

## **Criminal Liability Resulting In Serious Injury To The Child As The Victim (Case Study Of District Court Decision No. 000 / Pid.Sus/2022/PN.Mdn)**

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### **Abstract**

Crimes against "persons" in the Criminal Code include the following; honor (humiliation), revealing secrets, personal freedom or Independence, life, body or body, property or wealth but in relation to children there are special rules about crimes that affect children. This thesis is entitled "accountability of violent abuse resulting in serious injury to the child as a victim (Case Study Medan District Court Decision No. 000 / Pid.Sus / 2022 / Fr.Mdn). The problems in this thesis is the regulation of criminal acts of abuse / violence that resulted in serious injury, criminal liability terhadap paenganiahan criminal violence against children as koraban terahap and the application of the law on perpetrators of crime. The purpose of this study was to determine the legal arrangements against the crime of abuse resulting in serious injury, to determine criminal liability against perpetrators of crimes of abuse resulting in serious injury, to determine the application of the law against perpetrators of violent abuse resulting in serious injury to children as victims according to Medan District Court Decision No. 000 / Pid.Sus/2022/Fr.Mdn. The research method used in the writing of this thesis is normative legal research conducted by means of library research. The results of this study indicate that the crime of abuse resulting in serious injury is regulated in Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection on violence resulting in serious injury that based on the facts revealed at the hearing, and with the conviction of the judge, the verdict handed down in this case is imprisonment for 1 (one) year 6 (six) months, a fine of Rp. 50.000.000,00. (fifty million rupiah) with the provision that if the fine is not paid, replaced imprisonment for 3 (three) months each.

**Keywords:** Crime, Serious Injury, Child

### **1. INTRODUCTION**

Harmony is also defined as a life together that is colored by a harmonious and peaceful atmosphere, living in harmony means not having conflicts, but united in heart and agreed in thinking and acting in order to realize common prosperity. In harmony all people can live together without any suspicion, where growing mutual respect and willingness to cooperate for the sake of common interests. Harmony or living in harmony is an attitude that comes from the deepest part of the heart emanating from the willingness to interact with each other as human beings without pressure

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from any party.<sup>2</sup> the current community life still does not apply the values of harmony, causing crimes that arise in community life. Prominent crimes are crimes against the “people”.

Crimes against the “person” in the Criminal Code include the following; honor (humiliation), revealing secrets, personal freedom or Independence, life, body or body, property or wealth.<sup>3</sup> scholars generally combine these matters into “crimes against the soul and body”, which in the Penal Code are regulated systematically as follows; crimes against the soul of the person are written in Chapter XIX, persecution in Chapter XX, and causing death or injury to the person by mistake or negligence in Chapter XXI.

The Central Statistics Agency noted that during the period 2018-2020 the number of crime or crime in Indonesia tends to decrease. The total number of crime incidents in 2018 was 294,281. This figure decreased to 269,324 incidents in 2019 and in 2020 to 247,218 incidents. The crime rate indicator during the 2018-2020 period also decreased, in 2018 it amounted to 113, to 103 in 2019, and decreased to 94 in 2020. The time lapse of a crime (crime clock) is equal to 00.01'47' (1 minute 47 seconds) in 2018 and be equal to 00.01'57' (1 minute 57 seconds) in 2019 and 00.02 ' 07' (2 minutes 07 seconds) in 2020. The longer crime clock Interval shows that the intensity of crime is decreasing. The survey data describing the percentage of the population who became victims of crime during the period 2019-2020 also showed the same pattern as the registration data, which tended to decrease. The percentage of the population of victims of crime decreased from 1.01 percent in 2019 to 0.78 percent in 2020. Meanwhile, the rate of reporting to the police (police report rate) each year is still relatively low. In the 2019-2020 period, the percentage of Indonesians who experienced a crime incident and then reported it to the police was no more than 25 percent. In 2020, the percentage was 23.46 percent, a slight increase when compared to 2019 (22.19 percent). In addition to data on the incidence of crime sourced data with an individual approach, the incidence of crime can be seen based on the scope of the region with village-based. Based on the village potential data collection, during the period 2011– 2018, the type of theft incident was the most common crime in villages/kelurahan in Indonesia, the number reached more than 36-45 percent of all villages/kelurahan.

