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### JURIDICAL REVIEW OF CRIMINAL VIOLENCE TO BIOLOGICAL CHILDREN IN INDONESIA

*H. Nurianto RS*

Postgraduate Legal Studies, Mahendradatta University Ken Arok Street, No.10-12 Denpasar-Bali

[nuriantors30@gmail.com](mailto:nuriantors30@gmail.com)

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#### **ABSTRACT**

This study was aimed to determine the juridical aspects governing violent crime on biological children. This research was a qualitative research with a normative juridical approach. The method used in this research was literature study and exploratory method from the data of the brother. The object examined in this study was all aspects of the juridical relating to criminal acts of violence on biological children. Based on the classification of violence on children consists of four categories, namely: 1) physical violence, 2) psychological violence, 3) sexual violence and 4) social violence. Based on KPAI data from 2017 to 2019, KPAI had received 10,656 reports of complaints of cases of violence experienced by children. Specifically in 2019, KPAI had received 1,192 complaints related to child abuse with the highest cases concerning family and care. From these data acts of violence against children can occur due to the following factors: 1) parent factors, 2) child factors, 3) social environmental factors. To anticipate and reduce the crime of violence against children, the government had made legal rules with binding sanctions which are expected to provide a deterrent effect to the perpetrators. As for juridically the legal regulations governing criminal acts of violence on children are: 1) Law Number 35 of 2014 concerning Child Protection, 2) Book of Criminal Law (KUHP), 3) Law Number 23 of 2004 concerning the Elimination of Domestic Violence Stairs, 4) Law Number 4 of 1979 concerning Child Welfare.

#### **BACKGROUND**

The crime of domestic violence not only occurred between husband and wife. But lately domestic violence was also experienced by biological children. Children were an inseparable part of human survival and the survival of a nation and state. In order to be able to take responsibility for the survival of the nation and state,

every child need to have the broadest opportunity to grow and develop optimally, physically, mentally, and socially. For this reason, it was necessary to protect efforts to realize the welfare of children by providing guarantees for the fulfillment of their rights without discriminatory treatment.

The occurrence of violence in biological children was motivated by a variety of factors. Both external factors and internal factors. As for some of the factors behind the violent crime in biological children include: psychological factors of both parents, psychological factors of children, family harmony in this case harmony between their parents, educational background of both parents, religious knowledge of both parents, family and family economic factors people in the neighborhood. Psychological factors of both parents, very big influence on children's lives. If both parents have a stable mentality and strong self-control, of course during the child's growth and development, both parents will educate the child patiently without verbal or physical violence. But the psychological of the two parents cannot be separated from the influence of external factors such as the family's economic situation, the words of the extended family and the talk of the people in the surrounding environment. When viewed from cases of violence that occur in children, according to the results of a survey of violence many occur in families with lower economic levels and low educational background. This happens because, most of the fights in the family caused by economic factors. Quarrels that occur will make emotions between husband and wife unstable and finally the child becomes the outlet for anger. In addition to psychological factors of parents, child psychological factors are also one of the factors causing the occurrence of violence in children. Based on a child's growth and development theory, the mental and emotional state of each developmental period will vary. There are times when children will experience tantrums. This is what will make parents emotionally unstable and tends to trigger acts of violence on children if both parents do not have the mental, patience and good self-control.

In everyday life, violence in children came in various forms, ranging from physical violence to exploitation. UNICEF explained that child abused can basically be divided into five types, namely physical, sexual, emotional, neglect and exploitation. Physical violence includes the act of slapping, hitting, punching, burning, hurting, and providing physical punishment. In addition, violence committed by intimate partners, violence in dating, gender-based violence, as well as acts that endanger and even cause the death of children are also included in the category of physical violence. Furthermore, sexual violence experienced by children consists of sexual harassment, rape, abuse, sexual violence, incest, attempted rape, forced marriage, and coercion to have sex. Dating violence, gender based violence, intimate partner violence, and rape in conflict situations are also forms of sexual violence against children. Disparaging, mocking, and discriminating behavior of children, on the other hand, falls into the category of emotional abuse. While violence in the form of neglect, according to UNICEF, is shown in cases where children are left homeless, starved, in poor health, malnourished, and given inappropriate care and supervision. Other forms of violence, namely exploitation, can be seen from cases of forced labor, the

emergence of workers and child prostitutes, child trafficking, slavery, and child pornography.

