

## Efforts To Resolve Child Victims Of Violence In The Household

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### **Abstract**

Psychological violence against children within the family is the biggest problem that needs to be considered. Therefore, legal protection is needed for children who receive psychological violence in the family. The problem raised in this thesis is how to enforce the law against children who are victims of psychological violence in the domestic sphere. How is the effort to resolve the law against children who are victims of psychological violence in the domestic sphere. How is the legal protection of child victims of psychological pindana acts within the scope of the household. The research method used in this study is normative juridical research. Normative legal research is secondary data. The nature of this study is descriptive analysis. Data collection techniques this study was conducted by the method of library research (library research). Law enforcement against children who are victims of psychological violence in the household is the application of the law, namely Article 45 paragraph (1) of Law No. 23 of 2004 states that everyone who commits acts of psychological violence in the household as referred to in Article 5 letter b shall be punished with imprisonment for a maximum of 3 (three) years or a maximum fine of Rp 9,000,000.00 (nine million rupiah). Efforts to resolve the law against children who become victims of psychological crime within the scope of the household is done in two ways, namely non-penal settlement and penal settlement. The stages carried out outside the court are (1) agreeing to go through a mediation process. 2) Understand the problems. (3) Generate problem – solving options. (4) Reach an agreement. (5). Execute the deal.

**Keywords:** Legal Protection, Child, Psychological Crime

### **1. INTRODUCTION**

Protection of children is the responsibility of parents, family, and the surrounding community. Protection provided so that children are guaranteed the right of children to be able to live, grow, and develop and be able to socialize in the community. A child is a gift from God that we must take care of and protect. Protection of children is an attempt to establish conditions to protect children can exercise rights and obligations. To protect the child is to protect the whole person . Child protection is the potential to protect the next generation. Psychological violence against children that occurs is very concerning. Children who experience psychological violence need serious attention, considering the consequences of psychological violence against children will cause children to experience prolonged trauma. Trauma experienced by children will endanger the development of

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the psyche so that children cannot grow and develop naturally. The child is not the object (target) for acts of arbitrariness and inhumane treatment of anyone or any party. Children are babies who need to be cared for, should get the protection that should be obtained by the child. A family is a place where children feel safe and secure. Efforts to protect children must be done as early as possible, so that later children can participate and create optimally and can adapt in the community and also as heirs and future successors of a nation and state. Child protection must be strictly enforced.

Article 1 Paragraph (2) of Law No. 35 of 2014 on Child Protection contains provisions that child protection is all activities to ensure and protect children and their rights in order to live, grow, develop, and participate, optimally in accordance with human dignity and dignity, and receive protection from violence and discrimination. In Article 2 Paragraph (3) and Paragraph (4) of Law No. 4 of 1979 on Child Welfare contains the provisions that: “the child has the right to maintenance and protection, both in the womb and after birth. The child has the right to the protection of the environment that may harm or inhibit the proper growth and development.” Both verses explain that the protection of children intends to seek non-arbitrary treatment of children in order to achieve fair child welfare. The problems experienced by children are very concerning and heartbreaking, because many children cannot protect themselves from the treatment of psychological violence in the family and in society because there is still a dependence of children's lives on adults.

Abusers whose victims are children are generally carried out by people who have a close relationship or have known the victim beforehand. Violence against children can be triggered by a lack of well-functioning families and economic and educational backgrounds. Children can become victims or perpetrators of violence with 3 (three) loci or places of violence on children, namely in the family environment, in the school environment and in the community. The existence of cases of children becoming victims of physical and/or psychological violence in Indonesia is motivated by various factors. Among them include the negative influence of technology and information, the permissiveness of the socio-cultural environment, the poor quality of upbringing, family poverty, high unemployment, to unfriendly housing or living conditions for children. The most strategic prevention is to increase the role and empowerment of the family as a vehicle for children to socialize and shelter from any wrong treatment of them. The family should be a place where children feel safe and provide protection for children. Psychological violence that rife against children in the family, school and community environment shows that children are vulnerable to violence and lack of protection against children. Children really need a friendly and safe

environment for a place to socialize and express themselves in developing healthier and better quality children's achievements.

Children's rights are part of the human rights contained in the Constitution of the Republic of Indonesia Article 28 B paragraph (2) which contains the provision that, every child has the right to survival, growth, and development as well as the right to protection from violence and discrimination and is specifically regulated in Law Number 35 of 2014 on Child Protection Article 59 which contains the provision that, the government and state institutions are obliged and responsible for providing special protection to children in emergency situations, children who face the law, children from minority and isolated groups, economically and/or sexually exploited children, trafficked children, children who are victims of the abuse of narcotics, alcohol, psychotropic and other addictive substances, children victims of psychological or mental violence, children with disabilities and children victims of mistreatment and neglect.

