

Law Enforcement for Violence against Children

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Abstract

Criminal law enforcement regulations for perpetrators of violence against children in Indonesia are not based on the value of justice because of the perpetrators of violence against children themselves, where the perpetrators do not see the law as a law that will bind an action that he has committed but only as an ordinary rule that can be deceived by perpetrators of violence, it is evident that in recent years in Indonesia and in neighboring countries violence against children is still relatively high, this proves that criminal law regulations for perpetrators of violence against children are still considered small, and even more so if there is peace between the parents of the victim and the perpetrator, peace here is in the form of compensation or restitution which does not create a sense of the value of justice for victims of violence, which is essentially considered to have no deterrent effect on perpetrators of violence against children. The focused data is from the Province of North Sumatra, where for some time this area has always received public attention regarding violence against children. In North Sumatra in 2018 there were 1,030 cases recorded with Medan City being the highest, in 2019 there were 705 cases, in 2020 there were 641 cases, in 2021 there were 994 cases with Langkat Regency being the highest, and in 2022 there were 962 cases the highest. It should be noted from the data obtained, from 2018 to 2022 the age of children as victims is between the ages of 13-17 and sexual violence is the highest type of violence, and ranks number two in types of physical violence. Weak law enforcement in the process of not being able to make legal wishes come true. These legal regulations will also determine how law enforcement will be carried out. As is the case in Law Number 35 of 2014 concerning Child Protection where prosecution is lighter than the threat of punishment stipulated by law so that the judge's decision is considered relatively light in cases of violence against children.

Keywords: Law; Enforcement; Violence; Children;

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A. INTRODUCTION

In essence, children cannot protect themselves from various kinds of actions that cause mental, physical, social harm in various fields of life and livelihood. Children must be assisted by other people in protecting themselves, considering the circumstances and conditions, especially in the implementation of Juvenile Criminal Justice which is foreign to them^[1]. Children need to receive protection from misapplication of laws and regulations imposed on them, which cause mental, physical and social harm. As it is known that law is a series of regulations regarding the behavior of people as members of society, and the purpose of the law is to establish safety, happiness and order in society. Each member of society has an interest, so that the members of the community in fulfilling their interests enter into relationships, and these relationships are regulated by law to create balance in people's lives.

The position of children as the younger generation who will continue the noble ideals of the nation, as future leaders of the nation and as a source of hope for previous generations, needs to get the widest possible opportunity to grow and develop properly both spiritually, physically and socially. Child protection is an effort and activity of all levels of society in various positions and roles, who are fully aware of the importance of children for the nation and the nation in the future. If they have matured their physical as well as mental and social growth, then it is time to replace the previous generation. Child protection is all efforts made to create conditions so that every child can exercise his rights and obligations for the proper development and growth of children physically, mentally and socially. Child protection is an embodiment of the existence of justice in a society, thus child protection is sought in various fields of state and community life. Child

¹ Ellyana Masrurotin, et al, The Urgency of the Implementation of the Children Hearing System Towards Children of Criminal Acts in the Diversion Process, International Journal of Multicultural and

Multireligious Understanding, (IJMMU) Vol. 9, No. 4, April 2022, pp.434-445.

protection activities have legal consequences, both in terms of written law and unwritten law.

The law is a guarantee for child protection activities. Arif Gosita [²] stated that, "Legal certainty needs to be endeavored for the continuity of child protection activities and to prevent abuses that bring unwanted negative consequences in the implementation of child protection". Child protection should not be carried out excessively and pay attention to the impact on the environment and the child himself, so that the protection efforts carried out do not have negative consequences. Child protection is carried out rationally, responsibly and usefully which reflects an effective and efficient business. Child protection efforts must not result in the death of initiative, creativity and other things that cause dependence on others and uncontrollable behavior. So that children do not have the ability and willingness to use their rights and carry out their obligations. Cases of violence and violations of children's rights often do not receive much attention from the public, because in addition to data and reports on child abuse cases there are almost none, also because these cases are often still wrapped up in the habits of society that place this problem as an internal family problem and not proper or taboo to be exposed out in the open.

Harkristuti Harkrisnowo [³] said that, "The low number of cases of violence against children that are known to the public is partly due to the frequent occurrence of cases of this kind being resolved amicably at the investigative level, so that cases of violence experienced by children are not recorded by the authorities as a crime. In fact, if you want to be honest, in fact cases of violence, exploitation and even sexual abuse against children do not only occur on the streets in big cities which are harsh, in the industrial sector or the economic world which are often said to be exploitative, but can also be found in the world education, in people's daily lives, and even in the family environment which is normatively often said to be the safest place for children.

Based on this description, Indonesia must have strong law enforcement so that there are no more victims of violence against children, at least less. The impact of violence on children is not only short term but will be

prolonged, as stated in the results of research conducted by Sternberg in his dissertation that, "Children who are victims and abusers of domestic violence will have the highest levels of externalizing and internalizing behavior, because they experience violence in two developmentally important relationships. Because both victims and witnesses learn to use aggression as a way of solving problems, externalizing symptoms are considered highly probable, but some internalizing behavioral problems are to be expected as a consequence of distorted, humiliating, and demeaning family experiences."