Indonesia was a country that upholds human rights, including children's rights, which were marked by guarantees of protection and fulfillment of children's rights in the 1945 Constitution of the Republic of Indonesia and several national and national laws and international regulations. The form of protection for children was regulated in international Conventions and Declarations. The United Nations meeting on November 20, 1959 resulted in the proclamation of the Declaration of the Rights of the Child in which there were 10 principles of children's rights in this world that must be protected. It is the 9th principle that every child must be protected from any form of neglect, violence and exploitation. Furthermore, it was regulated in the Convention on the Rights of the Child declared by the United Nations on November 20, 1989, which has been ratified by Presidential Decree Number 39 of 1990 (hereinafter referred to as Presidential Decree 39/1990). Ratification of the Convention on the Rights of the Child, there were obligations that must be implemented by the Indonesian government, one of which was to provide guarantees for the protection of children against all types of physical, mental, abuse of power, neglect or mistreatment (exploitation) and sexual abuse. Based on data from the Indonesian Child Protection Commission (KPAI), there have been several reported cases of biological child abuse by their own parents. Experts and Analysts of the Indonesian Child Protection Commission (KPAI) Dr. Naswardi., ME., MM told Tirto that every year the KPAI receives an average report of 4,500 cases of violations of children's rights. According to Naswardi, the dominant violence occurring to children today is sexual violence, followed by physical and psychological violence. Most of the perpetrators are the closest people, starting from parents, father or stepmother, relatives, closest friends, and so forth. In 2018, as many as 16 children died as a result of violence perpetrated by parents. From these data, acts of violence on children continue to occur. The description above provides an explanation that the state had affirmed through the law regarding the treatment of children should be. However, the reality also shown that the treatment of violence against children from day to day more and more with diverse motives. This reality is certainly a big question because there is a gap between the expectations that want to be created by the existence of the act with real events in society (Erlangga, 2017). The State, Government, Regional Government, Society, Family and Parents are obliged to provide protection and guarantee the fulfillment of children's rights in accordance with their duties and responsibilities. Protection of Children carried out so far has not provided guarantees for Children to get treatment and opportunities that are appropriate to their needs in various fields of life, so that in carrying out efforts to protect the Rights of the Child by the Government must be based on human rights principles namely respect, fulfillment and protection over the Rights of the Child. Based on the explanation above, the purpose of this research was to find out all forms of legal rules that regulate violent crime against biological children and legal protection for children victims of violence. With the existence of this research, it certainly will provide information related to the rules and sanctions that are binding on criminal cases to children.

## RESEARCH METHODS

This research was a qualitative research with a normative juridical approach. Normative Juridical Approach was a problem approach by looking at, analyzing and interpreting theoretical matters concerning legal principles in the form of conceptions, statutory regulations, views, legal doctrines and related legal systems (Leuwol, 2018). This type of approach emphasizes obtaining information in the form of legal texts relating to the object under study. The method used in this research was literature study and exploratory method from the data of the brother. The object examined in this study was all the legal rules relating to criminal acts of violence against biological children. This study aimed to find out all forms of legal rules governing violent crime on biological children and legal protection for children victims of violence. Data obtained from the results of the study will be analyzed descriptively.

## RESULTS AND DISCUSSION

By the definition, violence was any action that tends to hurt others, in the form of physical aggression, verbal aggression, anger or hostility. Each form of violence has different triggering factors and consequences. Child abuse or mistreatment of children was a translation of child abuse, which is the arbitrary behavior of people who are supposed to be protective of a child physically, and emotionally. Many parents consider violence to children as natural. They think violence was a part of disciplining children. They forget that parents were the ones who were most responsible for seeking welfare, protection, increasing survival, and optimizing their children's growth and development. The family was the place where children learn first. Classification of Child Violence (Child abuse) according to Terry E. Lawson, a psychiatrist (in Manik, 1999) says that violence on children can be classified in 4 types, namely:

**Emotional abuse:** Emotional abuse can occur if after the parents know the desire of their children to ask for attention, but parents do not give what the child wants but instead ignore it. The child will remember all the emotional violence if it happens consistently.

