



Legal Protection Of The Rights Of Children As Victims Of Copulation In The Perspective Of Victimology

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ABSTRACT

The results of the research conducted, it can be concluded as follows: First, the Book of the law of Criminal Law (PENAL code), in particular if it is done against children is regulated in Law Number 35 of 2014 concerning amendment to Law Number 23 Year 2002 About Child Protection as well as if committed against a person who is still included in the family relations regulated in Law Number 23 Year 2004 On the Elimination of Violence In the Household. Second, the Factors that cause the onset of criminal information against children, namely Internal Factors (psychological factors, biological factors and moral factors) and External Factors (socio-cultural factors, economic factors and the factor of the mass media). Third, the protection provided Law Number 35 Year 2014 which refers to Article 81 paragraph (2) by providing sanctions and penalties to the perpetrators of criminal acts of intercourse to the child and to the child is given the protection of which is entitled to rehabilitation from the government both physically and mentally, spiritually and socially, in addition to it its privacy required to be protected.

INTRODUCTION

The law is a collection of the rules of life (written or unwritten), which determine whether what is appropriate and not appropriate by a person in the Association of life, a special thing that is contained in the rules of life, namely that for the pentaatannya provisions that can be imposed.

Indonesian society is always bound by the law, in accordance with the Constitution of the Unitary State of the Republic of Indonesia 1945 (hereinafter abbreviated as the Constitution of the Republic of Indonesia 1945) after the amendment of Article 1 Paragraph (3): "Indonesia is a country based on the

name of law (rechtstaat)", not based on mere power (machstaat). The indication that Indonesia adheres to the welfare state conception lies in the government's obligation to realize the goals of the state, as contained in the fourth paragraph of the opening of the 1945 Constitution of the Republic of Indonesia, namely: "protecting the entire Indonesian nation and all Indonesian bloodshed, advancing the general welfare, educating the nation's life and participating in implementing world order".

The philosophical ideals that have been formulated by the founders of State in the concept of"

Indonesia is a state of law", implies, that in the relationship between law and power, that power is subject to law as the key to political stability in society. In the state of Law, Law is the main pillar in moving the joints of social life, nation and state.

Criminal law in Indonesia is one of the very important guidelines in realizing a Justice. The Penal Code (KUHP) is a strong basis in order to determine the prohibited acts and have strict sanctions for those who violate them. General provisions, crimes up to violations into three important parts contained in the Criminal Code.

Crime is an act that violates ethics and morals so that from a crime committed by someone then of course the act has a very detrimental impact on others as the subject of law. Basically, violence against women and children is a reflection of male power or the manifestation of female vulnerability in front of men, even a picture of injustice against women. Seen from a feminist perspective, violence against women occurs due to the existence of power structures that are more favorable to men or due to the patrinal culture that is still strong in society.

When people talk about violence against women, it can be said that women in any situation remain vulnerable to being victims of a structure or system (social, cultural, or political) that is run over (WCC workshop Press Release, 2000). This is reinforced by the opinion that the position of women who are weak makes their empowerment to protect themselves is also lacking.

One of the phenomena that has become a big concern of the public lately, even the international community, regarding sexual violence against children. Sexual violence against children becomes a serious problem that must be addressed so that the violence does not occur repeatedly and for the perpetrator can make a deterrent effect on the actions he does. Law as a basis that can be used to answer the problem of efforts to overcome the crime of sexual violence against children, aims to create a sense of protection and certainty for the community, especially children who in this case become victims.

Sexual violence experienced by children as victims can occur in the smallest environment, namely the family and can also occur in a wider environment that occurs in the community environment. It is said that even a child who is in the house can become a victim of violence. One of the most common acts of sexual violence experienced by children and the most terrible is rape. Rape is classified as a form of crime in Indonesia and even in the world, and the perpetrators are threatened with severe criminal

sanctions. In the jurisdiction of the Medan District Court, the number of cases of rape crimes during the last 2 (two) years there were 44 cases of rape. Rape is considered a crime with a high degree of cruelty and is considered very degrading human dignity.

A form of rape is not necessarily intercourse, but any form of assault or coercion involving the genitals. The meaning of rape whose victims are children is regulated in Law No. 35 of 2014 on the protection of children formulated in Article 81

- a) With violence or threats of violence.
- b) Forcing the child to fuck.