Crimes or criminal acts can basically happen to anyone and can also be committed by anyone be it men, women and children. Children are very vulnerable or prone to become victims of psychological violence where children are very weak humans and still need protection from adults in the community. Children are the inheritors and future progenitors of a nation. The crime that happened to the victim is a violation of his human rights. Violation of human rights is an act that greatly violates the dignity and self-esteem of a person. Children should have free opportunities for play and expression that should be directed to educational purposes, society and authorities should try to improve the implementation of rights . The treatment and legal protection of children deserves special and serious attention because children have a bright future and are the successors of the nation and state. Indonesian children should get protection from dangers and threats from outside such as psychological violence.

The household is the safest and most comfortable place for children because in the household there are parents and other close relatives who protect children, but it cannot be denied that in the household children are often victims of domestic violence. The author hereby draws research from the above background on “ efforts to resolve child victims of violence In The Household “.

## **2. RESEARCH METHOD**

The type of research chosen is normative legal research that is research establish the law as a system of norms. The system of norms in question is about the principles, norms, rules and regulations. Peter Mahmud Marzuki that: 'normative legal research is a process of finding a rule of law, principles of law, as well as legal doctrines to answer legal problems faced. Normative legal research conducted to produce argumentation, theory or a new concept as a prescription in solving the problem at hand. research normative law is

also called doctrinal legal research, namely research aimed at to provide a detailed systematic explanation of the rule of law governing the field of specific legal rules, analyze the relationship between the rules of law one denhan the other, explaining the elusive parts of a rule of law and it also includes predictions of the future development of a particular rule of law. Doctrinal legal research is library-based research whose focus is analysis of primary legal materials. This type of research is based on the thought that this study to analyze a system of norms or rules.

### **3. RESULT AND ANALYSIS**

In the context of rational efforts of the community to tackle crime, crime prevention policy by means of criminal law (Penal Policy) is only one path or method of combating crime. In addition, there are also other crime prevention policies known as policies outside the criminal law (Non-Penal Policy).

Non penal policy means that the efforts are carried out without the use of criminal legal means. So that non-penal can be interpreted as all efforts that are non-judicial in order to overcome the incidence of crime. It is also necessary to distinguish this non-penal use, which is a preventive action that means prevention before the occurrence of a crime and repressive means action after the occurrence of a crime. These non-penal businesses have a very strategic position that must be intensified and streamlined. Failure in working on this strategic position will actually be very fatal for crime reduction efforts. In one of his writings, Barda Nawawi Arief, stated that rational efforts to control or overcome crime (criminal politics) are of course not only by using "penal" means (criminal law), but can also use non-penal means. These non-penal efforts include social support and education in order to develop the social responsibility of citizens, the cultivation of public mental health through moral education, religion and so on, the improvement of child and adolescent welfare efforts, patrol activities and other continuous supervision by the police and other security forces and so on.

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The conducive factors, among others, are centered on social problems or conditions that can directly or indirectly cause or foster crime. Thus viewed from the point of view of macro-and global criminal politics, non-penal efforts occupy a key and strategic position of the overall criminal political efforts. In the foregoing, it is stated that there are several problems or social conditions that can be conducive factors that can cause or lead to the growth of crime such as unemployment, blindness among a large part of the population, low living standards and various forms of social inequality.

This social condition is a problem that cannot be solved by expecting only penal efforts. This is where the limitations of penal efforts actually lie and therefore need to be supported by non-penal efforts. These non-penal efforts can be manifested in the cultivation of public mental health, including mental health/ family life and the wider community in general, as well as the role of religious education with various forms of religious counseling media. The positive impact obtained from this is the construction of a healthy human body and soul as well as the social environment. The cultivation of people's mental health is not only spiritual health but also the health of cultural values and people's outlook on life. Thus, the benchmark for the realization of non-penal effort activities is a form of potential activities that can counteract the occurrence of crime or criminogenic factors. The entire activity of non-penal efforts is carried out through social policy (Social Policy) which, according to Barda Nawawi Arief, has a strategic position and a preventive effect in order to tackle crime and failure to work on this strategic position can be fatal for crime prevention efforts.

In relation to the activities of non-penal efforts, all the potential that exists in society on an ongoing basis continues to be explored, intensified and streamlined. This is necessary because there is still doubt or question about the effectiveness of penal means in achieving criminal political goals. Even to achieve the purpose of punishment in the form of general prevention and special Prevention, the effectiveness of penal means is still doubtful or at least not yet known how far the effect. Therefore, a criminal policy must be able to integrate and harmonize all non-penal preventive activities into an organized and integrated system of state activities. This is in accordance with the thinking that is the basis of activities.K.V. The Internationale Kriminalistische Vereinigung: 1) the main function of criminal law is the fight against crime as a symptom of society 2) The Science of criminal law and criminal law legislation should pay attention to the results of

anthropological and sociological research. 3) Criminal Justice is one of the most powerful tools possessed by the state to fight crime. However, this crime is not the only tool, so it should not be applied separately, but always in combination with other social actions, especially in combination with preventive measures.