Crimes such as persecution become one of the phenomena that is difficult to lose in social life. Various acts of abuse that often occur such as beatings and physical violence often result in injuries to the victim's body parts or limbs, not infrequently even making the victim a lifelong physical disability including death. In addition, the act of persecution is also not uncommon to cause psychological effects or impacts on the victim such as

trauma, fear, threats, sometimes there are even victims of persecution who experience mental and mental disorders.

The phenomenon of acts of persecution is not new in acts of physical and psychological violence, and can be found everywhere such as in the household or family, in public places, and in other places and can happen to anyone when faced with a problem with others. Observing the phenomenon of persecution that occurs, it seems that it is not just a thing that happens but is allegedly related to various factors such as the influence of association and delinquency, thuggery, social jealousy, pressure and economic disparities disharmony in domestic relations or with others, competition, conflicts of interest, as well as in debt-debt relations and others.

In some cases, some people or groups of people deliberately mistreat others due to factors such as resentment, defamation, feeling betrayed or harmed, feeling that their self-esteem and dignity are being degraded or abused and other motives. In addition, not a few people are also involved in disputes, fights or quarrels that encourage them to abuse unintentionally. In the city of Medan, there has been a criminal incident of violent persecution that resulted in serious injuries to children as victims, namely on September 04, 2021, precisely in front of the Al-ikhlas mosque yard in medan city, so that they were seriously injured. Then the police arrested the defendant on October 18, 2021 and on October 19, 2021 s.d 7 Nov. 2021 was carried out Sertra's detention was finally submitted to the Medan District Court on January 04, 2022 after her case file was handed over by investigators to the prosecutor's office.

The verdict of the judge in the trial process stated that the two defendants had been found guilty of committing a criminal offense of participating in violence in front of a child that resulted in serious injury, and therefore the judge sentenced them to imprisonment of 1 year and 6 months each and a fine of 50 million with the provision that if the fine is not paid then replaced by confinement of 3 months each.

Regarding the definition of serious injury has been regulated in Article 90 of the criminal code, namely: 1. Getting sick or getting a wound that gives no hope of healing at all, or that poses a mortal danger; 2. Unable to continue to perform job duties or job searches; 3. The loss of one of the pandas; 4. Got a severe disability; 5. Suffering from paralytic pain; 6. Impaired thinking power for more than four weeks; 7. Death or death of a woman.

## **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**

Criminal liability in foreign terms is called teorekenbaardheid or criminal responsibility which leads to the conviction of the perpetrator with the intention of determining whether a person accused or suspect is held accountable for a criminal act that occurs or not. The definition of liability in criminal law is a continuation of the understanding of criminal acts. If the person has committed a criminal act, it is not necessarily punishable because it remains to be seen whether the person can be blamed for the act he has committed so that the person can be held criminally liable.

Criminal liability contains the principle of guilt (the principle of culpability), which is based on the balance that the principle of guilt based on the value of justice must be aligned in pairs with the principle of legality based on the value of certainty. Criminal liability leads to the conviction of the perpetrator, if he has committed a criminal offense and fulfills the elements stipulated by law. He will be held accountable if he violates the law. Viewed from the point of view of the ability to be responsible, only those who are able to be responsible can be held accountable. In general, a person is said to be able to be responsible can be seen from several things, namely:

- The State Of His Soul - The Ability Of His Soul.

While Moeljatno stated in the elements of criminal responsibility the main element is error, the understanding that is called responsibility in criminal law, which in Dutch is called criminal responsibility strafrectterijk teorekening or in English is called criminal responsibility.

On Saturday, September 04, 2021 approximately at 22.00 wib or at least at a certain time in 2021 , located in the city of Medan precisely in the courtyard of the Al-Ikhlâs mosque or at least at a certain place that is included in the legal area of the Medan District Court convened in Belawan, which is authorized to examine and prosecute this case, "deliberately, or participate in violence against children (Arif Rahman Zebua aged 17 years

based on Birth Certificate Number 2776/2004) which resulted in serious injury”, the act was committed by the defendants in the following ways : The defendants were arrested from October 18, 2021 to October 19, 2021 then the defendants were detained in detention by: investigators from October 19, 2021 to November 7, 2021; extension by the public prosecutor from November 8, 2021 to December 17, 2021; briefly on February 3, 2022, the submission of their case files to the Medan court and the determination of the chairman of the Medan District Court number 214/Pid.Sus/2022/PN Mdn dated January 27, 2022 on the appointment of the panel of judges; The verdict of the judge in the trial process stated that defendant 1 and Defendant 2 were found guilty of committing the crime of molestation which resulted in serious injury to the child victim named Arif Rahman Zebua.

