

LEGAL PROTECTION FOR CHILD VICTIMS OF DOMESTIC VIOLENCE

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Abstract

The increasing cases of Domestic Violence against children indicate a disconnect between regulation and the implementation of child protection in Indonesia. Although the Government has enacted Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002, both preventive and repressive legal protections remain suboptimal in reducing violence rates. This study aims to analytically examine the forms of legal protection for child victims of domestic violence and identify the determinant factors causing such violence from a juridical perspective. The research method employed is normative legal research with statutory and conceptual approaches. The findings reveal that legal protection for child victims of domestic violence encompasses the fulfillment of restitution rights, psychosocial rehabilitation, and specialized legal assistance. Economic factors and family disharmony are identified as the primary triggers of violence. This study concludes that the current child protection mechanisms remain confined to a formalistic approach. The normative implication suggests a need for strengthened synchronization between the Child Protection Law and the Domestic Violence Elimination Law (UU PKDRT), alongside an expansion of the state's obligation to guarantee absolute fundamental rights for children to ensure legal certainty and more comprehensive protection for children as vulnerable legal subjects.

Keywords: Legal Protection; Protection of Children's Right ; Domestic Violence

Abstrak

Meningkatnya kasus Kekerasan Dalam Rumah Tangga (KDRT) terhadap anak menunjukkan adanya diskoneksi antara regulasi dan implementasi perlindungan anak di Indonesia. Meskipun Pemerintah telah mengesahkan UU No. 35 Tahun 2014 tentang Perubahan atas UU No. 23 Tahun 2002, perlindungan hukum yang bersifat preventif maupun represif masih belum optimal dalam menekan angka kekerasan. Penelitian ini bertujuan untuk menganalisis secara mendalam bentuk perlindungan hukum bagi anak korban KDRT serta mengidentifikasi faktor-faktor determinan penyebab kekerasan tersebut dari perspektif yuridis. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan konseptual.

Hasil penelitian menunjukkan bahwa perlindungan hukum bagi anak korban KDRT mencakup pemenuhan hak restitusi, rehabilitasi psikososial, dan bantuan hukum yang bersifat khusus. Faktor ekonomi dan disharmoni keluarga ditemukan sebagai pemicu utama terjadinya kekerasan. Kesimpulan penelitian menegaskan bahwa mekanisme perlindungan anak saat ini masih terjebak pada pendekatan formalistik. Implikasi normatifnya, diperlukan penguatan sinkronisasi aturan antara UU Perlindungan Anak dan UU PKDRT, serta perluasan kewajiban negara dalam menjamin hak asasi anak secara absolut guna memberikan kepastian hukum dan perlindungan yang lebih komprehensif bagi anak sebagai subjek hukum yang rentan.

Kata Kunci: Perlindungan Hukum; Perlindungan Hak Anak; Kekerasan Dalam Rumah Tangga

Introduction

Children are a trust and divine blessing, inherently reflecting the true nature and dignity of humanity. The children referred to are biological offspring, born from a lawful union between a father and mother. The family is a fundamental unit of society; however, in recent years, families have often become the most vulnerable environment for acts of violence against children, both physically and psychologically.¹. Violence against children within the family is often overlooked and not regarded as a social issue.². As a result, children rarely seek help to cope with the violence they experience from their family or parents. In fact, parents should have the responsibility to be leaders, to love, care for and protect.

Violence against children is an intentional act to cause physical or emotional suffering to a minor through repeated harmful actions, including coercion, excessive physical punishment, continuous humiliation and ridicule, or sexual exploitation, usually carried out by parents or caregivers entrusted with the child's welfare.³ Until now in our society, children are still the main targets of physical and psychological violence carried out at home, at school or in the community⁴.

¹ Prastini, E. (2024). Kekerasan Terhadap Anak dan Upaya Perlindungan Anak di Indonesia. *Jurnal Citizenship Virtues*, 760-770.

² Oktariani. (2021). Dampak Toxic Parents dalam Kesehatan Mental Anak. *Jurnal Penelitian Pendidikan, Psikologi Dan Kesehatan*, 215-222

³ Barker, R.L. (1978). The Social Work Dictionary, National Association of Social Workers. Maryland: Silver. Hal. 23

⁴ Hamadah, F. A. (2021). Perlindungan Hukum Terhadap Anak Yang Dipekerjakan (Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak). *Jurnal Legisia*, 58-68.

