

Legal Protection for Victims of Rape of Minors by Stepfathers Reviewed from Law No. 35 of 2014 Concerning Child Protection

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Abstract

This study aims to analyze legal protection for victims of rape of minors by stepfathers, reviewed from Law No. 35 of 2014 concerning Child Protection. Rape by stepfathers is a form of sexual violence that often occurs but is often not reported by victims or families due to various factors, such as fear of social stigma and family breakdown. This study uses a normative legal approach to examine the implementation of existing laws and the obstacles faced in handling these cases. The results of the study show that although the Child Protection Law provides clear legal protection for victims, implementation in the field still encounters various obstacles, such as the lack of adequate protection facilities in the regions and the lack of public understanding of the importance of reporting cases of sexual violence. In addition, many families choose to resolve cases of sexual violence internally, so that these cases do not reach the legal process. This study also found that the role of law enforcement officers and child protection institutions is very important in ensuring that children's rights are properly protected. Therefore, it is necessary to increase public awareness, education about children's rights, and improve rehabilitation facilities to support the victim's recovery process.

Keywords

Legal Protection; Child Rape; Stepfather; Sexual Violence

Introduction

Sexual violence against children, especially that perpetrated by stepfathers, is a very worrying social problem, because children who should receive protection in the family are instead victims of horrific sexual crimes. This condition often worsens the emotional and psychological situation of the victim, which can even impact their ability to function in their social and educational lives (Situngkir, 2018). Many victims of sexual violence in the family, including rape perpetrated by stepfathers, do not have adequate access to the legal system that can protect them from the perpetrators, or even feel pressured to cover up the incident in order to maintain family harmony that is actually threatened by the act of violence itself (Sibuea, 2018).

The causes of sexual violence by stepfathers are very diverse, ranging from unstable family socio-economic conditions, poor communication between family members, to the role of the stepfather figure who is often underestimated. Many victims do not have the strength to fight back because of their emotional ties and economic dependence on the perpetrators. As a result, victims are trapped in a situation that restricts their freedom, where they feel isolated from the outside world, do not know who they can trust, or are afraid that if they report it they will receive negative stigma from society or their own families. The lack of adequate support often leaves victims helpless and forced to accept suffering without any legal remedies that can help.

Sexual violence against children, especially that committed by family members, not only violates the rights of children as individuals, but also violates the social and moral values that are upheld in family and community life (Latipulhayat, 2021). This is of great concern because perpetrators often use their position of power in the family to cover up their actions, making it even more difficult to reveal. In many cases, child victims tend not to report the incident because of fear, guilt instilled by the perpetrator, or because they do not understand that what happened was a serious violation of the law (Dewi, 2018).

In order to protect children from sexual violence, Indonesia has established several legal regulations that focus on child protection, one of which is Law No. 35 of 2014 concerning Child Protection. This law clearly regulates the rights of children to be protected from various forms of violence, including sexual violence. In addition, this law also provides a legal basis for enforcing justice for victims, by involving various institutions such as the police, prosecutors, and courts in handling cases of sexual violence against children. This law also emphasizes the importance of psychological protection for victims and holistic case handling, including physical and mental rehabilitation of victims that require serious attention. However, despite these regulations, implementation in the field often encounters various obstacles that hinder the realization of optimal legal protection for victims (Parthiana, 2015).

Methodology

This study uses a normative legal approach, which is a legal research method that examines the legal norms applicable in the Indonesian legal system, and how they are applied in cases of legal protection for victims of rape of minors by stepfathers. This method will focus on the analysis of relevant laws and regulations, legal doctrines, and legal principles related to the protection of children from sexual violence (Prayuda, Purba, et al., 2024).

The normative legal approach in this study aims to identify and understand how Indonesian law, especially Law No. 35 of 2014 concerning Child Protection, regulates the protection of children who are victims of rape by stepfathers. This approach will also examine the relevance of the application of criminal law in cases of sexual violence against children committed by parents or close family members. In addition, this study will analyze the extent to which Indonesian law provides sufficient protection for children who are victims of sexual violence, and how the law is implemented in the field.

To obtain relevant data, this study uses secondary data, consisting of primary, secondary, and tertiary legal materials. The primary data used in this study are laws and regulations related to child protection, especially Law No. 35 of 2014 concerning Child Protection and the Criminal Code (KUHP) which regulates criminal acts of sexual violence against children. In addition, this study also examines court decisions related to cases of rape of minors by stepfathers, to obtain an overview of how the law is applied in practice. The secondary data used are legal literature such as books, articles, journals, and theses that discuss the topic of protecting children from sexual violence and the application of criminal law to perpetrators of

sexual violence against children. Tertiary sources used include legal dictionaries and legal encyclopedias to help understand the legal concepts used in this study. The data collection technique in this study was carried out through library research, which collected and analyzed various legal documents, laws and regulations, and literature relevant to the research topic. The data obtained from the results of the library study will be analyzed in depth to obtain a comprehensive understanding of the application of existing laws and the challenges faced in providing protection to victims of child rape by stepfathers. In addition, this study will also examine court decisions related to child rape cases, to see how the court applies the law in providing justice for victims.