Cases of abuse cases that result in serious injury based on the position of the case and the facts revealed in the trial. The public prosecutor charged that Defendant 1 and Defendant 2 were legitimately and convincingly guilty of committing the crime of “intentionally committing violence against a child resulting in serious injury” as referred to in the first indictment in violation of Article 80 Paragraph (2) Jo Article 76 C of the Indonesian law No. 35 of 2014 on the amendment of law no. 23 of 2002 on Child Protection.

Based on the facts revealed from the trial with the support of evidence, then the general closing in the trial read the charges, which in essence demanded that the panel of judges in their decision to impose a crime against defendant defendant 1 and Defendant 2 in the form of imprisonment for : 2 (two) years reduced while the defendants are in custody, with orders to remain detained, each fine of Rp50, 000, 000.00. (fifty million rupiah), subsidiary 6 (six) months confinement.

Medan District Court decision, dated April 8, 2022, number: 000/Pid.Sus/2022/Fr.Mdn, the amar reads as follows:

- a) States Defendant 1 and Defendant 2 mentioned above, proven legally and convincingly guilty of committing criminal acts of participating in violence against children resulting in serious injury, as in the first alternative indictment;
- b) Punish the defendants therefore with imprisonment for 1 (one) year and 6 (six) months respectively and a fine of Rp50, 000, 000.00, respectively. (fifty million rupiah) with the provision that if the fine is not paid, replaced imprisonment for 3 (three) months each;
- c) Establish the period of arrest and detention that has been served by the defendants deducted entirely from the crime imposed;
- d) Keeping the defendants in custody;
- e) Charging the defendants to pay the costs of each case in the amount of Rp2, 000.00. (two thousand rupiah);

Thus it was decided in the consultative session of the Medan District Court Judges Panel, on Friday, April 8, 2022, by US, Abd. Hadi Nasution, S.H., M.H., as Presiding Judge, Nurmiati, S.H., and Dr. Ulina Marbun, S.H., M.H. each as a member Judge, which was spoken in a hearing open to the public on Monday, April 10, 2022 by the Chief Judge accompanied by the member judges, assisted by Abdul Rahman, S.H., M.H., Substitute clerk at the Medan District Court, and attended by Endang Pakpahan, S.H., The public prosecutor and the defendants are accompanied by their legal counsel through electronic proceedings.

The elements of criminal liability contained in this case are:

- a) The form of human actions that are considered to have errors contain two properties in carrying out these actions, namely deliberate and forgetfulness. On the case number: 000 / Pid.Sus/2022/Fr.Mdn there is an element of guilt in it, where defendants 1 and 2 who intentionally commit acts of violence against children causing serious injury, namely hitting and stepping on the victim's child repeatedly has caused physical suffering to the victim's child; So that the victim has a bruise on the right cheek with a size of 3 (three) centimeters, abrasions on the left forehead and on the right forehead with a size of 2x0.5 (two times zero point five) centimeters, the nasal bone shifts to the left with abrasions, 2 (two) abrasions on the back each with a size of 3x2 (three times two) centimeters and 1x1 (one time one) centimeters, 2 (two) abrasions on the right forearm each with a size of 1x1 (one time one) centimeters and 2x1 (two times one) centimeter,
- b) Abrasions on the right leg each- each with a size of 1x1 (one time one) centimeter and 1x0,5 (one time zero point five) centimeter, and abrasions on the left leg with a size of 4x0,5 (four times zero point five) centimeter and the victim's child was prevented from carrying out daily activities, defendants 1 and 2 were found to have committed prohibited acts and met the element of guilt. 2. In general, normal people are people who are able to take responsibility. On the case number: 000 / Pid.Sus/2022/Fr.Mdn there is an element of responsible ability in which the defendant 1 and 2 knowingly committed the crime of abuse that resulted in serious injury, namely by hitting and stepping on the victim repeatedly has caused physical suffering to the victim. This proves that the accused accused 1 and 2 knowingly and without force do that thing. The actions of defendants 1 and 2 also prove that the perpetrator has a normal soul and has the ability to take responsibility.
- c) In this element, it means that his actions are still against the law, but there is something, the person who commits is not punished. On the case number: 000 / Pid.Sus/2022/Fr.Mdn the next consideration of