Recently, various reports in print and electronic media have highlighted the increasing cases of domestic violence against children.⁵ Disputes in parental relationships push children to take risks of becoming targets of anger. Parents are obliged to care for and nurture their children until adulthood, as children are the family's assets regardless of biological ties. Based on Lulu's research, it shows that 60% of female parents (mothers) are more vulnerable to committing violence against children than male parents (fathers), which is quite concerning.⁶ It is not uncommon for parents to often commit violence against their children as an outlet for the violent experiences they suffered during their own childhood, or it could be because the parents are addicted to alcohol or drugs and have mental health issues, causing the violent acts against the child to repeatedly occur.

On 8 October 2024, the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) released the findings of the 2024 National Survey on Women's Life Experiences (SPHPN) and the 2024 National Survey on Children's and Adolescents' Life Experiences (SNPHAR). In 2024, emotional violence became the dominant factor, with 45 out of 100 teenagers aged 13-17 having experienced emotional violence at some point in their lives. Over the past 12 years, 30% of teenagers aged 13-17 have experienced one or more cases of emotional violence. Peers are the main trigger for emotional aggression, occurring in 83.44% of boys and 85.08% of girls (respondents aged 13-17). Cases of emotional abuse encountered include parental actions (statements that the child is unworthy of love, insults, shouting, threats, and being treated as an unwanted child) and interactions with peers (experiencing discrimination based on ethnicity, religion or race, sexualised gestures, physical stigma, and bullying related to the family's socio-economic status).⁷ The main source of complaints regarding child rights violations is associated with difficult child-rearing and family conflicts, totaling 479 cases.⁸ Furthermore, in April 2024, data from the Coordinating Ministry for Human Development and Cultural Affairs (Kemenko PMK) showed that there were 2,132 cases of domestic violence (KDRT) against children.⁹ This statement indicates that the home, which ideally should be the safest and most supportive environment for a child, often becomes a place where children's rights are violated, particularly the right

⁵ PPPA. (2025). *Menteri PPPA: Banyak Perempuan dan Anak Korban Kekerasan Tidak Berani Melapor*. Kementerian Pemberdayaan Perempuan dan Perlindungan Anak

⁶ Lulu'iL. Maknun, "Kekerasan terhadap Anak Oleh Orang Tua yang Stress", *Jurnal Harkat: Media Komunikasi Islam tentang Gender dan Anak*, 12 (2), (2016): 118-124.

⁷ <https://www.kemenpppa.go.id/page/view/NTQzMw==>

⁸ Yuniarto, Topan (2023, Desember 21). *Melindungi Anak dari Ancaman Kekerasan dalam Rumah Tangga*. <https://kompaspedia.kompas.id/baca/paparan-topik/melindungi-anak-dari-ancaman-kekerasan-dalam-rumah-tangga>

⁹<https://www.metrotvnews.com/read/bVDCq6AI-laporan-kasus-kekerasan-anak-2024-paling-banyak-terjadi-di-rumah-tangga>, diakses 20 Agustus 2024, Jam14;00.

to life, survival, and development as outlined in the Convention on the Rights of the Child.

Articles 51 to 53 of Law Number 23 of 2004 on the Elimination of Domestic Violence (PKDRT) outline violations based on complaints related to domestic violence. Therefore, community and law enforcement involvement is crucial to enhance awareness, advocacy, prosecution, and accountability in efforts to combat domestic violence.

Considering the background of the issues mentioned above, the purpose of this study is to analyse the legal protection of children's rights for those who are victims of domestic violence and the factors that cause violence against children in the household. This research aims to provide legal protection to children who are victims of domestic violence, explain their rights, and examine the factors causing domestic violence against children.

Research Methods

The subject of research in this paper is the legal protection for children who are victims of Domestic Violence (DV) as well as the factors that hinder the effectiveness of the implementation of Law Number 35 of 2014 concerning the Amendment to Law Number 23 of 2002 on Child Protection. The study focuses on the synchronisation of regulations and the special rights that should be accorded to child victims of violence within the legal system in Indonesia.