**Verbal abuse:** Verbal abuse is born as a result of screaming, curses parents towards children. When children ask for something, parents do not give but yell at children. When children invite parents to talk, parents do not respond to it instead rebuked by shouting. Children will remember this type of violence if all of this verbal violence applies in a period.

**Physical abuse:** Physical abuse is violence that occurs when a child receives a blow from a parent. This type of violence will be remembered by children especially if the violence leaves a mark.

**Sexual abuse:** Sexual violence is when a child receives sexual violence from an adult.

Suharto (in Huraerah, 2007) grouped child abuse into 4 groups, namely:

**Physical violence of children:** Physical child abuse is torture, beatings, and mistreatment of children, with or without the use of certain objects, which cause physical injury or death to children. Sores can form abrasions or bruises due to

touch or hard blunt force, such as bite marks, pinches, belts or rattan. It can also be burns due to hot gasoline, or patterned due to cigarette burns or irons. The occurrence of physical violence against children is usually triggered by the behavior of children who are not liked by their parents, such as children who are naughty or fussy, crying constantly, asking for snacks, urinating, urinating or vomiting carelessly, breaking valuables and others.

**Psychological abuse of children:** Psychic child abuse includes rebuking, delivering dirty and dirty words, showing books, pictures and pornographic films to children. Children who get psychological abuse generally show symptoms of maladaptive behavior, such as withdrawing, shy, crying when approached, afraid to leave the house and afraid to meet other people.

**Sexually abused children:** Sexual violence against children can be in the form of sexual pre-contact treatment between children and older people (through words, touch, visual images, exhibitionism), as well as treating sexual contact directly between children and adults (incest, rape, sexual exploitation).

**Social violence of children:** Violence against children socially can include neglect of children and exploitation of children. Child neglect is the attitude and treatment of parents who do not give proper attention to the child's growth and development process. For example, children who are ostracized, exiled from family, or not given proper education and health care. Child exploitation refers to discriminatory attitudes or ill-treatment of children by families or communities. For example, forcing children to do something in the interests of economic, social or political without regard to the rights of children to get protection in accordance with physical development, psychological and social status. For example children who are forced to work in hazardous factories with low wages and without adequate protective equipment, children who are forced to take up arms, or are forced to do household work beyond their means.

In a model called "The Abusive Environment Model", Ismail (in Suyanto & Hariyadi, 2002) explained that the factors causing the occurrence of violence against children can actually be viewed from 3 aspects, namely:

Aspects of the child's condition

Violence and violations of children's rights can occur due to factors of the child himself, such as:

- Children who experience premature birth
- Children who experience pain that cause problems
- Relationships that are not harmonious so that it affects character
- Difficult pregnancy or birth processes
- The presence of unwanted children
- Children who have mental or physical disabilities
- Children who are difficult to manage, and
- Children who ask for special attention.

Aspects of child's parents

Violence and abuse against children can also be caused by the child's parents, namely:

- Whether or not parents have experienced abuse or abuse as a child

- Unemployed or because of insufficient income
  - Narcotic addicts or alcoholics
  - Social exclusion or exclusion
  - Limited free time o Personal character that is not yet ripe
  - Experiencing emotional disturbances or nervous disorders
  - Have mental illness
  - Have personality disorders
  - Too young and immature, most parents of this group do not understand the needs of children
  - Low education
- Social environmental aspects
- Social conditions can also be a cause of violence against children, namely:
- Conditions of poverty in society and materialistic value pressures
  - Low socioeconomic conditions
  - There is a value in society that children are owned by their parents
  - Low female status
  - Patriarchal family system
  - Community values that are too individualistic
  - Etc

Based on data obtained from a trusted online news page, it can be said that the number of cases of child violence in the Greater Jakarta area in the January-June 2019 period increased by 10% from 48% to 58% according to the Chairman of the National Commission for Child Protection, Arist Merdeka Sirait. Data on child abuse in DKI Jakarta 124 cases, Bekasi ranked second 112 cases, Bogor ranked third 102 cases, Tangerang 98 cases, and Depok 89 cases, "said Sirait (source: [www.jakarta.tribunnews.com/2019/06/19](http://www.jakarta.tribunnews.com/2019/06/19)). Reported from other trusted online news pages, from 2017 to 2019, KPAI has received 10,656 reports of complaints of cases of violence experienced by children The most cases received by KPAI were children involved with the law, a total of 3,213 cases, specifically in 2019 KPAI has received 1,192 complaints related to child violence with the highest cases concerning family and care, the second most complaints were children who were dealing with the law, then violence in the social field, and children in emergency situations. (Source: [www.jabar.idntimes.com](http://www.jabar.idntimes.com)) Deputy of Child Protection at the Ministry of Women's Empowerment and Child Protection (KPPPA) Nahar said that in 2019 there had been 8,488 cases of violence against children in Indonesia. The number of cases one hundred children are victims of trafficking. Consists of 79 girls, and 21 boys (Source: [www.bali.tribunnews.com/2020/01/17](http://www.bali.tribunnews.com/2020/01/17)).