Based on the above formulation, it can be argued that the main element of rape is the presence of violence or the threat of violence in sexual intercourse with a woman who in this case is a child. The legal formulation of the rape becomes the standard in the process and procedure or legal mechanism, within the ranks of the criminal justice system. As a consequence of this, any report of a woman's rape will be at risk of being ruled out as long as it is not in accordance with the formulation of applicable law.

In that way the law has actually disqualified the victim from the very beginning, even before it came to the legal process itself. So, it can be understood why many of the cases of rape against children are not reported (under-reported) at the police level. In addition there are other reasons, such as:

- a) The victim does not know where to report, or how to report the event;
- b) The distance between the scene and the nearest police station, making it difficult for victims to report it;
- c) Physical and non-physical threats from the perpetrator to the victim not to contact anyone in connection with what he has experienced;
- d) The victim's family pressures on the victim to resolve this issue through "peaceful means" with the perpetrator (for example, the perpetrator compensates the victim and his family with money, goods, facilities and so on, even by marrying the victim).

Rape victims, especially children, are among the victims of crimes that also require legal protection. Children as part of the next generation of the ideals of the nation, have a strategic role in ensuring the existence of the nation and the state in the future. In order for them to be able to bear that responsibility, they need to have the widest opportunity to grow and develop optimally, both physically, mentally, socially and spiritually. So they need to get their rights, need to be protected and prosperous. In the process of criminal justice, the

existence of rape victims remains worrying, the representation by the prosecutor does not make the events experienced to be replaced. The punishment of the perpetrator of rape does not eliminate the traumatic feeling suffered by the child. Children as victims of rape not only suffer once, but can be repeatedly and require serious treatment. Remembering children is the foundation and expectations of parents. It is also the child who will be the successor of this nation. Originally, must be protected or given affection. But the facts speak differently, the rise of cases of rape in children since a few years seems to reverse the opinion that children need to be protected. So many children are victims of family, environmental and community violence today.

Some of those who are victims of rape, will leave feelings of shame, self-loathing and depression, so to overcome these feelings, they use excessive drugs and even that hurt their own body in order to express the pain they feel. As a result, it will cause a mental disorder called "post-traumatic stress" In fact, there is the right of the child as a victim to medical assistance and psycho-social rehabilitation assistance. Psycho - social rehabilitation assistance is the assistance provided by psychologists to victims who have suffered trauma or other psychiatric problems to restore the victim's psychiatric condition.

Judging from the impact caused, especially the social impact of the crime of rape is greater than murder. In the crime of murder (death victim), although there is a balance disorder but there is a time. In the crime of rape the consequences suffered by the victim can vary. From a situation that most hated women, i.e. the idea without anyone willing to take responsibility, loss of virginity, tertularnya various kinds of venereal diseases to mental disorders. All of this will have a big impact on the future of the child.

Of the various cases of rape, it turns out that the percentage of those who receive treatment after rape is only a small number. Only a few receive treatment so as not to become pregnant and not to contract sexually transmitted diseases. In the handling of rape cases against children as victims should be holistic and integrated. All sides require improvement and treatment, both from the medical side, the internal side of individual appreciation, legal aspects that still contain many weaknesses, social support, economic support, as well as political measures and advocacy.

Therefore, rape victims really need a sense of sympathy that can calm and foster confidence, namely by providing legal protection against them

to the maximum. The question is to what extent the legal protection provided to the victim of the copulation crime.

In the city of Medan occurred an event on Sunday, December 13, 2015 approximately at 14.00 Wib or at least at another time still in December 2015 housed biological complex Marelán Market District.Medan Marelán or at some other place that is still included in the legal area of the District Court of Medan, deliberately committing violence or threats of violence, committing a trick,a series of lies or persuading children who are witnesses of victims Y who are 14 (fourteen) years old to have intercourse with him or with others.

The judge's decision in the trial process states that the defendant defendant X above has been proven legally and convincingly guilty of committing a criminal act of coitus against a child, and therefore sentenced to imprisonment for 5 (five) years and 6 (six) months, and a fine of Rp.60.000.000, - (sixty million rupiah) and if the fine is not paid, it is replaced by imprisonment for 2 (two) months.

METHOD

The research method used in this paper is normative jurisi research method. Normative research requires the implementation of statutory approach and conceptual approach. Data collection techniques used are through the study of documents and literature on secondary data in the form of primary, secondary and tertiary legal materials. The analysis used is descriptive.