The type of research used is normative legal research. This research is conducted by examining existing library materials to discover the truth based on the logic of legal science from a normative perspective, with the data sources used being secondary data.

The data collection technique was carried out through library research. The author conducted searches, data collection, and examinations of legal documents as well as literature relevant to the research problem. The collected data were then selected and classified systematically to address the formulated issues. The obtained data were analysed using a qualitative-normative method. The analysis was conducted by describing legal provisions, interpreting them, and evaluating the consistency between different legal norms to draw deductive conclusions.

Legal Protection for Children as Victims of Domestic Violence

Protection includes guarantees of safety, tranquility, and welfare, both now and in the future. Legal protection for children essentially encompasses a legal framework, social, environmental, and cultural considerations, as well as guarantees for a good future. Children must be protected from physical and psychological violence, including all forms of abuse and exploitation. Legal protection for children relates to the protection of children's human rights, their

freedoms, and their interests concerning their welfare. It is very important for a child to receive protection that can provide a sense of safety and comfort.

The Government's efforts in child protection have been outlined in Law Number 23 of 2002 concerning Child Protection, which was later amended by Law Number 35 of 2014. Article 44 of this Law specifically mandates that the Central Government and Regional Governments must provide facilities and coordinate the implementation of comprehensive child health efforts, with the support of community participation.¹⁰ The protection of children's rights relates to laws, regulations, programmes, initiatives, and actions that ensure the protection of minors.¹¹ Childcare is the responsibility of the state, government, society, family, and parents, concerning religious life, education, health, and social welfare.¹²

Article 1 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UUPKDRT) defines domestic violence as any act committed against a person, especially women, that causes physical, sexual, psychological pain or suffering, and/or neglect within the household, including threats of violence, coercion, or unlawful restriction of personal freedom within the household.¹³

Children who are victims of domestic violence often experience psychological and social impacts. Psychologically, children can suffer from trauma, anxiety, and depression, and socially, they may struggle to interact with others, have low self-esteem, and tend to repeat patterns of violence in future relationships. Additionally, young people may experience psychological issues, including social anxiety and increased stress in interpersonal situations.¹⁴

Article 5 and its explanation, as contained in Articles 6, 7, 8 and 9 of Law Number 23 of 2004, mention that there are four (4) types of violence, as follows:

1. Physical violence, as defined in Article 5(a) in the elaboration of Article 6, is an act that causes pain, illness, or significant injury;

¹⁰ Indonesia (1), Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan dalam Rumah Tangga, Pasal. 44

¹¹ Sutiawati, Mappaselleng, & Fadhilah, N. (2020) *Penanggulangan tindak pidana Kekerasan dalam Rumah Tangga di Kota Makassar*. Jurnal Wawasan Yuridika, 4(1), pp.17-30, <https://dx.doi.org/10.25072/jwy.v4i.315>.

¹² Noer Indriati, Pengembangan Model Perlindungan Hukum Terhadap Anak sebagai korban Perdagangan di Indonesia, Jurnal dinamika Hukum, Vol. 14, No. 3, 2014.

¹³ Indonesia (1), Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan dalam Rumah Tangga, Pasal 1 angka 1.

¹⁴ Hamadah, F. A. (2021). Perlindungan Hukum Terhadap Anak Yang Dipekerjakan (Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak). *Jurnal Legisia*, 58-68

2. Psychological violence, as explained in Article 5(b) in the elaboration of Article 7, is an act that causes fear, diminishes self-esteem, weakens abilities, fosters feelings of helplessness, and/or causes significant psychological pain in a person;
3. Sexual violence, as defined in Article 5 letter c, in the elaboration of Article 8, includes:
 - a. Sexual intercourse forced upon someone who lives in the same household as the person;
 - b. Forced sexual relations involving household members with others for commercial purposes and/or certain interests;
4. Neglect of household duties as referred to in Article 5 letter d in the explanation of Article 9 includes:
 - a. No one shall neglect the members of their household, regardless of any legal or contractual obligations to ensure the life, care, or maintenance of that person;
 - b. Neglect, as referred to in paragraph (1), also includes anyone who fosters economic dependence by restricting and/or preventing the victim from engaging in income-generating work, both inside and outside the home, thereby rendering the victim subject to their authority.