According to the data above, it can be said that acts of violence against children have often occurred and constitute a criminal act. Several laws and regulations have been passed to protect children's rights against violence. The rules and laws governing acts of violence against children are:

***Law 35 of 2014 changes to Law No. 23 of 2002 concerning Child Protection***

This is also in accordance with the provisions of Article 13 paragraph (1) of Law Number 23 of 2002 concerning Child Protection ("Child Protection Act") as amended by Act Number 35 of 2014 concerning Amendments to Law Number 23 of the Year 2002 concerning Child Protection ("Law 35/2014") which states that every child during the care of a parent, guardian, or any other party responsible for care, is entitled to protection from treatment:

- There is discrimination;
- There is exploitation, both economic and sexual;
- There is neglect;
- There is cruelty, violence and abuse;
- The existence of injustice; and
- Other mistreatment. (Source: Law No. 35 of 2014)

The detailed rights of child protection as regulated in the Act were shown in Table

**Table 1.** The Detailed Child Protection Rights as Regulated in The Law

Article	Description
Article 76A	Everyone is prohibited: treat children discriminately which results in the child experiencing losses, both material and moral, which hinders his social functioning; or treat children with disabilities in a discriminatory manner.
Article 76B	Every person is prohibited from placing, allowing, involving, ordering to involve the child in situations of mistreatment and neglect.
Article 76C	Every person is prohibited from placing, letting, doing, ordering to do, or participating in violence against children.
Article 76D	Every person is prohibited from committing violence or threat of force to force the child to have intercourse with him or with others.
Article 76E	Every person is prohibited from committing violence or threat of violence, coercing, making tricks, making a series of lies, or persuading children to commit or allow obscene acts to be carried out.
Article 76F	Every person is prohibited from placing, allowing, committing, committing, or participating in kidnapping, selling, and / or trafficking children.
Article 76G	Everyone is prohibited from preventing the child from enjoying his own culture, recognizing and implementing his religious teachings and / or using his own language without neglecting access to community and cultural development.
Article 76H	Every person is prohibited from recruiting or manipulating children for military and / or other purposes and leaving the child without life protection.
Article 76I	Every person is prohibited from placing, letting, doing, ordering to do, or participating in economic and / or sexual exploitation of children.
Article 76J	1. Everyone is prohibited from intentionally placing, allowing, involving, ordering to involve the child in the misuse, and production and distribution of narcotics and / or psychotropics.

	2. Everyone is prohibited from deliberately placing, allowing, involving, ordering to involve the child in abuse, as well as the production and distribution of alcohol and other addictive substances.
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(Source: Law Number 35 Year 2014)

The details of criminal provisions in Act Number 35 of 2014 concerning Child Protection were shown in Table 2.