In terms of taking the legal basis on Article 80 paragraphs (1) and (2), Article 81 paragraphs (1) and (2) of Law Number 35 of 2014 concerning Child Protection as the focus of research in the dissertation. With the hope of being able to contribute comprehensively to the development of law in Indonesia, especially those relating to the issue of criminal law enforcement for perpetrators of violence against children.

B. RESEARCH METHOD

This research is a qualitative research [⁴]. The research method used is empirical juridical. The type of data used is primary and secondary data. Data collection techniques through literature and field studies, interviews and questionnaires). The collected data was analyzed through descriptive analytics. [⁵]

C. RESEARCH RESULTS AND DISCUSSION

Law enforcement is a process to make legal wishes come true. The intended legal wishes are the thoughts of the legislature which are formulated in legal regulations. The formulation of the thoughts of lawmakers as outlined in the form of regulations will also determine how law enforcement is carried out. Law enforcement has a function to protect human interests. To protect human interests, the law must be implemented. The implementation of law enforcement can take place normally or also because of a violation of the law. These legal regulations will also determine how law enforcement will be carried out. Conceptually, the essence of law enforcement lies in the activity of harmonizing the relationship of values that are described in solid principles and attitudes as a series of final stages of value elaboration to create, and maintain social peace.

² Gosita, Arif. 2005, Child Protection Issues. Akademika Presindo :Jakarta.page.65.

³ Harkrisnowo, Harkristuti (2021) "Domestic Violence in a Criminological and Juridical Perspective," Indonesian Journal of International Law: Vol. 1: No. 4, Article 3. DOI: 10.17304/ijil.vol1.4.563

⁴ Irwansyah, Ahsan Yunus, Selected Legal Research Article Writing Methods & Practice, Mirra Buana Media, Yogyakarta. 2020.

⁵ Esmi Warassih, Pranata Hukum: Sebuah Telaah Sosiologis, (Semarang: Suryandaru Utama, 2005), page. 23-24. See too Anis Mashdurohatur, Zaenal Arifin, The Inconsistency of Parate Execution Object Warranty of Rights in Banking Credit Agreement in Indonesia, International Journal of Applied Business and Economic Research, Vol.15 Issue.20. 2017. See too Anis Mashdurohatur, M Ali Mansyur, Product capabilities dynamic on industrial design carved wood in

Small and Medium Enterprises (SMES) Jepara furniture in promoting the protection of intellectual property rights, International Journal of Applied Engineering Research, Volume 12, Issue 19, 2017. pp.8217-8226. See too Muhammad Zainuddin, Understanding Legal Research Methods (Definition, Paradigm, and Formation Structure), (Yogyakarta: CV.Istana Agency, 2019), page. 22. See too Bambang S and Eman Suparman Anis Mashdurohatur, Legal Protection for Creditors in Providing Business Credit with Object of Inventory Warranties Based on Justice Values, J.Eng. Applied Scinces, Volume 14 , Issue 12 , 2019, pp. 4176-4182. See too Agus Irawan Yustisianto, Sri endah Wahyuningsih, & Anis mashdurohatur, Reconstruction of Legal Protection Regulations against Victims of Crime of Household Violence Based on Justice Value, Sch Int J Law Crime Justice, Dec, 2022; 5(12): 513-519.

Development of legal substance is carried out with legal politics oriented towards victims of sexual violence. In general, Indonesia has formulated a legal substance in the form of forms of legal protection for victims in the Criminal Code and Criminal Procedure Code, as well as specifically in the Republic of Indonesia Law Number 13 of 2006 concerning the Protection of Witnesses and Victims which has been renewed by the Republic of Indonesia Law Number 31 of 2014 regarding Amendments to Law of the Republic of Indonesia Number 13 of 2006 concerning Protection of Witnesses and Victims. These two laws define protection as all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims which must be carried out by the Witness and Victim Protection Agency (LPSK) or other institutions in accordance with the provisions of the Law.

In the Criminal Code, protection for victims can be provided through a Court Decision in the form of compensation as formulated by the provisions of Article 14c paragraph (1) of the Criminal Code which reads "By the order referred to in Article 14a, unless a fine is imposed, in addition to stipulating the general condition that the convict will not commits a crime, the judge can stipulate special conditions that the convict must serve within a certain time, which is shorter than his probation period compensate all or part of the loss caused by the crime. Based on the provisions of Article 14c paragraph (1), Article 14a and 14b of the Criminal Procedure Code, judges can impose a sentence by setting special conditions for the convict with the intention of compensating for the losses caused to the victim. Almost the same as the Criminal Code, the Criminal Procedure Code also guarantees protection for victims of criminal acts by making compensation. The provisions of Article 98 to Article 101 of the Criminal Procedure Code regulate compensation given by combining criminal and civil cases.