RESULTS AND DISCUSSION

A. The Rule Of Law Regarding The Form Of Legal Protection Of Children As Victims Of Criminal Acts Of Copulation

In general, intercourse can be done by coercion, which is better known as rape and can be done without coercion. Positive law in force in Indonesia has regulated the act of sexual intercourse in general against adults and children in the Criminal Code (KUHP) and specifically if done against children regulated in Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on the protection of children and if done against people who are still included in family relationships regulated in Law No. 23 of 2004 on the elimination of domestic violence.

In general, when talking about criminal law, then what is meant is the criminal regulations collected in a book, namely: The Book of Criminal Law abbreviated Criminal Code (Wetboek van Strafrecht = H.v.S). E. Utrech said, when people say criminal law, in general, what is meant is material criminal law. Material criminal law is a law that contains the

rules of conduct (actions) that are threatened with criminal, who can be punished and various kinds of crimes that can be imposed. Satochid Kartanegara wrote, the criminal law contains material regulations on what actions can be punished (criminal offense-Pen), who can be convicted (criminal liability-pen) and what punishment can be imposed on LawBreakers (Penal pen). In short, material criminal law regulates what, WHO and how people can be punished.

The Penal Code or better known as the Criminal Code includes intercourse as a crime against decency or a crime against decency. Andi Hamzah stated that decency (goede zeden) is moral decency with the norms of decency, especially in the field of sexual.

Copulation is simply defined as sexual activity/intercourse that is commonly done to obtain sexual pleasure or for the process of obtaining children. Sexual intercourse is thus not a form of evil but a human act because it is commonplace to do even a natural necessity. The evil nature of sexual activity is then inherent if it is done not in accordance with the law so it is called a sexual crime.

Sexual intercourse and sexual intercourse have different juridical principles. Lewd acts are all acts that violate decency (decency) or indecency, all of them in the environment of sexual lust, for example: kissing, groping members of the genitals, groping breasts and so on. According To J. M. Van Bemmelen as quoted by Neng Djubaedah, suggested that obscene acts include intercourse and homosexuality or obscene acts that are contrary to nature. Lewd acts do not require the existence of sex as long as the act is considered a violation of decency within the scope of sexual nasfu, but persebutuan requires the existence of sex. It is said that sexual intercourse includes sexual intercourse, but sexual intercourse does not necessarily mean sexual intercourse.

The Penal Code expressly separates the arrangements regarding intercourse with obscene acts indicating that these two acts legally have differences. The crime of abuse against adults is regulated in Pasal 289, Article 290 paragraph (1), Article 294 paragraph (2) of the Criminal Code, while the abuse is done specifically against people not old enough 15 years is regulated in Article 290 paragraph (2) and (3) of the Criminal Code, abuse against immature people is regulated in Article 292, article 293 and Article 294 paragraph (1) of the, adoptive children or foster children who are not yet adults with third parties others and if mangadakan or facilitate obscene acts become livelihoods or habits regulated in Article 296 of the Criminal Code.

The entire articles related to the crime of abuse in the criminal code in question will not be discussed in this paper widely, because the focus of the discussion of this paper is about the crime of copulation.

James A. Inciardi as quoted by Neng Jubaidah, formulated several sexual relations including sexual offenses including:

- a) Forcible rape
- b) Statutory rape
- c) Fornication
- d) Adultery,
- e) Incest
- f) Sodomy

Sexual intercourse without coercion from the perpetrator against the victim is regulated in the criminal code in various forms that can be seen from two sides, namely: first, from the point of marital relations; and second, from the point of age of the victim. If viewed from the point of view of the marital relationship is divided into sexual intercourse without coercion outside and inside the marriage, while when viewed from the point of age of the victim it can be divided into two categories, namely sexual intercourse without coercion to adults and sexual intercourse without coercion to children.

Sexual intercourse outside of marriage against a woman in a state of stupor or helplessness is regulated in Article 286 of the Criminal Code which reads "Anyone who has sex outside of marriage with a woman whom he knows that the woman is in a state of stupor or in a state of helplessness, shall be punished with imprisonment for nine years". The terms of sex, outside marriage and with women are the same as the discussion of Article 285 of the Criminal Code. Another absolute requirement for the fulfillment of this act is the existence of a state of the victim (woman) who is unconscious or helpless is not due to the actions of the perpetrator. If the state of fainting or helplessness is caused by the actions of the perpetrator, the act is classified as a crime of rape as provided by Article 285 of the Criminal Code because the state of fainting or helplessness is juridically equated with violence (vide Article 89 of the Criminal Code).

