conclusion

Implementation of the Crime of Obscenity by Teachers Against Students at School: Case Study 194/Pid.Sus/2022/PN Btg. The police have legally processed a case of criminal sexual abuse involving a teacher against a student in Gringsing Village, Batang Regency, Central Java. This case is regulated in accordance with Law Number 11 of 2012 concerning the juvenile criminal justice system and Law Number 35 of 2014 concerning child protection. Involving witness and victim protection agencies to provide legal protection to child victims. By implementing these steps, it is hoped that the handling of cases of sexual abuse by teachers against students at school can be carried out more effectively and can provide optimal protection to victims.

5. References

Books:

Peter Mahmud Marzuki, 2022. *Legal Research*, Kencana Prenada Media Group, Jakarta.

Journals:

Ahmad Faizal Azhar, Application of the Concept of Restorative Justice in the Criminal Justice System in Indonesia. *Court: Journal of Islamic Law Studies*, Vol 4, No 2 (2019);

Fiska Ananda, Implementation of Diversion as a Legal Protection Effort for Children Perpetrating Crimes, *Journal of Sovereign Law*, Vol 1, No 1 (2018);

Irwan Safaruddin Harahap, Legal Protection for Child Victims of Sexual Crimes in a Progressive Legal Perspective, *Legal Media Journal*, Vol 23, No 1 (2016);

Nevey Varida Ariani, Implementation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in Efforts to Protect Children's Interests, *Legal Media Journal*, Vol 21, No 1 (2014);

Setya Wahyudi, Enforcement of Juvenile Criminal Justice with a Progressive Legal Approach in the Context of Child Protection, *Journal of Legal Dynamics*, Vol 9, No 1 (2009);

Vivi Arfiani Siregar, Adnan, & Ridwan, Legal Politics in the Implementation of the Juvenile Criminal Justice System in Indonesia. *Journal of Research Innovation (JIP)*, Vol 2, No 7 (2021).