If the Criminal Code and the Criminal Procedure Code regulate policies on legal protection for victims of criminal acts in general, then Law of the Republic of Indonesia Number 13 of 2006 and Law of the Republic of Indonesia Number 31 of 2014 concerning Protection of Witnesses and Victims regulate more specifically efforts to protect victims of crime. These two laws regulate two forms of protection for victims of criminal acts, namely compensation and restitution. Victims through the Witness and Victim Protection Agency (LPSK) have the right to apply to court in the form of rights to compensation and restitution. Compensation is compensation given by the state because the perpetrator is unable to provide full compensation which is his responsibility to the victim or his family. Restitution is compensation given to victims

or their families by perpetrators or third parties. Based on RI Law Number 31 of 2014 concerning Amendments to RI Law Number 13 of 2006 concerning Protection of Witnesses and Victims, in addition to submitting these two requests, victims are also entitled to receive medical assistance and psycho-social rehabilitation assistance. Medical assistance is assistance provided to restore the victim's physical health, including carrying out arrangements in the event that the victim dies, for example managing bodies and funerals. Whereas what is meant by psychosocial rehabilitation are all forms of psychological and social services and assistance aimed at helping to relieve, protect, and restore the victim's physical, psychological, social, and spiritual condition so that she is able to carry out her social functions normally again. In this case, the LPSK seeks to improve the quality of life of the victim by collaborating with the relevant authorities in the form of assistance in fulfilling clothing, food, shelter, assistance in obtaining employment, or assistance in continuing education. In addition to the several forms of protection mentioned above, victims are also entitled to protection in other forms, namely protection for personal security, family and property, and freedom from threats related to testimony that will be, is being given, or has been given. Protected from pressure when giving information, free from entangling questions, identity withheld (using pseudonyms or aliases), got a new identity. get a temporary or new place of residence, and get legal advice (legal assistance). All of these are rights given to victims based on RI Law Number 31 of 2014 concerning Protection of Witnesses and Victims. All forms of protection can be carried out if the legal structure that is formed and/or available also has a victim's perspective [6].

Law enforcement against perpetrators of child abuse as contained in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection consists of:

- a) Imprisonment Penalties in the Child Protection Act have different minimum and maximum limits, depending on the crime. Prison sentences are generally at least three years to five years. The maximum is up to fifteen years.
- b) Fines Criminal fines in the Child Protection Act are always included in every crime, both in terms of the system of formulating sanctions and cumulative alternatives. The maximum fine in the Child Protection Act is one hundred million to three billion rupiah.

Perpetrators of violence against children can be subject to sanctions in the form of imprisonment and fines as emphasized in Article 80 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection which reads:

⁶ Eko Nurisman, Minutes of Challenges to Law Enforcement of Criminal Sexual Violence After the Birth of Law Number 12 of 2022, Jurnal Pembangunan Hukum Indonesia. Volume 4, Tahun 2022

- a) Everyone who violates the provisions referred to in Article 76C, shall be punished with imprisonment for a maximum of 3 (three) years 6 (six) months and/or a maximum fine of Rp. 72,000,000.00 (seventy-two million rupiahs).
- b) In the event that the child referred to in paragraph 1 is seriously injured, then the offender shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of up to Rp. 100,000,000.00 (one hundred million rupiah).
- c) In the event that the child as referred to in paragraph 2 dies, then the perpetrator shall be punished with a criminal sentence
- d) Maximum imprisonment of 15 (fifteen) years and/or a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah).
- e) The penalty is added to one third of the provisions referred to in paragraph 1, paragraph 2 and paragraph 3 if the perpetrators of the abuse are the parents.

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection emphasizes the need for increasing criminal sanctions and fines in the hope of providing a deterrent effect for perpetrators of violence against children.

Law enforcement is more or less an attempt to make law, both in a narrow formal sense and in a broad material sense. Law enforcement is also a guideline for behavior in every legal action by the legal subjects concerned as well as law enforcement officials who are officially given the task and authority by law to ensure the functioning of legal norms in the life of society and the state.

Law in Indonesia must be based on the spirit of upholding the values of divinity, humanity, unity, democracy and justice as contained in Pancasila. This law also stipulates what must be done and what cannot be done or what is prohibited and becomes the protector and protector of the community in the life of the state in Indonesia, because in essence this law can create truth and justice for every Indonesian citizen and the law can order society from crime and teach the public that all deviant actions will have consequences, namely in the form of appropriate punishment for what they have done [7]. Legal protection for every citizen is an obligation that must be fulfilled by a country, this protection is obtained by citizens from the 1945 Constitution of the Republic of Indonesia Article 28D paragraph 1 which states that every person has the right to recognition, guarantees, protection and legal certainty fair and equal treatment

before the law. However, in the course of law in Indonesia there are irregularities that can become a problem for citizens if the legal settlement is not resolved properly or can even be detrimental to the community itself, this can occur due to the existence of bad legal power within the judicial structure in Indonesia.

According to Barda Nawawi Arief, mistakes or weaknesses at the formulation stage are strategic mistakes that can become an obstacle to in concreto law enforcement efforts. The formulation policy is seen as a strategic policy because the legalization policy provides the basis, direction, substance and limits of authority in law enforcement that will be carried out by the bearer of judicial and executive authority. Each concept must be equipped with criminal law rules that regulate prohibited acts along with their sanctions. This opinion is a simplification of Paul Robinson's opinion which states that "every known organized society has, and probably must have some system, by which it punishes those who violate its most important prohibitions."

Criminal law which contains provisions stipulating certain acts as criminal acts along with sanctions is called substantive/material criminal law. Generally, the main object of study in substantive criminal law includes issues of criminal acts and issues of criminal sanctions.