The medical term for fainting is syncope defined as a temporary loss of consciousness and a weak / postural fall of the body characterized by rapid onset, short duration, and spontaneous recovery due to global cerebral hypoperfusion caused by hypotension. 176 fainting or syncope is a condition of sudden, and usually temporary, loss of consciousness caused by a lack of blood flow and oxygen to the brain.177 the provisions of Article 286 of the Criminal Code, do not explicitly affirm the age

of the victim whether adult or child but only affirm the condition of fainting or helplessness and relationships outside of marriage. The question is what if the woman is in a state of fainting or helpless and still a minor? Researchers argue that this article can be positioned as a legal provision that regulates sexual intercourse without coercion outside marriage either against adult women or immature women or children.

Extramarital intercourse against a woman who is not fifteen years old is regulated in Article 287 paragraph (1) of the Criminal Code which reads: Whoever enters into sex outside of marriage with a woman, which he knows or should he suppose that the woman has not reached the age of fifteen years or if it cannot be known from her age, the woman is a woman who cannot be married, shall be punished with imprisonment for nine years.

The law that specifically regulates the subject of child protection is law no. 23 Of 2002 On Child Protection. Article 1 point 2 states 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 the dignity and dignity of humanity, as well as get protection from violence and discrimination". Meanwhile, the rights of the child are part of human rights that must be guaranteed, protected, and fulfilled by parents, families, communities, governments and the state.

According to Maidin Gultom, the protection of children's rights in essence concerns directly the regulation in the legislation. Wisdom, effort and activities that ensure the realization of the protection of children's Rights, First of all based on the consideration that children are vulnerable and dependent groups, in addition to the existence of children who experience obstacles in growth and development, both spiritual, physical and social.

B. Factors Causing The Onset Of Criminal Acts Of Copulation Against Children

Talking about children is very important because it is the potential and that determines the future of a nation because the progress of a nation depends on the morality of the child who will later play a role in determining the history of the nation in the future. Before discussing further about the child, the author will present the understanding of the child himself. In our positive law there is a diversity of age limits of children, as a result of each legislation has criteria regarding what is meant by minors, among others:

Understanding of children according to law no. 35 of 2014 on the protection of children regulated in Article 1 Paragraph (1) is a person who has not

reached 18 years and has not been married. This provision limits itself, especially in the case of naughty children only, without distinguishing the sex between men and women with a minimum and maximum restricted age with the exception of unmarried children. While in Article 4 paragraph (1) states that the naughty child who can be submitted to the children's trial is at least 8 (eight) years but has not reached the age of 18 years and has not married.

The age limit in both of the above provisions, indicates that the so-called child who can be criminally prosecuted is limited when aged between 8 (eight) years to 18 years. If under the age of 18 years but already married then it must be considered an adult rather than categorized as a child again. Thus it is not processed based on the law on Child Protection and Juvenile Justice, but based on the Criminal Code (Criminal Code) and the Criminal Procedure Code (Criminal Code).

The definition of children according to the Criminal Code (KUHP) is contained in Article 45 of the Criminal Code which gives the definition of a child is a child who has not reached the age of 16 years of committing a criminal act, the judge may order that the child be returned to his parents, guardians or caretakers without any criminal sanctions. While a person who has aged 18 years and has committed a criminal act may be charged with punishment in accordance with Article 47 of the Criminal Code, the judge may impose a maximum penalty reduced by one third of the year, if the act is a crime punishable by death or life, then sentenced to imprisonment for a maximum of 15 years.

Factors for the occurrence of a crime of rape can be divided into 2 (two) parts, namely:

1. Internal Factors

Internal factors are factors that exist within the perpetrator so that he commits rape. The author divides this internal factor can be divided into several factors as follows:

- a. Psychiatric Factors
- b. Biological Factors
- c. Moral Factors

2. External Factors

External factors are factors that come from outside the perpetrator. factors that influence from outside the perpetrator of rape against children are:

- a. Socio-Cultural Factors
- b. Economic Factors
- c. Mass Media Factors

Factors causing copulation are at least as follows:

- a. The influence of cultural development is increasingly disrespectful to dress ethics