Data analysis in this study was carried out using normative qualitative analysis, which will examine the legal norms contained in the laws and regulations and their relevance in providing protection for children who are victims of rape (Prayuda, Gultom, et al., 2024). This analysis includes a study of Law No. 35 of 2014 concerning Child Protection and the Criminal Code, to see to what extent this law can provide maximum protection for children. In addition, this study will also evaluate the practice of implementing the law in cases of sexual violence against children involving family members, with a focus on rape committed by stepfathers. Through this analysis, this study aims to identify gaps in the application of the law and provide recommendations that can improve legal protection for children who are victims of sexual violence.

The main objective of this study is to understand and analyze how Law No. 35 of 2014 provides legal protection for children who are victims of rape by stepfathers, as well as to determine the obstacles faced in law enforcement in cases of sexual violence. This study also aims to provide an understanding of the extent to which the legal system in Indonesia provides effective and maximum protection for children who are victims of sexual violence. By using this approach, this study is expected to provide recommendations on steps that need to be taken to improve legal protection for children in Indonesia, as well as provide suggestions for improvements in the justice system to handle cases of sexual violence against children more effectively and fairly.

Discussion

The results of the study show a number of important findings related to legal protection for victims of rape of minors by stepfathers, with a perspective on the implementation of Law No. 35 of 2014 concerning Child Protection. First, the definition of a child in the law is an important legal basis in protecting the rights of child victims of rape. Law No. 35 of 2014 stipulates that a child is someone who has not reached the age of 18, which automatically provides a guarantee of legal protection for children who are victims of sexual violence, including rape by stepfathers. However, even though there is a clear legal umbrella, cases of rape by stepfathers are often not reported by the victim's family. The study found that many cases were not revealed or did not reach the legal process due to social and psychological barriers in the family. This is often caused by fear of social stigma, feelings of shame, or concerns about family discord. In certain cases, families choose to resolve problems internally, which leads to minimal reporting to law enforcement officers.

Another obstacle faced in the legal process is the lack of adequate evidence to support the investigation process. In many cases, victims who experience rape by stepfathers experience severe psychological trauma, which makes it difficult to provide the necessary testimony or evidence (Christianti, 2022). In addition, the lack of understanding and sensitivity of law enforcement officers to the trauma experienced by victims is also an obstacle to handling

these cases. Sometimes, the legal process stops at the investigation stage because there is not enough strong evidence, or even the cases are not continued to court. This shows a gap in law enforcement related to sexual violence against children, especially those involving nuclear family members.

Although the Child Protection Law provides a clear legal basis, its implementation in the field does not always run smoothly. One of the most common problems found is the limited facilities and resources to provide protection to victims in various regions. Several regions that lack rehabilitation centers or child protection homes are often unable to provide adequate support for victims (Aprita et al., 2020). In addition, the lack of socialization to the community regarding children's rights and the importance of reporting acts of sexual violence also worsens this situation. Therefore, even though there are regulations governing child protection, implementation at the regional level still faces various challenges. In the context of families, the large number of unreported cases is also due to the very large role of the family in determining the next steps. Many families of victims choose not to involve law enforcement because they are afraid of the social impacts that may arise, such as family breakdown or stigma against the child and the family. This shows the importance of educating about children's rights and the importance of involving authorities in cases of sexual violence, in order to ensure better protection and recovery for victims.

Based on the results of the study, it can be concluded that although Law No. 35 of 2014 concerning Child Protection has provided clear legal protection for children as victims of sexual violence, there are several factors that affect the effectiveness of its protection. One of them is the existence of obstacles in the implementation of the law related to social and cultural factors. Many victims who are children in families, especially those who are victims of rape by stepfathers, are reluctant to report the case because of fear of the reaction of the family or the surrounding environment. On the other hand, law enforcement officers are also faced with challenges in processing cases of sexual violence involving family members. The investigation and examination process involving the closest family is often slow because of the emotional relationship between the victim and the perpetrator. This often makes victims hesitate to provide honest or open information about the violence they have experienced. In addition, the lack of adequate protection facilities for victims in the legal process is also an obstacle. For example, less than optimal witness protection or inadequate temporary shelters keep child victims of sexual violence exposed to risky environments.

One of the main obstacles found in this study is the lack of socialization about children's rights and protection against sexual violence in the community. Many parents and the general public still do not fully understand the importance of child protection and how they can report sexual violence that occurs in the family environment. In addition, in some cases, fear of social stigma or the possibility of family discord makes victims and families reluctant to report the incident to the authorities. However, there have been several positive efforts made by the government and related institutions to improve protection for child victims of sexual violence. For example, the establishment of the Integrated Service Center for the Empowerment of Women and Children which aims to provide psychosocial and legal services for victims of sexual violence, including children. In addition, the government is also increasing cooperation with non-governmental organizations (NGOs) working in the field of child protection to provide the public with an understanding of the importance of reporting cases of sexual violence and providing support to victims.