However, in a broader context, Jerome Hall identified 7 (seven) points that were actually studied in criminal law, including:

1. Evil mental attitude (*mens rea*)
2. Actions (*act/actus reus*)
3. The logical relationship between intentions and actions (the concurrence of *mens rea* and *act*)
4. Harm/loss (*harm*)
5. Things that lead to the occurrence of actions (*causation*)
6. Punishment
7. Legality [8]

Since the enactment of Law Number 18 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), it is hoped that the model of a criminal justice system that is more child-friendly in Indonesia will improve. It is not surprising that many parties have high hopes for the birth of this Law on the Juvenile Criminal Justice System. However, it has been four years since it was legalized on 30 July 2012, but the challenges to implementing the Juvenile Criminal Justice System are evident. Regulations from the Law on the Juvenile Criminal Justice System have yet to be finalized. Based on the Law on the Juvenile Criminal Justice System, the government is required to make government regulations

⁷ Achmad Irwan, Initiating Indonesia as a Legal State That Makes Its People Happy, *Yustisia Jurnal Hukum*, 2014, 3.3: 137-142

⁸Rusmilawati Windari, 2022. Policy Formulation of the Prohibition of Physical Punishment (Corporal Punishment) on Children in the Scope

of Care and Education (Integrative Study of Overcoming Violence in Children), *Scopindo Media Pustaka*: Surabaya, page 87-88.

and presidential regulations. However, until now not all supporting regulations are available. The government has just finalized the substance of the Government Regulation (PP Number 65 of 2015 Guidelines for the Implementation of Diversion and Handling of Children Who Are Not Yet 12 (twelve) Years Old) and Presidential Regulations concerning the Training of Law Enforcement Officials. Presidential Regulation of the Republic of Indonesia Number 175 of 2014 concerning Integrated Education and Training for Law Enforcers and Related Parties Concerning the Juvenile Criminal Justice System. The implementation of the Law on the Juvenile Criminal Justice System is still running slowly, therefore the government must focus and immediately issue quality implementing regulations for the Law on the Juvenile Criminal Justice System. The government must also accelerate the realization and optimization of infrastructure and human resources, especially in the scope of juvenile justice.

Legislation must be clear and firm, this is necessary so that law enforcers do not need to carry out various interpretations or interpretations, which of course encourages the enforcement of the rule of law. It is better if the substance of a statutory regulation is biased and not firm, of course this opens up opportunities for law enforcers to carry out an interpretation according to their own way of thinking, this is what is likely to open up spaces and loopholes for misinterpretation which disrupts the fair implementation of law. Moreover, if according to law enforcers the legal rules are not regulated at all in the Law of the Republic of Indonesia, of course they are looking for another legal basis which according to them is more appropriate to apply in that incident. Likewise, the Law of the Republic of Indonesia on Child Protection is the basis for providing legal protection for child victims of violence. In an effort to protect the law against children, it is necessary to have harmony or coherence between various laws and regulations of different degrees. This is because incompatibilities between legal rules can occur, for example between 93 laws of the Republic of Indonesia which are specific in nature and laws of the Republic of Indonesia which are general in nature, between laws of the Republic of Indonesia which have a higher degree and regulations that are lower, between laws -Laws of the Republic of Indonesia that were in effect before and are in effect now. these variables can affect law enforcement issues in this context legal protection because the purpose of establishing a regulation is to provide legal certainty, benefit and justice. For this reason, in order to avoid that a regulation does not apply effectively in society, it is necessary to pay attention to the principles and objectives of the formation of the Law of the Republic of Indonesia itself. The rule of law between legal regulations, in this case the Law of the Republic of Indonesia No. 35 of 2014 concerning Child Protection,

the paradigm that has been built is that the function of the Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection is still limited to the realm of prosecution of perpetrators of sexual violence against children not on preventive efforts or prevention efforts. The principle is that a legal instrument must function as an engineering tool, in the case of the Law of the Republic of Indonesia No. 35 of 2014 concerning child protection must focus on efforts to protect the law not only limited to prosecution in the practical realm but has a concept that is able to formulate problems fundamentally, how the specific and practical roles of all parties in the law regulation 94 must be realized, starting from the smallest family unit, scope of education, Non-Government Organizations, local and central government. In Article 15 of the Law of the Republic of Indonesia Child Protection, Protection of sexual crimes is included in the last point in point f, meaning that the paradigm of legal protection for children as victims of sexual violence is not the foremost priority in terms of legal protection. In fact, when referring to existing empirical facts, it is in this realm that children have the most potential to become victims of exploitation of sexual violence. Based on the existing data and facts, the legislative scenario must certainly make this a point of change in the future. Regarding child protection in Indonesia, we have had several breakthroughs such as ratifying the rights of the child which were declared on November 20, 1989 through the UN General Assembly. The Law of the Republic of Indonesia on Child Protection No. 23 of 2002 and the establishment of an independent body, namely the Child Protection Commission. In terms of substance or legislation, there are indeed several polemics, especially regarding the freedom of children to choose religion according to article 86 of the Republic of Indonesia Law on Child Protection with article 28 of the 1945 Republic of Indonesia Law which was once submitted to the Constitutional Court for judicial review, but based on Decision of MK 95 No.018/ PUURI-III/ 2005 of the Constitutional Court as published in the Journal of the Constitution (2006), stated that the petition for judicial review of article 86 cannot be accepted. If we examine both from a juridical and sociological point of view, there is indeed no conflict from the factor of legal substance to both the legislation above and the provisions related to child protection that already existed before [9].