the judge is the legal facts obtained during the trial in this case. The panel of judges did not find circumstances that could release the defendant from criminal liability, either as justifying and or forgiving grounds. From the above description, the judge considers that the defendant has fulfilled the elements of a crime of violence against children that resulted in serious injury and is able to be responsible for his actions, therefore the defendant can be held criminally liable and must be sentenced in accordance with existing rules.

#### **4. CONCLUSION**

Criminal liability for violent crimes that cause serious injury to children as victims, first seen whether the victim is a child and whether the defendant can be held accountable or not. Criminal liability leads to the person who committed the criminal act. In order to be held criminally responsible, it can be proven by fulfilling the elements of guilt, namely the ability to be responsible, deliberate (*dolus*) and negligence (*culpa*), and the absence of grounds for forgiveness. If the elements have been fulfilled and are in accordance then it can be determined what form of liability is appropriate to be imposed on the defendant.

#### **REFERENCE**

Lubis, Muhammad Andri Fauzan. *Pertanggungjawaban Pidana Terhadap Pelaku Tindak Pidana Penistaan Agama Melalui Jejaring Sosial Dikaitkan Dengan UU No. 11 tahun 2008 Tentang Informasi Dan Transaksi Elektronik*, Jurnal Mahupiki, Vol 2, No 01 2013.

Meuwissen,, D.H.M. Teori Hukum, Jurnal Hukum Pro Justitia, Tahun XII, No.2 April 1994.

Prodjohamidjojo, Martiman. *Memahami Dasar-Dasar Hukum Pidana Indonesia 2*. Jakarta: Pradnya Paramita, 1997.

Quthub, Sayyid. *Al-Adalah al-Ijtima'iyah Fi al-Islam*, Beirut: Daar al-Syuruug, 1993.

R.M, Suharto. *Hukum Pidana Materiil (Edisi Kedua)*, Sinar Grafika, Jakarta, 1991,

Rahardjo, Satjipto. *Ilmu Hukum*, Bandung : PT. Citra Aditya Bakti, 2010.  
Rawls, John. *A Theory Of Justice*, Original Edition, Harvard University Press Cambridge, Massachusetts London, England, 1971.

Ridha, M. Rasyid. *Tafsir al-Manar*, Jilid 3 Kairo: Maktabah al-Manar, 1980.  
Ridwan H.R., *Hukum Administrasi Negara* , Jakarta: PT Raja Grafindo Persada, 2006).

Saleh, Roeslan. *Perbuatan Pidana Dan Pertanggung Jawaban Pidana*, Jakarta: Aksara Baru, 1983.

Setyowati, Irma *Aspek Hukum Perlindungan Anak*, Bumi Aksara, 1990.  
Sianturi, E.Y. Kanter dan S.R. *Asas-asas Hukum Pidana di Indonesia dan Penerapannya*, Jakarta : Storia Grafika, 2012.

Soesilo, R. *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-komentarnya Lengkap Pasal Demi Pasal* , Bogor: Politea, 1998.

Sutrisna , I Gusti Bagus. "Peranan Keterangan Ahli Dalam dalam Perkara Pidana (Tinjauan terhadap pasal 44 KUHP)," dalam Andi Hamzah, Bunga Rampai hukum Pidana dan Acara Pidana, Jakarta: Ghalia Indonesia, 1986.

Wadong, Maulana Hassan. *Pengantar Advokasi dan Hukum Perlindungan Anak*, PT.Grasindo, Jakarta, 2000. Zamakhsyari, *Teori-Teori Hukum Islam* , Bandung, Citapustaka Media Perintis, 2013.