- that cover the genitals, which can stimulate others to indecent and evil.
- b. The lifestyle or mode of association between men and women, which is increasingly free, can no longer distinguish between what should be allowed to do and what is forbidden in relation to the moral method of the relationship of men with women.
 - c. Low practice and appreciation of religious norms that occur in the community. Religious values are increasingly eroded in the community or horizontal relationship patterns that tend to increasingly negate the role of religion is very potential to encourage someone to do evil and harm others.
 - d. Low level of social control, meaning that various behaviors that are suspected of being irregularities, violating laws and religious norms are less likely to get responses and supervision from elements of society.
 - e. A judge's verdict that feels unfair, like a fairly mild verdict handed down on the perpetrator. It is possible to encourage other members of society to do evil and evil. Those who do evil do not fear the punishment they will receive.
 - f. The inability of the offender to control his emotions and sexual appetite. His sexual appetite is allowed to wander and demands that he be sought for his widening compensation.
 - g. The desire of the perpetrator to commit (vent) revenge against the attitude, speech (decision) and behavior of the victim who is considered to hurt and harm him.

C. Criminal Law Policy On The Rights Of Children As Victims Of Copulation

1. Case Position

That he accused "defendant X" on Sunday, December 13, 2015 approximately at 14.00 Wib or at least at another time still in December 2015 which housed the biological complex Marelان Market District. Medan Marelان or at some other place that is still included in the legal area of the Medan District Court convened in Belawan, intentionally committing violence or threats of violence, committing a ruse, a series of lies or persuading a child who is a witness to the victim Y who is 14 (fourteen) years old to make intercourse with him or with other :

- a. On Saturday, December 12, 2015 approximately at 19.30 Wib at that time the victim's witness was picked up by his girlfriend, namely witness ABDUL HAFIS and then the victim's witness and witness ABDUL HAFIS went to meet the defendant who was in front of a shop in the market IV Marelان, witness ABDUL HAFIS introduce the defendant with the victim's witness, witness of the victim and the defendant was handed down by witness ABDUL HAFIS on the grounds of witness ABDUL HAFIS about to deliver his motorcycle and will return again to meet the defendant and the victim's witness, but at that time witness ABDUL HAFIS returned at about 05.00 Wib and then the victim's witness, witness ABDUL HAFIS and also, and after that the defendant told the witness of the victim "to the place of Comrade abang yok "then the witness of the victim replied" What do you want? then the defendant replied " briefly aja" and then the witness of the victim and the defendant went to the House of the defendant's friend who was in the biological complex market II marelان while the witness ABDUL HAFIS scattered directions from the defendant and the witness of the victim and the defendant to the place, the witness of the victim and the defendant, and after that the defendant's friend went and did not know where, so that there was only a victim's witness and also the defendant, and then the defendant invited the victim's witness into the room, and arriving in the defendant's room told the victim's witness "once Aja deck for brother "and the victim's witness replied" Baseball want me " but the defendant mengimingkan will marry the victim's witness so that the defendant then immediately put the victim's witness to bed in the room where the defendant opened the pants and panties that the victim's, and after that the defendant then oppress the body of the victim witness and open the two legs of the victim witness slowly while bending the knee of the victim witness and after that the defendant insert the shaft of the defendant's pubic that is

already in a state of tension into the victim's penis or vagina witness while both hands of- sway his hips up and down into the victim's penis or vagina witness, and at that time the victim's witness said "Do not put in his sperm" and the defendant replied "Yes already know"and at the time the defendant was still shaking his hips witness victim said "bang pain" and then the defendant replied "This is already slow deck, not hurt really" and, so that the witness of the victim immediately put on his clothes and pants, and after that the witness of the victim and the defendant went straight from the defendant's friend's House.

CONCLUSION

First, UUCK's legal politics can be read as the spirit of the state in synchronizing, harmonizing, and eliminating sectoral egos. Court decision no. 91/PUU-XVIII / 2020 dated November 25, 2021, one of them contains "trust" to the Constitution to include making improvements to the substance of UUCK. Second, the provisions of the uuck that should be maintained is a change to Article 24 of the ADPEM law, on the terms of discretion, which abolishes the condition "not contrary to the provisions of legislation" is appropriate and ideal with the doctrine of discretion. Third, the amendment to Article 53 of the ADPEM law, especially in the "release "section of the Administrative Court's authority in" testing" a government silence to be considered a positive fictitious decision is not necessary, because the Administrative Court's authority to test the government silence that is considered granted is important and vital, to be able to provide careful and careful arrangements not to provide loopholes (moral hazard) in the silence.