Law enforcement is a process to make legal wishes come true. Legal wishes mean the thoughts of the legislature which are formulated in legal regulations. Law enforcement is an effort to realize ideas about justice, legal certainty and social benefits into reality. Criminal law enforcement is an effort to realize ideas about criminal law justice, legal certainty and social benefits to become reality in every legal relationship. These legal regulations will also determine how law

⁹ Constitutional Court Decision No.018/ PUU-III/ 2005 concerning Child Protection.

enforcement will be carried out. Conceptually, the essence of law enforcement lies in the activity of harmonizing the relationship of values that are described in solid principles and attitudes as a series of final stages of value elaboration to create, maintain and maintain social peace [10].

The elements that must be considered in law enforcement, namely [11]:

1. Legal certainty
How is the law that must apply and must not deviate or like a saying, even though this world is collapsing the law must be upheld (*fiat justitia et pereat mundus*). Law must be able to create legal certainty because it aims at public order.
2. Legal Benefits
because for humans, the implementation or enforcement of the law must provide benefits and uses for society. The law should not because of its implementation, it actually creates public unrest.
3. Justice
The implementation or enforcement of the law must be fair, because the law is general, equal and applies to everyone. Law however is not synonymous with justice. This is because justice is subjective, individualistic and not generalized.

Criminal law enforcement consists of the following stages, namely:

1. Enforcement of criminal law in abstracto This is the stage of making or formulation (the formulation stage) that has ended when a law or regulation is promulgated. The legislation or formulation stage is continued to the application and execution stages. Three main issues of criminal law that must be known in these laws and regulations, include:

- a. Criminal act.
- b. Error.
- c. Criminal.

Criminal law enforcement is part (subsystem) of the overall national development system or policy. This process of legislation or formulation is a very strategic start of the in concreto law enforcement process. The existing criminal law enforcement system is not yet integral in abstracto at the stage of the product creation process of legislation. This is due to the absence of a close relationship or a unified whole of subsystems (components) of an integral system of norms or substance of criminal law, including material criminal law, formal criminal law and criminal law enforcement. The law-making body chooses values that are in accordance with the current and future situation, then formulates them to become the best laws and regulations in the sense that they meet the requirements of justice and

efficiency. This stage is also known as the legislative policy stage.

2. Enforcement of criminal law in concreto This enforcement consists of:

- a. Stage of implementation or application (investigation) Stage of criminal law enforcement by law enforcement officials, starting from the police to the court or examination before the court. Law enforcement officials are tasked with enforcing and implementing laws and regulations that have been made by legislators. Law enforcement officials in carrying out this task must adhere to the values of justice and efficiency. This stage is referred to as the judicial stage.
- b. The stage of implementing the law by law enforcement officials or also known as the judicial and execution stage. The stage of concrete enforcement or implementation of the law by law enforcement officials. Law enforcement officials at this stage are tasked with enforcing statutory regulations from the law-forming body through the application of punishments determined by the court. Law enforcement officials in carrying out their duties must be guided by criminal laws and regulations that have been made by legislators and use values and justice.

Enforcement of criminal law in concreto is essentially a process of imposing criminal or sentencing. The sentencing process itself is the enforcement of criminal law in order to uphold truth and justice. These two stages are aspects or crucial points in the handling and prosecution of a criminal case, because law enforcement is generally colored by the following things, namely:

- a. The problem of bribes and other despicable acts.
- b. The problem of optimizing the scientific approach in law enforcement.

Criminal law enforcement at the in concreto stage (application stage) is also still influenced by bad habits or culture and shortcuts made by corrupt and collusive law enforcement officers with perpetrators of criminal acts. Law enforcement is more or less an attempt to make law, both in a narrow formal sense and in a broad material sense. Law enforcement is also a guideline for behavior in every legal action by the legal subjects concerned as well as law enforcement officials who are officially given the task and authority by law to ensure the functioning of legal norms in the life of society and the state.

¹⁰Soekanto, S. 1983. Factors That Influence Law Enforcement. Raja Grafindo: Jakarta, page 7

¹¹ Mertokusumo, S. 1999. Get to Know the Law. Liberty: Yogyakarta, page 14

The issue of law enforcement is very complicated because it is influenced by a number of factors, including:

- a. Contents of statutory regulations.
- b. Interest groups in society.
- c. Legal culture.
- d. The morality of law enforcers involved in the judicial process.

The term crime comes from a term in Dutch called *strafbaar feit*. The terms used, both in legislation and in various legal literature as translations of *strafbaar feit*, include the following [12]:

- a. Criminal act.
- b. Criminal Events
- c. Offense.
- d. Criminal Offenses.
- e. Punishable act.
- f. Criminal Acts.

Based on the formulation of the provisions of the article, to determine the type of sanctions to be imposed on perpetrators of child abuse, attention must be paid to the elements of the crime in it. This is done by looking at the perpetrators, the type of violence and the consequences of their actions on victims or in this case children (whether the violence only caused minor, serious injuries or led to death).