Exposure of children to violent media, hearing, or experiences within the family can negatively impact their life cycle and development. The World Health Organization (WHO) states that early exposure to violence can disrupt brain development and have harmful effects on various systems, including neurological, endocrine, circulatory, musculoskeletal, reproductive, respiratory, and immune systems, resulting in lifelong consequences.¹⁵ According to Nirmalasari's research, many cases often show that children feel afraid to report the abuse they experience. This can happen because they feel ashamed, fear humiliation, believe they will not be trusted, or fear threats from the perpetrator. Additionally, children aged 7-12 are hesitant to report the acts they experience due to a lack of understanding and knowledge about the reporting process, which leads to continued domestic violence, and also due to a relationship or dependence on the perpetrator.¹⁶

The Child Protection Act provides a legal framework to protect children who are victims of domestic violence. Legal protection for children who are victims of domestic violence is crucial to safeguard and ensure their rights and guarantee justice. Article 10 of the Domestic Violence Elimination Act explicitly outlines the rights of victims as follows:

- a. Protection from the family, law enforcement, prosecutors, judiciary, advocates, social institutions, or other entities, whether temporary or based on a protection order issued by the court;

¹⁵ Yuniarto, Topan (2023, Desember 21), Op cit

¹⁶ Nirmalasari, D. Y. (2024). Analisis Perlindungan Hukum Anak terhadap Kejadian Kekerasan Seksual. *Konsensus : Jurnal Ilmu Pertahanan, Hukum dan Ilmu Komunikasi*, 356-367

- b. Medical care in accordance with health mandates;
- c. Management of handling specifically related to victim confidentiality;
- d. Assistance and support from social workers and legal aid throughout all stages of the investigation process in accordance with applicable rules and regulations; and
- e. Spiritual guidance services.¹⁷

This article emphasises that families, law enforcement, social and health institutions, as well as various communities, including schools as educational institutions, play a very important role in protecting the rights of children who are victims of domestic violence and in recognising such cases by reporting them to the authorities. The crucial role of the police and judicial institutions is vital in handling cases of violence against children, ensuring that child victims of domestic violence receive justice that aligns with their needs and rights. The primary aim is to create a judicial process that is safe, comfortable, and supportive of the child's psychological development.

Conversely, the enforcement of protective measures for children who are victims of verbal abuse, defined as the use of harsh, dominating, mocking, and insulting language, can be carried out in two ways:

1. Preventive protection refers to measures implemented before violence occurs, aimed at reducing factors that contribute to physical and psychological violence within households where children are victims. This includes education on effective and non-harmful child-rearing practices, both physically and psychologically, such as avoiding hitting or shouting, understanding child development, and fostering open (communicative) communication to ensure that children feel safe and comfortable without fear. In accordance with Law Number 35 of 2014, which is a revision of Law Number 23 of 2002, Article 69 Paragraph (1) point 1 of the Child Protection Law states:¹⁸

"Special protection for children who are victims of physical and/or psychological abuse as referred to in Article 59 is carried out through efforts to provide education and raise awareness of the legal measures that protect these children."

Preventive measures that can be taken to prevent acts of violence against children in the community include:

1. The community identifies families at high risk of experiencing violence;

¹⁷ Indonesia (1), op cit, Pasal 10

¹⁸ Indonesia (2), Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 tahun 2002 Tentang Perlindungan Anak, Pasal. 69 Ayat (1) angka 1

2. Providing guidance, supervision, and training to all parents to prevent and eliminate domestic violence against children through constructive initiatives;
3. Cultivating collective awareness in society by reducing exposure to media related to violence.

The fundamental premise of child protection is to prioritise the best interests of the child. This principle is a constitutional and legal mandate affirmed in Article 28B paragraph (2) of the 1945 Constitution and Article 2 of Law Number 35 of 2014 on Child Protection, which obliges these interests to be prioritised in all decisions for effective child protection. Without this foundation, protection initiatives will lose direction and legal legitimacy..