**Table 2.** The Detailed Of Criminal Provisions In Act Number 35 Of 2014 Concerning Child Protection

Article	Description
Article 77	Every person who violates the provisions as referred to in Article 76A shall be sentenced to a maximum imprisonment of 5 (five) years and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).
Article 77A	<ol style="list-style-type: none"> <li>1. Any person who intentionally aborts a child who is still in the womb with reasons and procedures that are not justified by the provisions of the legislation as referred to in Article 45A, shall be sentenced to a maximum imprisonment of 10 (ten) years and a maximum fine Rp1,000,000,000.00 (one billion rupiah).</li> <li>2. The criminal offense referred to in paragraph (1) is a crime.</li> </ol>
Article 77 B	Every person who violates the provisions as referred to in Article 76B, shall be sentenced to a maximum imprisonment of 5 (five) years and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).
Article 80	<ol style="list-style-type: none"> <li>1. Every person who violates the provisions as referred to in Article 76C, shall be sentenced to a maximum imprisonment of 3 (three) years for 6 (six) months and / or a maximum fine of Rp72,000,000.00 (seventy-two million rupiah).</li> <li>2. In the case of a child as referred to in paragraph (1) seriously injured, the perpetrator shall be sentenced to a maximum imprisonment of 5 (five) years and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).</li> <li>3. In the case of the child as referred to in paragraph (2) dies, the offender is sentenced to a maximum imprisonment of 15 (fifteen) years and / or a maximum fine of Rp3,000,000,000.00 (three billion rupiah).</li> <li>4. The criminal shall be added by one third of the provisions referred to in paragraph (1), paragraph (2), and paragraph (3) if the person committing the persecution is his parents.</li> </ol>
Article 81	<ol style="list-style-type: none"> <li>1. Every person who violates the provisions referred to in Article 76D shall be sentenced to a maximum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp.5,000,000,000.00 (five billion rupiah).</li> </ol>



	<p>2. The criminal provisions referred to in paragraph (1) shall also apply to any person who intentionally commits tricks, a series of lies, or entices the Child to have intercourse with her or with another person.</p> <p>3. In the event that the criminal act referred to in paragraph (1) is carried out by a Parent, Guardian, Child sitter, educator, or educational staff, then the criminal is added 1/3 (one third) of the criminal threat as referred to in paragraph (1).</p>
Article 82	<p>1. Everyone who violates the provisions referred to in Article 76E shall be sentenced to a maximum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp.5,000,000,000.00 (five billion rupiah).</p> <p>2. In the event that the criminal act referred to in paragraph (1) is committed by a Parent, Guardian, Child sitter, educator, or educational staff, then the criminal is added 1/3 (one third) of the criminal threat as referred to in paragraph (1).</p>
Article 83	<p>Every person who violates the provisions as referred to in Article 76F shall be sentenced to a maximum imprisonment of 3 (three) years and a maximum of 15 (fifteen) years and a fine of no less than Rp. 60,000,000.00 (sixty million rupiah) and a maximum of Rp. 300.000,000.00 (three hundred million rupiah).</p>
Article 86 A	<p>Every person who violates the provisions as referred to in Article 76G shall be sentenced to a maximum imprisonment of 5 (five) years and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).</p>
Article 87	<p>Every person who violates the provisions as referred to in Article 76H shall be sentenced to a maximum imprisonment of 5 (five) years and / or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).</p>
Article 89	<p>1. Every person who violates the provisions as referred to in Article 76J paragraph (1), shall be liable to a death sentence or life imprisonment or a minimum prison sentence of 5 (five) years and a maximum of 20 (twenty) years and a minimum fine Rp.50,000,000.00 (fifty million rupiah) and a maximum of Rp500,000,000.00 (five hundred million rupiah).</p> <p>2. Every person who violates the provisions as referred to in Article 76J paragraph (2), shall be sentenced to a maximum imprisonment of 2 (two) years and a maximum of 10 (ten) years and a fine of no less than Rp. 20,000,000.00 (twenty million rupiahs) ) and a maximum fine of Rp 200,000,000.00 (two hundred million rupiah).</p>

(Source: Law Number 35 Year 2014)

*The Criminal Code (KUHP)*

Based on the Criminal Code related to the definition of a child states that children were those who have not reached the age of 16 years. Law No. 1 of 1974 concerning Marriage states that children who were not yet 21 years old and have never been married were under the authority of their parents or guardians. Furthermore, in Law Number 4 of 1979 concerning Child Welfare, determining the criteria for someone to be called a child are those who have not reached the age of 21 years and are not married (in Manik, 1999). Crimes related to physical violence can be seen in the Criminal Code Article 351-355, Article 338-341, Article 229, Article 347, Article 269, Article 297, Article 330-332 and Article 301 (Tombeng, 2014). Perpetrators of physical violence offenses received by children will be subject to these articles in addition to also being subjected to articles in the child protection law and the law on the elimination of violence in household.

### ***Law No. 23 of 2004 concerning the Elimination of Domestic Violence***

Article 1 states: "Every act committed against a person, especially women, which results in physical, psychological and / or domestic suffering or neglect, including threats to commit acts, coercion or deprivation of liberty unlawfully within the scope of the household".