Law enforcement is one of the most important aspects in a rule of law, because with law enforcement, the goals of law, namely justice, legal certainty and benefits will be felt by the community, but in fact we find that law enforcement still does not fulfill one of the three legal objectives. So that law enforcement in order to improve order in society is still not achieved.

A systematic study of law enforcement and justice is theoretically stated to be effective if the 5 pillars of law are running well, namely:

1. Legal instruments
2. Law enforcement officers
3. The factor of the community members who are affected by the scope of legal regulations
4. Cultural factors or legal culture
5. Factors of facilities and amenities that can support the implementation of the law.

Traditionally the legal institutions that carry out law enforcement are the police, prosecutors, judiciary and advocates. Outside of these institutions, there are, among others, the Directorate General of Customs, the Directorate General of Taxes, the Directorate General of Immigration. Problems in law enforcement include [13]:

1. The problem of making laws and regulations.
2. Society seeks victory, not justice.

3. Money colors law enforcement.
4. Law enforcement as a political commodity, discriminatory law enforcement.
5. Weak human resources.
6. Advocates know the law versus advocates know connections.
7. Budget constraints.
8. Law enforcement triggered by mass media.

To make the law come alive, there must be real involvement by humans to reflect that law in concrete attitudes and behavior. Without this method, the law will fall into a deep sleep, which is likely to only produce dreams. Because of that there is no other way for the law to be enforced, it is necessary to enlighten the understanding of the law that in fact the law is nothing but a decision choice, so that when the wrong decision is made in concrete attitudes and behavior, it will adversely affect the appearance of law in the empirical realm. Law enforcement is the center of all legal life activities starting from legal planning, law formation, law enforcement and legal evaluation.

Law enforcement is essentially an interaction between various human behaviors that represent different interests within a mutually agreed framework of rules. Therefore, law enforcement cannot be considered solely as a process of applying the law as legalists argue. However, the process of law enforcement has a broader dimension than that opinion, because law enforcement will involve dimensions of human behavior. With this understanding, we can know that the legal problems that will always stand out are the problems of "law in action" not "law in the books".

In the legal culture, there are still some problems because law enforcement officials still adopt society's views on morality and sexual violence. This resulted in the attitude of law enforcement officers towards cases by not showing empathy for women victims, and even tending to blame the victims. An example is the types of questions that are usually asked when a victim submits a report of sexual violence, such as rape. Some forms of questions, such as asking about what clothes to wear, where are you, with whom what time. Questions like these show that the legal culture of law enforcement officials does not have the perspective of the victim, but is also a form of judging victims and making victims experience violence again (re-victimization), this is stated in the Academic Paper of the PKS Bill, 2017. There are many views of law enforcement officials who without a victim's perspective. As a result, cases of sexual violence are considered personal, trivial matters, and it is better to prioritize the good name of the family and society. This assumption is reflected in the behavior of law enforcement officials and

¹²Chazawi, A, 2008. Criminal Offenses, Sentencing Theories and Limits of Application of Criminal Law. PT. Raja Grafindo Persada: Jakarta. Page 67-68.

¹³ Hikmahanto Juwono, Law enforcement in the study of Law and development Problems and fundamentals for Solutions in Indonesia, Jakarta 2006, Varia Peradilan No. 244, page 13

state administrators in responding to cases of sexual violence, for example not showing empathy for women victims, and even tending to blame the victims. Victims must tell many times about the incidents of sexual violence that they experienced from the time of investigation to examination in court. Confidentiality of victims is also often neglected. The lack of expertise in understanding cases of sexual violence and the absence of a victim's perspective are problems in handling cases of sexual violence [14].

That a certain social phenomenon such as sexual violence against children (child abuse) or is a social and cultural phenomenon does not appear in a vacuum or socio-cultural vacuum. In other words, in understanding the phenomenon of violence against children, a socio-cultural contextual perspective is needed. That is, the phenomenon of violence against children is seen here in a particular socio-cultural context.

There are several important assumptions contained in this kind of perspective or point of view. The first assumption is that various forms of violence perpetrated by adults against children are a social phenomenon that does not materialize spontaneously or spontaneously in a vacuum. Conversely, as a socio-cultural phenomenon, various forms of violence against children appear in a particular socio-cultural context that has supporting elements for the existence of these symptoms of violence. Second, the forms of violence that occur to children and the perpetrators depend more or less on the context or setting where the violence itself occurs. Therefore, it is not only necessary to know the characteristics and characteristics of the perpetrators of violence, but also the location where the violence occurred. Without knowledge of this setting, the handling of various forms of violence against children will not achieve optimal results. Third, every individual has basically been a victim of one or more forms of violence.

For this reason, the problem of violence against children must be understood from a complete perspective (approach, frame of thinking). Therefore it is also necessary to use an ethical perspective (a person who views or examines a phenomenon) and an emic perspective (a person who is reviewed or researched) in viewing acts of violence against children. In cases of violence against children, the researcher's point of view (ethical) is generally used, while the point of view of those who experience violence (emic) does not get much space.