The principle of the best interest of the child is crucial because children are a vulnerable group who are often victims of violence, exploitation, and neglect. If this vulnerability is not mitigated through appropriate policies, society may inadvertently trigger larger systemic issues in the future, such as intergenerational cycles of poverty, increased juvenile delinquency, and the degradation of human resource quality. Therefore, the principle of the best interest of the child must be given the highest priority of paramount importance in all legal and social considerations.

It is crucial to emphasise and facilitate early understanding in society regarding the importance of sustainable child protection. This protection should not be limited to discussions around specific cases involving children; rather, it must influence the ongoing implementation of existing child protection laws by all stakeholders, including law enforcement and related parties, to ensure the optimal well-being and the best life for children.¹⁹

Repressive protection is a protective mechanism provided to children (victims) in cases of domestic violence. The state and government are obliged to ensure the provision of protection for children. Article 59 of the Child Protection Law specifically requires the government and other state institutions to provide special protection to children who are victims of physical and/or psychological violence. Furthermore, Article 3 Paragraph (2) of Government Regulation Number 78 concerning Special Protection for Children outlines the rights, including:

- a. Immediate handling including physical, psychological, and social care and/or rehabilitation, as well as disease prevention and addressing other health disorders;
- b. Psychosocial support during treatment and recovery;
- c. Provision of social assistance to children from low-income households;

¹⁹ Samsudi, Y.A. Triana Ohoiwutun &. 2017, "Penerapan Prinsip Kepentingan Terbaik Bagi Anak Dalam Kasus Tindak Pidana Narkotika", Yudisial 10 (1): Hal 39-57

- d. Guaranteed protection and assistance throughout the judicial process.

In addition, Article 69 of Law Number 35 of 2014, which amends Law Number 23 of 2002, regulates Special Protection for Child Victims of Physical and/or Psychological Violence through measures that include a) dissemination and socialisation of legislation providing protection to Child Victims of Violence, and b) monitoring, reporting, and enforcement of sanctions. The government has established heavier criminal penalties (sanctions) for individuals who violate the law and provisions concerning violence against minors.

The regulation clearly mandates that the state must be present through policy intervention and the provision of integrated services. This presence is manifested through service-providing institutions such as the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA), health service centres, and social rehabilitation under the auspices of the Ministry of Social Affairs. The state is obliged to take all necessary actions to protect children, encompassing all aspects of rehabilitation, including physical, psychological, and social recovery. Furthermore, the state must ensure the implementation of preventive measures to avert long-term health impacts and psychological trauma for children who fall victim to domestic violence (KDRT).

It is very important to conduct activities that disseminate understanding about the provisions of laws protecting children who are victims of domestic violence through various means, whether through media (print, electronic, and social media) or directly by routinely socialising with the community in various locations, because the child protection law itself explicitly states that: "No one shall place, ignore, commit, order, or participate in acts of violence against a child." In many cases, there are still many parents and members of the community who believe that treatment that tends to be harsh and severe towards children is a part of learning or an educational process of a private nature that does not need to be shown in public, which can become a factor hindering the effectiveness of child protection laws. The imposition of criminal sanctions on perpetrators of violence against children is regulated in Article 80 of Law Number 35 of 2014, which is a revision of Law Number 23 of 2002 concerning Child Protection;

1. Anyone who violates the provisions referred to in Article 76C shall be subject to a maximum imprisonment of 3 (three) years and six months and/or a maximum fine of Rp72,000,000.00 (seventy-two million rupiah).
2. If the child as referred to in paragraph (1) suffers serious injury, the perpetrator shall be subject to a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah).

3. If a child as referred to in paragraph (2) dies, the perpetrator shall be punished with imprisonment for a maximum of 15 (fifteen) years and/or a fine of up to IDR 3,000,000,000.00 (three billion rupiah).
4. The penalty shall be increased by one third of the provisions referred to in paragraphs (1), (2), and (3) if the perpetrator is a parent.²⁰

Furthermore, the criminal justice system plays a very important role in ensuring that children who are victims of domestic violence receive justice that meets their needs and rights. Cooperation between government institutions, non-governmental organisations, and the community is crucial to ensure that legal protection for child victims of domestic violence is provided. This includes ensuring proper law enforcement and guaranteeing the fulfilment of the three criteria to achieve legal certainty, namely:

1. Legal certainty (*Rechtszekerheit*)
Assurance to members of society that all individuals will be treated by the state or authorities in accordance with applicable regulations and not arbitrarily;
2. Benefits (*Zweckmassigkeit*)
The public anticipates benefits from the implementation or enforcement of laws or legal regulations.;
3. Justice (*Gerechtigkeit*)
Fair law enforcement that does not undermine human dignity.