That based on the results of post mortem Et Repertum RSU with Number: R/33/VER OB/I/2016 RS. Bhayangkara Saturday tanggal January 16, 2016 on behalf of Y with examiner dr. HULMAN SITOMPUL, SpOG, concluded that: hymen (hymen) is not intact.

b. Indictment First

The Defendant's Actions Are Regulated And Punishable In Article 81 Paragraph (2) Of Law No. 35 Of 2014 Concerning Amendments To Law No. 23 Of 2002 On Child Protection. Both Of The Defendant's Actions Are Regulated And Punishable In Article 82 Of Law No. 35 Of 2014 Concerning

Amendments To Law No. 23 Of 2002 On Child Protection.

c. Legal Facts

Witness Testimony

- That on Saturday, December 13, 2015 approximately at 14.00 Wib located at Jl. Marelان Raya Pasir IV West ex. Falls District. Medan MARELAN APRIANI left home for 3 (three) days and on Monday, December 15, 2015 at about 10.00 Wib, The Witness sought the whereabouts of APRIANI and when he arrived under titi on Jl. Marelان Market II Kel Falls kec. Medan Marelان the witness's sister found APRIANI home and after arriving home, the witness's sister asked APRIANI " Where Are you pri, 3 (three) days baseball home " "and then the witness's son answered" I'm playing at tama's House" and then the witness's sister answered "how many people are you playing there " and then Y answered "3 people" and then the witness's sister asked "Have you reached the same X ? and then the witness replied, " I've had sex with him, I was forced" and after that the witness's sister told the witness that Y had been fucked by the defendant and after that the witness asked Y "already diapai you pri" then y answered "already played" then the witness asked" how many times "and Y said" 1 (one) time " at that time the witness did not report the incident because the witness was worried, and approximately at 23.00 Wib sister witness found Y at the defendant's House and then the witness did not accept and reported the incident to the medan labuhan police.
- That on Tuesday, December 12, 2015 approximately at 19.30 Wib at that time the victim witness was picked up by a male friend of the victim witness and then the victim witness friend of the victim went to meet the defendant in front of a shop IV MARELAN market and at that time the victim witness friend introduced the victim witness with the the victim and the defendant were sent down by the victim's witness friend on the grounds that the victim's witness friend will deliver his motorcycle and will return to meet the victim's witness, but at that time the victim's witness friend returned around 05.50 Wib and then the victim's witness friend of the victim's witness and also the defendant together went to the defendant's

house for breakfast and after that the defendant told the victim's witness "to the place of Comrade abang yok" then the victim's witness answered "want ngapai" then, the witness of the victim and the defendant met with his friend the defendant and had time to tell stories and after that the defendant's friend went and did not know where, then in the house there is only a witness of the victim and also the defendant then the defendant invited the witness of the victim into the room then arrived in the room the defendant said "once Aja deck for brother" then the witness of the victim replied "Baseball want me' and after that the defendant put the witness of the victim on, and after that the defendant took off the pants and panties that he used and after that the defendant climbed the body of the victim's witness and opened both thighs of the victim's witness and bent the knee of the victim's witness and after that the defendant inserted the shaft of his cock into the victim's witness's, then the defendant shook his hips so that the shaft of his cock came in and out in the vagina of the victim witness, and at that time said "Do not put in his sperm" and the defendant replied "Yes already know" when having sex with the defendant witness the victim said "it hurts bang" and then the defendant replied "This is already slow deck, not, and when the defendant went to the bathroom to dispose of his sperm fluid then the victim's witness back wearing clothes and also the victim's witness pants and after that the victim's witness and the defendant went.