Efforts to understand and explain the symptoms of violence only by relying on the views of researchers will result in a one-sided and incomplete understanding. Therefore, to determine what kind of actions can be considered "hard" or hurt feelings, opinions, the subject under study is also considered. By using this emic and ethical approach as well as in reviewing various acts of violence against children, it can be known in more depth and detail [15].

Violence against children in the sense of violence and neglect are all forms of physically or emotionally painful treatment, sexual abuse, neglect, commercial exploitation or other exploitation that results in actual or potential injury or loss to the child's health, child survival, child development or child dignity undertaken in the context of a relationship of responsibility, trust, or power. Meanwhile, according to Article 13 of the Child Protection Act, what is meant by violence against children is discrimination, exploitation, both physical and sexual, neglect, cruelty, violence and abuse, injustice and other mistreatment.

According to WHO there are several forms of violence against children, namely:

- a. **Physical Violence** Physical violence is an act that causes pain or has the potential to cause pain committed by another person, which can occur once or repeatedly. Physical violence, for example being hit, kicked, tweaked/pinched.
- b. **Sexual Violence** Violence is the order of children in sexual activities that they do not understand. Sexual violence can be in the form of indecent treatment from other people, activities that lead to pornography, pornographic words and involving children in the prostitution business.
- c. **Emotional Violence** Emotional violence is anything that can cause delays in a child's emotional development. This can be in the form of words that threaten/scare children, and so on [16].
- d. **Actions of Abandonment & Abandonment** Actions of neglect and neglect are the indifference of parents or those who are responsible for children to their needs, such as neglecting children's health, children's education, overly restraining children.
- e. **Economic Violence** Economic violence (commercial exploitation) is the abuse of child labor to work and other activities for the benefit of their parents or other people, such as making children work all day long and directing children to jobs that they should not have had.

¹⁴ Eko Nurisman, Minutes of Challenges to Law Enforcement of Criminal Sexual Violence After the Birth of Law Number 12 of 2022, Jurnal Pembangunan Hukum Indonesia Volume 4, Tahun 2022, page 186.

¹⁵ Vilita Biljana Bernadethe Lefaan dkk. 2018. Review of Legal Psychology in Child Protection. CV Budi Utama: Yogyakarta, page 27-29.

¹⁶ Sumiadji Asy'ary, Violence Against Children, in the Islamic Journal, Vol. 2, No. 2, September, page 182-183

Indonesian society, especially the lower middle class people, often experience legal injustice with illogical reasons, while the middle and upper class people very easily get justice because they can buy laws with money because it seems as if money has power over the law, therefore the term law is blunt up and sharp down in the end the innocent are punished, and the guilty are on the run or only have light sentences, this can trigger thoughts of undermining the existing law because they can pay for it.

The weak mentality of law enforcement officers causes law enforcement to not run as it should. Many factors contribute to the weak mentality of law enforcement officers, including weak understanding of religion, the economy, non-transparent recruitment processes and so on. So it can be emphasized that law enforcement factors play a crucial role in the functioning of the law. If the regulations are good, but the quality of law enforcement is low, there will be problems. Likewise, if the regulations are bad while the quality of law enforcers is good, the possibility of problems arising is still open [17].

The next problem as the cause of weak law enforcement is the influence of money. At every line of law enforcement, officers and supporters of law enforcement officials are very vulnerable and there are opportunities for corruption or bribery. Money can have an effect when the police are investigating a case. With money, Article as the basis for suspicion can be varied according to the amount offered. At the prosecution level, money can influence whether or not the prosecution is continued by the public prosecutor. If the prosecution goes ahead, money can influence how severe the charges will be. In the judiciary from the lowest to the highest, money influences the decision that will be issued by the judge. Money can release or acquit a defendant. If the defendant is found guilty, with legal fees it can be arranged so that it is as low and light as possible. Those who have money will receive better and more humane treatment. Law enforcement in Indonesia has become a political commodity although recently it has been less intense. During the Soeharto government, law enforcement as a political commodity was very rampant. Law enforcement can be regulated because power wants it. Law enforcement officials are dictated by power, even intervened in enforcing the law. Law enforcement will be strictly enforced because those in power need valid reasons to oppose pro-democratic forces or those who defend the interests of the people. However, law enforcement will be weakened by power if the government or political elites become prisoners. Law enforcement as a political commodity is a source of distrust of law enforcement in Indonesia [18].

Violence against women and children is basically not a new form of crime, it has always existed at all times in the development of human civilization. In the pre-Islamic era, this kind of crime already existed, for example, during the ignorance era, when people had daughters, they would be buried alive, because they were ashamed to have daughters. In the era of slavery and colonialism, rape, sexual abuse and exploitation of women often occurred and child. Technological developments and advances have contributed in no small way to the rampant acts of violence against women and children which are currently a global problem, even though in fact it has always been a worldwide problem, the limited print media and the absence of electronic media at that time made it less widespread acts of violence against women and children. Violence against women and children is the most heinous act of human rights violations. Therefore it is not wrong if acts of violence by the United Nations (UN) organization are called crimes against humanity. Theoretically, acts of violence do not just happen, in the sense that the perpetrators do not directly commit acts of violence against their victims without any triggering factors that encourage the perpetrators to commit violence. The triggers for the violence are not disclosed much, most experts and the media only focus on the victims and the consequences.