Violence in this law places more emphasis on acts of violence committed against wives but not only wives who can be said to be victims of violence. All people in the household can also be said as victims, including children. A household can be interpreted as all people who live together in one place of residence. Household is a social unit that is task oriented, this unit is bigger than an individual but smaller than a neighbor or community. In the household there are a number of rules and the division of functions and responsibilities of each member. Members of a household can consist of one or several families (family) or also families with other people as long as they live together, so obviously the household is different from the family (Purniati, 2006).

Article 2 states: household coverage includes: husband, wife and children (including adopted children and stepchildren), people who have family relations with the people as mentioned above because of blood, marriage (eg in-laws, in-laws, brother in law, and in-law), dairy, nurturing, and guardianship, living in the household; and / or people who work to help the household and stay in the household, for a period of time while in the household concerned.

Provisions on the prohibition of domestic violence were listed in Article 5, Article 8 and Article 9 of Law No.23 of 2004. Provisions of Article 5 of Law No.23 of 2004 states:

- a. Physical abuse
- b. Psychic violence
- c. Sexual violence or
- d. Household neglect.

Physical violence as referred to in Article 5 letter a was an act that causes pain, falls ill, or was seriously injured. Psychic violence as referred to in Article 5 letter b was an act that causes fear, loss of self-confidence, loss of ability to act, feelings of

helplessness, and / or severe psychological suffering on a person. Whereas sexual violence as referred to in Article 5 letter c includes:

1. Forced sexual relations carried out against persons who reside within the scope of the household
2. Forced sexual relations against one person within the scope of his household with others for commercial purposes.

Article 9 paragraphs (1) and (2) of Law No.23 of 2004 were determined, as follows:

1. "Everyone neglects a person within the scope of his household, even though according to the law in force for him or because of an agreement or agreement he is obliged to give life, care, or care to that person
2. Neglect as referred to in paragraph (1) also applies to everyone who causes economic dependence by limiting and / or prohibiting decent work inside or outside the home, so that the victim is under the person's control. "purposes certain.

Crimes against children in the family were part of acts of violence committed in the household and one part of the household was a child, the authors argue that it was better if the criminal provisions imposed on the perpetrators of acts of violence against children in the family were criminal provisions contained in Law No. 23 of 2004 concerning the Elimination of Domestic Violence, namely in Article 44 paragraph (1), (2), and (3) describes the criminal provisions for perpetrators of physical violence in the scope of the household, namely:

1. Every person who commits an act of physical violence within the scope of the household as referred to in Article 5 letter a is sentenced to a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah).
2. In the case referred to in paragraph (1) resulting in the victim getting sick or seriously injured, shall be sentenced to a maximum imprisonment of 10 (ten) years or a maximum fine of Rp. 30,000,000.00 (thirty million rupiah).
3. In the case referred to in paragraph (2) resulting in the death of the victim, shall be sentenced to a maximum imprisonment of 15 (fifteen) years or a maximum fine of Rp. 45,000,000.00 (forty five million rupiah).

Furthermore, in Article 45 paragraph (1) of Law No. 23 of 2004 concerning the Elimination of Domestic Violence, regulates criminal provisions for perpetrators of psychological violence within the scope of the household, namely: "Every person who commits an act of psychological violence within the scope of the household as referred to in Article 5 letter b is liable to a maximum imprisonment 3 (three) years or a maximum fine of Rp. 9,000,000.00 (nine million rupiah) ".

Victims of domestic violence will experience a very diverse range of suffering / loss, such as material, physical or psychological so that the protection provided to victims must also vary. Not a few victims of domestic violence experience suffering simultaneously at the same time. Therefore, in order to reduce the burden of suffering experienced by victims of domestic violence, the law gives rights to victims of domestic violence, to obtain:

1. Protection from family, police, attorney's office, court, advocate, social institution, or other party either temporarily or based on the stipulation of protection order from court
2. Health services according to medical needs
3. Handling specifically related to the confidentiality of the victim
4. Assistance by social workers and legal assistance at each level of the inspection process in accordance with statutory provisions and
5. Spiritual guidance service.

The Domestic Violence Act also states: "The government is responsible for preventing domestic violence" (Article 11). These prevention efforts were:

1. Formulate a policy on eliminating domestic violence
2. Organizing communication, information and education about domestic violence;
3. Carry out socialization and advocacy about domestic violence (Article 12).