Rights of Children Who Are Victims of Domestic Violence

Indonesia, as part of the global community, is committed to realising and protecting the rights of children, which are fundamental human rights as enshrined in the constitution. This commitment ensures a successful, high-quality, and safe future for Indonesia's younger generation.²¹ In Indonesia, as in every country, children's rights are regulated by law.²²

Child protection encompasses efforts for prevention, rehabilitation, and empowerment to ensure that children are protected from violence, exploitation, neglect, and abuse. These efforts aim to guarantee the survival and optimal development of children, both physically, mentally, and socially.²³ Arif Gosita

²⁰ Indonesia (2), op cit ps 80

²¹ Tedy Sudrajat, *Perlindungan Hukum Terhadap Hak Anak Sebagai Hak Asasi Manusia Dalam Perspektif Sistem Hukum Keluarga Di Indonesia*, Kanun Jurnal Ilmu Hukum, Vo. 13, No. 2, 2011

²² Darmini Roza, Laurensius arliman S, *Peran Pemerintah Daerah di Dalam Melindungi Hak Anak di Indonesia*, Jurnal Masalah-Masalah Hukum, Vol. 47, No. 1, 2028

²³ Media Advokasi dan Penegakan Hak-hak Anak. Volume II No. 2, 1998, Medan: Lembaga Advokasi Anak Indonesia (LLAI).

emphasises that child protection is an effort aimed at safeguarding the rights and responsibilities of children.²⁴

Children who fall victim to domestic violence may suffer from physical ailments, and in instances of physical abuse, they may also experience psychological issues, including feelings of shame in social situations or increased tension in the presence of others.²⁵ This will certainly affect their health and development. If a child requires psychological counselling and support, it must be provided by a qualified professional, particularly a psychologist.

The protection provided can be realised in the form of legal assistance or counselling services, within the scope of social workers or paralegals. This protection must be able to offer benefits and a sense of security for the child, as a child's experience of witnessing, hearing, or enduring domestic violence can have a detrimental impact on their life trajectory and future development.

Fulfilling the right to happiness and welfare for children is not merely an end goal, but a crucial preventive instrument to ensure their optimal growth and protection from various social threats. Children no longer feel anxious due to the implementation of child protection procedures that are well-executed, efficient, and ensuring their welfare. Child welfare provides positive benefits for parents, families, society, the government, and the state.²⁶ Article 1 paragraphs 12 and 19 of Law Number 35 of 2014, which amends Law Number 23 of 2002 concerning Child Protection, stipulate that the rights of the child are an inherent part of human rights (HR) that must be guaranteed, protected, and fulfilled by parents, families, communities, the state, the government, and local authorities. Furthermore, Article 20 mandates that the State, Government, Local Government, Society, Family, and Parents or Guardians are responsible for implementing Child Protection.

Children who are victims of domestic violence are entitled to legal protection against all forms of violence, as explicitly stipulated in the legislation, among others;

1. The 1945 Constitution of the Republic of Indonesia

²⁴Arif Gosita, 1999, *Aspek Hukum Perlindungan Anak dan Konvensi Hak-hak Anak*, Jakarta, Era Hukum, Jurnal Ilmiah Ilmu Hukum. No. 4/Th.V/April 1999. Fakultas Hukum Tarumanagara.