- That on Saturday December 12, 2015 approximately at 19.30 Wib witness appointment met the victim on the roadside near his house, when in the middle of the road the witness met the defendant and the defendant also took a motorcycle witness then saksimenjemp the victim and witness introduce the defendant with the victim because the victim is the witness's girlfriend, then the, we went for a walk kepasar night around 23.00 Wib it was late at night then the witness told the victim to go home because sudh night but the victim did not want the witness to deliver home the victim replied "It's night tomorrow morning aja return" so the witness said "Where do you want to sleep

tonight?"answer the defendant" already let the apri tonight sleep with brother wrote in the building "incidentally there is a shop building that is not ready which is not too far from my house"" we finally went to the building, then the defendant told the victim to deliver the witness's motorcycle home so as not to be scolded by the witness's parents, but the defendant said "tomorrow morning, dawn you come here pick us up while our marathon" the witness answered "yes " then the witness went home the witness while the defendant and the victim lived in the building, the next day on, then the victim was awakened by the defendant and we also exercise in the morning and the witness asked the victim "What did you do last night? " , you've stayed away from me don't you get close to me anymore" then about 08.00 PM witness defendant and the victim went to the defendant's house after that the witness came home to the witness about 17.00 pm witness came to the defendant's House and there the witness saw there are still victims have not come home also the witness asked the victim "What did you do last night with si x ?"answer the victim" there is no just sleep aja "witness asked" honestly you?"for a moment the victim was silent and said "I've been fucked by si X "the witness asked "how come you want "he answered" forced si Tama I, at first my cheeks were kissed, then my lips, my nipples were kissed and then forced to play, I didn't want to but the last forced I wanted to be played by the X" hearing this, the witness was just silent and then the witness went home to the witness.

Testimony Of The Accused

- 1) that the defendant has been examined in front of investigators;
- 2) that the information provided is correct;
- 3) that the defendant does not object to all the information submitted by the witnesses;
- 4) that on Saturday, December 12, 2015 approximately at 19.30 Wib at that time the victim's witness was picked up by his girlfriend, the witness ABDUL HAFIS and then the witness of the victim and the witness ABDUL HAFIS went to meet the defendant who was in front of a shop in the market IV Marelán, witness ABDUL HAFIS introduced the defendant with, witness of the victim and the defendant was handed down by witness ABDUL HAFIS on the grounds of witness ABDUL HAFIS about to deliver his motorcycle and will return again

to meet the defendant and the victim's witness, but at that time witness ABDUL HAFIS returned at about 05.00 Wib and then the victim's witness, witness ABDUL HAFIS and also, and after that the defendant told the witness of the victim "to the place of Comrade abang yok "then the witness of the victim replied" What do you want? then the defendant replied " briefly aja" and then the witness of the victim and the defendant went to the House of the defendant's friend who was in the biological complex market II marelana while the witness ABDUL HAFIS scattered directions from the defendant and the witness of the victim and the defendant to the place, the witness of the victim and the defendant, and after that the defendant's friend went and did not know where, so that at home there was only a witness victim and also the defendant, and then the defendant invited the witness victim APRIYANI into the room, and arriving in the room the defendant told the witness victim "once Aja deck for brother" and the witness replied " yaudah but I'm not a virgin anymore" , pants and underwear that the defendant used at the time, and after that the defendant then oppress the body of the victim witness and open both legs of the victim witness slowly while bending the knee of the victim witness and after that the defendant insert the shaft into the pubic or vagina of the victim witness while both hands of the victim witness, and at that time the victim's witness said "Do not put in his sperm" and the defendant replied "Yes already know" and at the time the defendant was still shaking his hips the victim's witness said "it hurts bang" and then the defendant replied "This is already slow deck, not sick really" and after a few minutes later the defendant took out the shaft of his cock that was in a state of tension from the victim's cock and threw out the sperm fluid in the bathroom.

4. Legal Considerations

Considering that the defendant has been charged by the Public Prosecutor with alternative charges that are most appropriate and in accordance with the actions of the defendant and the panel of judges will consider the first charge of violating Article 81 paragraph (2) of law no.35 of 2014 on amendments to Law No. 23 of 2002 on the protection of children whose elements are as follows :

- a. Everyone;
- b. Intentionally commit violence or threats of violence, trick a series of lies or persuade a child who is a witness to the victim APRIYANI aged 14 (fourteen) years to have intercourse with him or with others;

Considering, that against these elements, the panel of judges will consider it as follows :

Element one : "everyone" ;

Considering, that the definition of "every person" here is any person or legal subject who commits criminal acts and can account for his actions, who is filed as a defendant in this case is X. That against defendant X who has been filed in this trial is not accompanied by legal counsel so that the elements of anyone who has been fulfilled and proven legally and convincingly according to the law.

The second element " " intentionally committing violence or threats of violence, committing a series of lies or persuading a child who is a witness koeban Y who is 14 (fourteen) years old to commit intercourse with him or with others" the defendant's actions are regulated and punishable in Article 81 paragraph (2) of Law No. 35 of 2014 on amendments to law no. 23 of 2002 on Child Protection.