#### ***Law Number 4 of 1979 concerning Child Welfare***

In the explanation of Law No. 4 of 1979 concerning Child Welfare (UUKA) in general it was said, the maintenance, guarantee and security of these interests should be carried out by those who care for them under state supervision and guidance, and if necessary by the state itself. Child care is first and foremost the responsibility of parents in the family environment (Tombeng, 2014).

Indonesia was a state of law. Various regulations have been established to protect human rights, especially the right of children to get legal protection. But without the awareness of the community, especially from the lowest level, namely the family, criminal acts of violence against children will still continue to occur and the worst thing was to eliminate the child's life. The mindset of the people toward parenting must be changed. Violence was not a form of child discipline, but violence itself in the long term will shape the character and mentality of children who were not good. If violence against children continued to be applied, then children will be accustomed to a violent lifestyle, they will apply acts of violence in the community, so that there can be more riots, commotion, and other things related to violence. Therefore there must be efforts to eliminate this pattern of violence. Protection efforts that can be done related to child abuse can be done with a health approach to the community, namely through promotive, preventive, diagnosis, curative, and rehabilitative efforts. There were strategy to preventing child abuse and neglect it were: 1) Strengthen economic supports to families, 2) Change social norms to support parents and positive parenting, 3) Provide quality care and education early in life, 4) Enhance parenting skills to promote healthy child development, 5) Intervene to lessen harms and prevent future risk (Fortson et al, 2016). The real role of the community in protecting children from violence was to form an organization based on child protection (Syahputra, 2018). There were many organizations formed in handling child protection, some child protection based organizations were as follows: Child Care Committee (Koperla), Community

Education Committee (KPM), Child Friendly Village in Surabaya, Village / Village Children's Protection Group in Rembang Regency, Kebumen and Semarang (Syahputra, 2018).

Parents should pay more attention to their children's lives. Parents were required to educate and love their children, do not let children live in mental and physical restraints. The attitude of scolding children all out, let alone commit acts of violence was not a wise act as a parent, because it only makes children feel unnoticed and not loved. Eventually the child feel afraid, and even despair. Mental health of parents was very important in domestic life. Mental healthy of parents will also have a good impact on children. But if the mentality of the parents was not healthy, of course it will also have an impact on children. The importance of the deepening of religious knowledge and the deepening of law so that parents have broad insight and calm soul. Because the key to success in educating children was the attitude of their parents. If the child was educated wisely, he will become a wise person too. But if a child was educated with violence, surely he will be a hard person too. It was important to realize that children born into this world have the right to get good care, compassion, and attention. In cases of violence against children, a cycle of violence can develop in families. Individuals who experience parental violence, will do the same thing with their children later. Children were accomplished imitators, whatever our actions will be imitated and applied to their children and so on. Therefore it was important to realize that violent behavior in educating children is not appropriate.

### *closing*

Violence was any action that tends to hurt others, in the form of physical aggression, verbal aggression, anger or hostility. Each form of violence has different triggering factors and consequences. Child abuse or child abuse, which was the arbitrary behavior of people who are supposed to be protective of a child physically, and emotionally. Based on the classification of violence on children consists of four categories, namely: 1) physical violence, 2) psychological violence, 3) sexual violence and 4) social violence. The factors causing the occurrence of criminal acts of violence on children are: 1) parent factors, 2) child factors, 3) social environmental factors. To anticipate and reduce the crime of violence against children, the government has made rules with binding sanctions that are expected to have a deterrent effect on the perpetrators. As for juridically the legal regulations governing criminal acts of violence against children are: 1) Law Number 35 of 2014 concerning Child Protection, 2) Book of Criminal Law (KUHP), 3) Law Number 23 of 2004 concerning the Elimination of Violence in Household, 4) Law Number 4 of 1979 concerning Child Welfare.

Various regulations have been established to protect human rights, especially the right of children to get legal protection. But without the awareness of the community, especially from the lowest level, namely the family, criminal acts of violence against children will still continue to occur and the worst thing was to eliminate the child's life. The advice that can be delivered related to this was that the mindset of the community towards parenting should be changed. Violence was

not a form of child discipline, but violence will shape the character and mentality of children who are not good. If violence against children continues to be applied, then children will be accustomed to a violent lifestyle. Individuals who experience parental violence, will do the same thing with their children later. Therefore there must be efforts to eliminate this pattern of violence.