²⁵ Hamida,A.& Setiyono, J. (2022) Analisis Kritis perlindungan terhadap anak korban kekerasan dalam rumah tangga: Kajian Perbandingan Hukum, Jurnal Pembangunan Hukum Indonesia, Program Magister Hukum, Fakultas Hukum Universitas Diponogoro, 4(1), hal 73-88

²⁶ Muhammad Fachri Said, *Perlindungan Hukum Terhadap Anak dalam Perspektif Hak Asasi Manusia*, Jurnal Cendikia hukum: Vol. 4, No.1, 2018

Article 28B Paragraph (2) guarantees the child's right to grow and develop, and to receive protection from violence and discrimination for their survival;

2. UN Convention on the Rights of the Child

This convention emerged as a response to the suffering of children following World War II, culminating in the adoption of the Convention on the Rights of the Child, which was subsequently ratified by Indonesia through Presidential Decree No. 36 of 1990 and later refined through Law No. 23 of 2002 on Child Protection;

3. Law Number 35 of 2014 is an improvement of Law Number 23 of 2002 concerning Child Protection and Law Number 11 of 2012 concerning the Juvenile Justice System, which provides special protection for children who are victims of physical and/or psychological violence, aimed at safeguarding the physical and/or psychological well-being of children from harmful actions.;
4. Government Regulation Number 78 of 2021, which specifically governs the protection of children who are victims of physical and psychological violence;
5. The Indonesian Child Protection Commission (KPAI), a government initiative aimed at safeguarding children. Article 76 of Law Number 35 of 2014 concerning Child Protection in Indonesia.

On 20 November 1987, the UN General Assembly ratified the Convention on the Rights of the Child (CRC), which outlines the obligations of states to ensure the welfare and healthy development of children. The concept of children's rights contained in the CRC was subsequently incorporated into Law Number 35 of 2014, which is a modification of Law Number 23 of 2002 concerning Child Protection. The four principles of child protection, based on the CRC, serve as a fundamental foundation for all child protection providers:

1. Non-Discrimination (Article 2 of the KHA)

Every child, regardless of race, religion, gender, social class, or origin, has the right to the same protection and the opportunity to reach their fullest potential..

2. The best interests of the child (Article 3 of the KHA)

All choices and activities concerning children must always prioritise the best interests of the child, including actions by government or private social welfare institutions, state or private educational institutions, judicial bodies, government agencies, or legislative bodies..

3. The right to life, survival, and development (Article 6 of the KHA)

Children have the right to life, development, and the opportunity to grow optimally to ensure their physical, mental, emotional, and intellectual well-being.

4. Respect for Children's Opinions (Article 12)

Children have the right to express their views and to ensure that these perspectives are acknowledged and taken into account in decisions affecting their lives.

Factors Contributing to Domestic Violence Against Children

Violence against children encompasses all actions directed at minors that result in physical or psychological suffering and distress. Violence against children does not occur spontaneously; many circumstances trigger and influence it. According to Rusmil, as cited in Huraerah's book, the factors causing violent acts are divided into three categories:²⁷ Risk factors for child abuse can be identified through three main dimensions. First, the family dimension, which includes maladaptive parenting or dysfunctional parenting patterns. Second, the environmental dimension, related to socio-economic pressures that increase family vulnerability. Third, the individual child dimension; in this context, certain health conditions or behavioural difficulties in children do not justify violence but rather constitute factors that increase the complexity of parenting, requiring additional support rather than punitive measures.

Purwoko T identifies several factors that cause violence against children, including: a) economic influences, such as poor households, low income, a high child-to-parent ratio, and unemployment; b) separation or divorce within the family; c) early marriage or an underdeveloped family psychology resulting in a lack of knowledge on child-rearing and the occurrence of children born out of wedlock; d) parental neglect during childhood which can lead to harmful behaviour towards their offspring; and e) poor environmental conditions.²⁸

Parental or family factors also play a role in the occurrence of violence against children, as explained by Ohoiwutun²⁹:

1. Cultural norms that mandate children's obedience to parental authority;
2. Intergenerational violence, demonstrated by parents raised in violent environments;
3. Mental health issues, including psychological stress experienced by parents, whether caused by work-related stress or other circumstances;
4. Individuals, particularly parents who have children before the age of 20, who are not physically, emotionally, or financially mature;
5. Parents with substance use disorders involving alcohol or drugs.

Parents with limited social networks and positioned at the lowest rungs of the social hierarchy often struggle to understand their children's developmental needs, and their narrow perspectives frequently compel them to impose age-

²⁷ Rusmil, K. Penganiayaan dan kekerasan terhadap anak,. *Makalah disampaikan pada seminar sehari, "Penanganan Korban Kekerasan Pada Wanita dan Anak"*. Tanggal 19 Juni di Rumah Sakit Hasan Sadikin Bandung.