Considering, that based on these considerations, it turns out that the defendant's actions have fulfilled all elements of the prosecution's indictment, so that the panel of judges concluded that the defendant has been proven to legally and convincingly commit a criminal act that was accused of violating the indictment of Article 81 paragraph (2) of law no.35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection;

Considering, that because all elements of the article accused in the indictment are in violation of Article 81 paragraph (2) of law no.35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection has been fulfilled, then the defendant can be blamed for committing acts as charged to him

Considering, that during the examination at the trial against the defendant, There are no things that can release the defendant from criminal liability, either as a justification reason and or a forgiving reason, therefore the panel of judges concluded that the actions committed by the defendant must be accountable to him

Burdensome Things :

- The defendant's actions resulted in the destruction of the future of the victim's witness;

Things That Lighten Up:

- Courteous defendant in court;

- The defendant admitted the light of his actions so as not to complicate the course of the trial;

- The accused has never been convicted;

5. Verdict

Against the above legal considerations, the panel of judges of the Medan court passed the following decision:

- a. Stated Defendant X above has been proven legally and convincingly guilty of the crime of "sexual intercourse against a child";
- b. Sentencing the defendant is therefore with imprisonment for: 5 (five) years and 6 (six) months, and a fine of Rp.60.000.000, - (sixty million rupiah) and if the fine is not paid, it is replaced by imprisonment for 2 (two) months;
- c. Stipulate that the period of arrest and detention that has been served by the defendant is deducted entirely from the criminal imposed;
- d. Order that the accused remain in custody; nil;
- e. Establish evidence in the form :
- f. Charge the defendant to pay the case fee of Rp5, 000.- (five thousand rupiah);

Legal protection of children as victims based on Decision number: 934 / Pid.Sus / 2016 / PN. Mdn in victimology perspective

The development of the science of victims of crime (victimology), basically inseparable from the birth of the brilliant thoughts of Hans von Hentig, a criminologist in 1941 and Mendelsohn, in 1947, the thoughts of these two experts greatly influenced each phase of the development of victimology.

The development of victimology to the present state certainly does not occur by itself, but has undergone various developments that can be divided into three phases. In the first phase, victimology only studies victims of crime, in this phase it is said to be "penal or special victimology". Meanwhile, in the second phase, victimology not only examines the problem of victims of crime, but also includes victims of accidents, in this phase is referred to as "general victimology". The third phase, victimology has developed more broadly, namely examining the problem of victims due to abuse of power and Human Rights. This phase is called "New victimology".

The emergence of victimology is inseparable from the concern for victims of criminal acts that are often overlooked. Victimology discusses, studies and examines the victim and its intricacies such as the role of the victim in the event of a criminal act, the relationship between the perpetrator and the victim and the role of the victim in the criminal justice system. According to Muladi victimology is a study that aims to analyze various aspects related to the victim and try to provide the cause of victimization. Victimology is a science that cannot be separated from criminology, because if the victim and the perpetrator are two related things. The incidence of victims can not be separated from the perpetrators of the crime. Therefore, if discussing the factors causing the incidence of rape victims, the criminological point of view will also provide

answers to the factors causing the incidence of rape victims. The perpetrator is the main factor of the occurrence of the victim of a crime of rape but not only rape occurs because of the behavior deviates from the perpetrator, so from the above explanation, it should be the victim affected by a criminal act and in this case the victim is a child, the child should get protection for what has been received by the child.

Conclusion

1. The rule of law regarding the form of legal protection against children as victims of criminal acts of copulation, namely the Criminal Code (KUHP), specifically if done against children regulated in Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on the protection of children and if done against people who are still included in family relationships regulated in Law No. 23 of 2004 on the elimination of domestic violence.
2. Factors causing the onset of criminal acts of copulation against children are internal factors (psychological factors, biological factors and moral factors) and external factors (socio-cultural factors, economic factors and Mass media factors)
3. Legal protection of children as victims based on decision number: 934 / Pid.Sus / 2016 / PN. Mdn in the perspective of victimology is the protection provided by Law No. 35 of 2014 which refers to Article 81 paragraph (2) by providing sanctions and penalties to perpetrators of sexual intercourse to children and to children given protection including entitled to rehabilitation from the government both physically and mentally, spiritually and socially, in addition to the privacy must be protected.

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