### ENGLISH REFERENCES

- Fortson, B. L., Klevens, J., Merrick, M. T., Gilbert, L. K., & Alexander, S. P. (2016). Preventing child abuse and neglect: A technical package for policy, norm, and programmatic activities.
- Khasna, H. W. (2018). Criminal Enforcement for Children in Progressive Studies. *IJCLS (Indonesian Journal of Criminal Law Studies)*, 3(1), 49-60.
- Margolin, G., & Gordis, E. B. (2000). The effects of family and community violence on children. *Annual review of psychology*, 51(1), 445-479.
- Maji, S. (2015). Children and domestic violence. *ZENITH International Journal of Multidisciplinary Research*, 5(11), 51-59.
- Radford, L., Hester, M., Humphries, J., & Woodfield, K. S. (1997, July). For the sake of the children: The law, domestic violence and child contact in England. In *Women's studies international forum* (Vol. 20, No. 4, pp. 471-482). Pergamon.
- Benoit, Diane. 2006. Impact of Violence on Children. *The Newsletter of Infant Mental Health Promotion*, (Vol.46).
- Canada, Global Affairs. 2015. *Championing child rights and child protection in Indonesia*. UNICEF and Global Affairs Canada.

### INDONESIAN REFERENCES

- Erlangga, A. (2017). *Tinjauan Yuridis Terhadap Tindak Pidana Pembunuhan Bayi yang Dilakukan oleh Orang Tua (Suatu Tinjauan UU No. 35 Tahun 2014 & Hukum Islam)* (Doctoral dissertation, Universitas Islam Negeri Alauddin Makassar).
- Hurairah, Abu. (2007). *Child abuse (kekerasan terhadap anak): edisi revisi*. Bandung: Penerbit Nuansa.
- IDN Times. 2019. *Selama 2019, KPAI Terima Seribu Kasus Kekerasan Anak*. <https://jabar.idntimes.com/> (diakses pada tanggal 15 Februari 2020).
- Leuwol, T., 2018. Penerapan Sanksi Pidana Terhadap Pelaku Cyber Crime Yang Menyebarkan Isu Suku, Ras, Agama Dan Antar Golongan (Sara) Melalui Media Sosial Ditinjau Dari Undang-Undang Ite Nomor 19 Tahun 2016. *Lex Crimen*, 7(2).
- Manik, S.Z. (editor). (1999). *Kekerasan terhadap anak dalam wacana dan realita*. Medan: Pusat Kajian Dan Perlindungan Anak.
- Purnianti, *Menyikap Tirai Kekerasan Dalam Rumah Tangga*, Mitra Perempuan, Jakarta: 2006, Hal. 7
- Republik Indonesia. Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak
- Republik Indonesia. Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga.

- Republik Indonesia. Undang-Undang Nomor 4 Tahun 1979 Tentang Kesejahteraan Anak
- Syahputra, R. (2018). Penanggulangan Terhadap Tindakan Kekerasan Seksual pada Anak Ditinjau dari Undang-Undang Perlindungan Anak. *Lex crimen*, 7(3).
- Suyanto, Bagong., & Hariyadi, S.S. (2002). Krisis & child abuse: kajian sosiologis tentang kasus pelanggaran hak anak dan anak-anak yang membutuhkan perlindungan khusus (child in need of special protection). Surabaya: Penerbit Airlangga University Press
- Tombeng, Y. (2014). Kekerasan Fisik Terhadap Anak Ditinjau Dari Aspek Perlindungan Hak-Hak Anak. *Lex Crimen*, 3(2).
- Tribun Jakarta. 2019. *Periode Januari-Juni 2019, Komnas PA Catat Kasus Kekerasan Terhadap Anak Meningkat 10 Persen*. <https://jakarta.tribunnews.com/2019/06/19> (diakses pada tanggal 15 Februari 2020).
- Tribun Bali. 2020. 8.488 Kasus Kekerasan Terhadap Anak Selama 2019, Kementerian PPPA Beri Pendampingan Hukum. <https://bali.tribunnews.com/2020/01/17> (diakses pada tanggal 15 Februari 2020).