According to Muladi, the preventive strategy generally consists of 3 (three) categories that base themselves on the public health model, namely: a. Primary crime prevention. Strategies that through social, economic and other social policies, specifically try to influence the criminogenic and root causes of crime. This is for example through education, housing, employment and Recreation which is often referred to as pre-offence intervention. The main Target is the general public is broad. b. Secondary prevention. It can be found in the criminal justice system and its practical applications such as the role of the police in crime prevention. The target is those who are prone to breaking. c. Tertiary prevention. Mainly directed at recidivism by the police or other institutions of the criminal justice system. The targets are those who have committed crimes. Also distinguished are: a. Social crime prevention. Directed at the root of evil. b. Situational crime prevention. Aimed at reducing the chance of committing a crime. c. Community-based prevention. Action to increase the capacity of communities to reduce crime by increasing the ability of communities to exercise informal social control.

According to Sudarto, if prevention is broadly defined, there are many bodies or parties involved in it, namely law makers, police, prosecutors, courts, civil service, and criminal execution apparatus and ordinary people. The Penal administration process in which these bodies each have their role can be viewed as an attempt to keep the person concerned and the community in general from committing a criminal offense. But the direct body that has the authority and obligation in this prevention is the police. The 4th United Nations Congress in 1970 which took place in Kyoto, Japan, on "Prevention of Crime and the Treatment of Offenders" especially in discussing the issue of "Social defence Politics in Relation to Development Planning" stated in one of its conclusions, that : Social defence planning should be an integral part of national planning..... The prevention of crime and the treatment of offenders cannot be effectively undertaken unless it is closely and intimately related to social and economic trends. Social and economic planning would be unrealistic if it did not seek to neutralize criminogenic potential by the appropriate investment in development programmes. (Community protection planning should be an integral part of National Planning. Crime prevention and the protection of offenders cannot be effectively implemented unless they are closely related to social and economic trends. Social and economic planning will be unrealistic if things

do not figure out how to neutralize the criminogenic potential with proper investment in the development of programs).

At the 5th Congress of the United Nations in Geneva, 1975, which discussed the issue of “Criminal Legislation, Judicial Procedures and Other forms of social Control in the Prevention of Crime” stated : the many aspects of Criminal Policy should be coordinated and the whole should be integrated into a general social policy of each country. (Many points of criminal policy must be coordinated and the whole must be integrated into a common social policy of each country) Globally, the world community has informed how the social policies of each country are coordinated and integrated so that crime prevention is not carried out partially but instead wherever possible there is harmony both in terms of legislation, judicial procedures and other forms of policy.

Family settlement became one of the efforts given to both parties who are in trouble. Before issue continued ketahap court, then both parties are given the option to mediate amicably. The stage – stages in the resolution of cases of domestic violence (domestic violence) the non-penal route : 1. Agree to mediation process 2. Understand the problems 3. Generating problem-solving options 4. Reach an agreement 5. Execute the deal.

In the process of resolving the stages of domestic violence cases ladder (domestic violence) with the most important non-penal lines must exist agreement between the victim and the perpetrator to mediate, in order to both sides easily understand the problems that become awkwardness so that it appears the option to solve the problem either losses suffered by victims and perpetrators are discussed in one forum so as to reach an agreement mutually agreed and considered fair to both parties. Settlement of cases of domestic violence (domestic violence) with the non-penal path also has a legal basis. Settlement process domestic violence (domestic violence) through non-penal channels based on the letter of the Chief of Police No. Pol : B./3022/XII/ 2009 / Sdeops date. 14 December 2009 on the handling of cases through ADR, namely against criminal acts, with small losses and agreed by the parties to the litigation, through the principle of deliberation and consensus, and respect social/customary law norms and based on justice for the parties.

Family settlement also has many benefits namely the community or especially the two parties concerned can directly into the settlement of the problem, both parties can know directly what to do, because there good if not continuous law enforcement who complete problems. When both parties are directly resolve, not necessarily the apparatus does not interfere in that nor does the victim not get his rights, then at the time of mediation or settlement in the victim's family can express what is the peculiarity, what is expected in the settlement of this case, and what is the victim's loss. The perpetrator can also say the same thing in front of law enforcers, but the

family settlement still prioritizes what are the rights of the victim and to realize the expectations of the perpetrator and especially the victim here must be carried out with the authority of the police discretion.

This is one of the benefits of solving problems in a family that the problem can be implemented quickly, the decision taken is a decision that has been negotiated by both parties, which is why both parties will feel fairly resolved through non-penal/family channels so that all does not always lead to court decisions.

#### **4. CONCLUSION**

Legal settlement efforts against children who are victims of psychological violence in the domestic sphere are carried out in two ways, namely non-penal settlement and penal settlement. The stages carried out outside the court are (1) agreeing to go through a mediation process. 2) Understand the problems. (3) Generate problem – solving options. (4) Reach an agreement. (5). Execute the deal. While the court settlement is carried out in several stages, namely (1) the investigation/investigation stage. (2) Prosecution Stage (3) Trial Stage (4) Correctional Institution.

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