However, despite these efforts, there are still many challenges that must be faced to ensure that victims of sexual violence, especially those involving family members such as stepfathers, receive maximum protection. In this case, an active role is needed from all parties, including the government, society, child protection institutions, and law enforcement officers, to ensure that every child who is a victim of sexual violence receives protection in accordance with their rights. Overall, this study shows that although there is a clear legal framework in Law No. 35 of 2014 concerning Child Protection, the implementation of protection for victims of child rape by stepfathers still faces a number of obstacles. More maximum efforts are needed in terms of public education, stricter law enforcement, and better protection for victims, especially in situations involving the nuclear family.

Conclusion

This study examines legal protection for victims of rape of minors by stepfathers, focusing on the implementation of Law No. 35 of 2014 concerning Child Protection. Based on the results of the study, it can be concluded that although this law has provided a strong legal basis for child protection, its implementation still experiences various obstacles in the field. First, many cases of rape by stepfathers that are not reported are caused by social and psychological factors, such as social stigma and fear of family disintegration. This hinders the process of legal protection for victims, who are often forced to suffer in silence. Second, although there are efforts to protect children through the Child Protection Law, law enforcement is often hampered by the inability of victims to provide clear testimony, as well as the lack of understanding and sensitivity of law enforcement officers to cases of sexual violence involving the nuclear family. In addition, limited victim protection facilities, especially in certain areas, worsen the situation.

In this context, legal protection for victims of rape of children by stepfathers requires more serious attention from all parties, including the government, law enforcement officers, and the community. Counseling on children's rights, especially protection against sexual violence, needs to be improved. Law enforcement officers also need to receive special training to be able to handle such cases better. In addition, the provision of adequate protection facilities for victims, as well as a more integrated and holistic approach in handling cases of sexual violence against children, must be a priority to ensure that victims' rights are maximally protected. Overall, although there are clear regulations regarding child protection, major challenges still remain in implementation in the field. Therefore, there needs to be strategic and comprehensive steps to ensure effective legal protection for victims of rape of minors by stepfathers.

References

- Aprita, S. H. S., Adhitya, S. T. R., & SH, M. K. (2020). *Hukum Perdagangan Internasional*. books.google.com.
<https://books.google.com/books?hl=en&lr=&id=AR7eEAAAQBAJ&oi=fnd&pg=PA1&dq=hukum+internasional&ots=Ik3tNr1tG5&sig=HdC5nGkJsJpdtNJDXB4ZxxApEEM>

- Christianti, D. W. (2022). *Hukum v Pidana Internasional*. books.google.com. https://books.google.com/books?hl=en&lr=&id=RTtwEAAAQBAJ&oi=fnd&pg=PP1&dq=hukum+pidana+hukum&ots=TR7SgDLQOx&sig=fsVq8RsZMBQjhdpm_yQWPZRZ4C4
- Dewi, A. E. (2018). *Perlindungan Hukum Terhadap Tari Tradisional Menurut Hukum Internasional*. digilib.unila.ac.id. <http://digilib.unila.ac.id/30130/>
- Latipulhayat, A. (2021). *Hukum internasional: Sumber-sumber hukum*. books.google.com. https://books.google.com/books?hl=en&lr=&id=x0xWEAAAQBAJ&oi=fnd&pg=PP1&dq=hukum+internasional&ots=bmg4gMnLDq&sig=WkE4m8n_eYTmPuKK3q7Sx3OfBCY
- Parthiana, I. W. (2015). *Hukum pidana internasional*. repository.unpar.ac.id. https://repository.unpar.ac.id/bitstream/handle/123456789/976/Wayan_141616-p.pdf?sequence=1&isAllowed=y
- Prayuda, M. S., Gultom, C. R., Purba, N., & ... (2024). FROM AVERSION TO ENGAGEMENT: TRANSFORMING EFL HIGHER EDUCATION STUDENTS' APPROACH TO ENGLISH IDIOMS THROUGH ROLE-PLAYING. ... *Review: Journal of ...* <http://journal.uniku.ac.id/index.php/ERJEE/article/view/8869>
- Prayuda, M. S., Purba, N., & Gultom, C. R. (2024). The Effectiveness of English as a Science Medium Instruction in Higher Education. ... *Penelitian Pendidikan IPA*. <https://jppipa.unram.ac.id/index.php/jppipa/article/view/7986>
- Sibuea, D. T. (2018). Pemberantasan Perdagangan Orang Melalui Instrumen Hukum Nasional Dan Hukum Internasional Di Indonesia. *JCH (Jurnal Cendekia Hukum)*. <https://ejurnal.stih-pm.ac.id/index.php/cendekeahukum/article/view/35>
- Situngkir, D. A. (2018). Asas Legalitas Dalam Hukum Pidana Nasional Dan Hukum Pidana Internasional. In *Soumatara Law Review*. scholar.archive.org. [https://scholar.archive.org/work/xxujy6o4cbd5xeyap6hu7ebqc4/access/wayback/http://ejournal.kopertis10.or.id/index.php/soumlaw/article/download/3398/Hal 22-42](https://scholar.archive.org/work/xxujy6o4cbd5xeyap6hu7ebqc4/access/wayback/http://ejournal.kopertis10.or.id/index.php/soumlaw/article/download/3398/Hal%2022-42)