²⁸ Purwoko T., "Analisis Faktor-Faktor Penyebab Keberadaan Anak Jalanan di Kota Balikpapan," *Jurnal Sosiologi* 1, No. 4 (2013); 15.

²⁹ Ohoiwutun, T. (2017). Penerapan Prinsip Kepentingan Terbaik Bagi Anak dalam Kasus Tindak Pidana Narkotika. *Jurnal Yudisial*, 39-57

inappropriate expectations on their children. This results in parents feeling frustrated or angry when their children are unable to meet these expectations.

The description above indicates that physical and psychological violence has a detrimental effect on child development. Therefore, children must be protected from all forms of violence, both physical and psychological. The government, in collaboration with state authorities, the community, and parents, is responsible for ensuring legal protection for child victims, thereby creating a sense of safety and comfort that supports their optimal growth and development.

The factors that cause children to become victims of domestic violence can be classified into four main categories: individual, family, social and cultural. Individual factors include personal characteristics, such as a history of violence in a person's life, poor mental health, and behavioural patterns learned from the family environment. Individuals who grow up in environments where they witness or experience violence are likely to internalise such behaviour, so that when they form relationships later, they may repeat the same patterns of violence. In addition, mental health issues, such as depression and addiction, often trigger violent behaviour.³⁰

Social factors encompass a broader context, such as societal norms, social support systems, and educational levels. Social environments that reinforce patriarchal norms or violence can exacerbate aggressive behaviour and make victims feel they lack a voice to resist. Furthermore, inadequate access to education and resources can worsen the situation, leaving individuals without the skills or information needed to seek help. Communities that are less responsive to domestic violence issues also contribute to the perpetuation of this problem.³¹

The Convention on the Rights of the Child, ratified by the UN on 20 November 1989, was subsequently recognised through Presidential Decree No. 36 in 1990. The Convention on the Rights of the Child affirms that every child, regardless of race, gender, origin, religion, or language, has rights that encompass four categories:

- a. The right to survival includes the right to an adequate standard of living and access to healthcare services;
- b. The right to development encompasses the right to education, access to information, leisure time, artistic and cultural activities, freedom of

³⁰ Pramudita, A, & sari, R (2021) *Efektivitas Undang-Undang Perlindungan anak terhadap Kasus KDRT*. Jurnal Hukum dan Masyarakat, 17(1), hal 54-66

³¹ Sentosa, Y (2022). *Pengaruh Kebijakan Pemerintah Terhadap Perlindungan Anak dari Kekerasan Dalam Rumah Tangga*, Jurnal Sosial dan Politik, 3(1), Hal 76-88.

thought, belief, and religion, as well as the right of children with disabilities to receive special care and protection;

- c. The right to protection encompasses protection from all forms of exploitation, cruelty, and arbitrary actions within the criminal justice system;
- d. The right to participation encompasses the freedoms of expression, assembly, and association, in addition to the right to be involved in self-determination within the decision-making process.

Observing the widespread cases of violence against children and domestic violence victims in various regions of Indonesia indicates that the attention of local governments has not been optimal, effective policies for the protection of human rights have not been implemented, and this issue has not been prioritised in the regional development agenda.³²

Conclusion

There are many factors that cause domestic violence against children, including parental quarrels, dysfunctional families (where either the father or mother is absent in the child's life), and economic factors, where there is pressure to survive amid unclear economic constraints. It is necessary to instil values of empathy in children so that they have the ability to understand the feelings, desires, and tolerance of both themselves and others, ensuring good communication. Many moral principles can be instilled in children, including fairness, self-control, and kindness. When these principles are instilled in children, they will naturally be able to distinguish between virtuous and immoral behaviour, including recognising behaviour that does not harm others.

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³² Asshiddiqie, Jimly. 2006, *Pengantar Ilmu Hukum Tata Negara*. Jakarta: Sekretaris Jenderal dan Kepaniteraan Mahkamah Konstitusi Republik Indonesia.

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