Acts of violence against women and children, such as rape, obscenity, sexual harassment, sodomy, persecution and murder often occur in Indonesia, and many cases of violence have been legally processed and criminalized the perpetrators of violent crimes. The threat of severe punishment will not be of any use in providing legal protection to victims of acts of violence, if there is no sincerity or awareness on the part of law enforcement officials to take action against the perpetrators of acts of violence.

The awareness of law enforcement officials is needed to uphold the law and justice, so that the law is able and useful to provide protection for victims of criminal acts of violence against women and children. In the case of sexual abuse of 2 (two) girls that occurred in Pekalongan in 2015, as stated in the decision of the Pekalongan District Court Number: 35/Pid.sus/2015/PN.Pkl and No. 36/Pid.sus/2015/PN.Pkl dated July 8 2015, in the interim decision of 2 (two) criminal cases the public prosecutor's indictment was declared null and void, because it did not meet the material requirements of the indictment, so the defendant was acquitted. The decision of the Pekalongan District Court is a legal fact, the public prosecutor is unprofessional, has no awareness as a law enforcement apparatus, which results in the perpetrators of the criminal act of obscenity being free from being subject to

¹⁷ Sulaiman, Problems of Law Enforcement in Indonesia, Ash-Shahab, 2016,2.1: 64-78

¹⁸Muhammad Tahir Azhary, 2012. Several Aspects of Constitutional Law, Criminal Law, and Islamic Law, Kencana: Jakarta, page 136-137

legal sanctions, and this is very detrimental to the victim of obscenity and makes Law No. 35 of 2014 concerning the first amendment to Law no. 23 of 2002 concerning child protection. The public prosecutor in his indictment charged the defendant with Article 81 paragraph (1) in conjunction with Article 76 D of the Law of the Republic of Indonesia No. 35 of 2014 concerning the first amendment to Law no. 23 of 2002 concerning Child Protection. The article charged with the defendant in the public prosecutor's indictment in the decision of the Pekalongan District Court No. 35/Pid.sus/2015/PN.Pkl and Law No. 36/Pid.sus/2015/PN.Pkl is quite severe, violating Article 81 paragraph (1) in conjunction with Article 76D of Law No. 35 of 2014. The threat of criminal sanctions contained in article 81 paragraph (1) of Law no. 35 of 2014 for a minimum of 5 (five) years and a maximum of 15 (fifteen) years in prison and a maximum fine of Rp. 5,000,000,000 (five billion rupiah). As for the sound of the formulation of Article 76D of Law No. 35 of 2014 as follows: "everyone is prohibited from committing violence to force children to have intercourse with him or with other people". Threats of severe criminal sanctions, actions have meaning for victims and for anyone if law enforcement officials do not have ethical awareness and are not professional like the public prosecutor in the decision of the Pekalongan District Court mentioned above. These two decisions are just examples of legal facts and threats of legal sanctions that do not function at all to eradicate acts of violence against women and children. Sometimes such cases at the police investigation level end with the engineering of peace between the perpetrator and the victim, in which the victim receives a sum of money from the perpetrator and/or from the perpetrator's family. Weakness of the mentality of law enforcement officials, mental weakness or unpreparedness of perpetrators to apply a law and economic weaknesses of victims of sexual abuse, rape or other violence related to sexual violence sometimes become one of the reasons for the inability of the law and/or legal sanctions to ensnare the perpetrators of acts of violence. against women and children, because of that acts of violence against women and children are difficult to eradicate completely, and in fact cases of violence continue to occur in society, even though the government has repeatedly made changes to laws by increasing criminal sanctions for those who violate them. Any crime cannot be eradicated completely by simply applying legal sanctions, more so if there is no ethical awareness from law enforcement officials to seriously eradicate it, therefore for legal sanctions to be effective as an instrument to eradicate and prevent acts of violence against women and children a mentality is needed law enforcement officials and the mentality of the people who have a strong will to uphold law and justice [¹⁹].

Not only are the driving factors behind the occurrence of sexual violence, but there are also several

potential causes for the crime of sexual violence against children. Causes that have the potential to trigger sexual violence in children, firstly there is an opportunity that is owned by the perpetrator, both victims do not know about sex problems and the perpetrator uses it by giving threats and intimidation, thirdly parents who do not provide supervision to their children, fourthly there is a source of triggers for the perpetrators to take action his crimes. Of the four potential causes of sexual violence against children, the average is related to opportunity and lack of supervision by parents. So that as parents the most important role is to provide children with early knowledge about the basic forms of sexual violence and always supervise their children's interactions wherever they are. In addition, there are several categories that can be classified as sexual violence by the family, first there is abuse which ends in sexual harassment committed by the perpetrator to provide a stimulus to the perpetrator's desires. The second is rape, and the last or the third category is rape which uses violence so that the victim wants to do it. This last category gives the victim the greatest fear of trauma, because it is done in a violent and painful way so that the victim feels very helpless. The fear of reporting the perpetrator's actions makes many cases of sexual violence in the family difficult to decipher. The perpetrator's lack of moral values and faith is the biggest motivating factor, so that they are unable to judge their own actions.

Cases of sexual violence are very taboo in society, in fact many cases of sexual violence are considered by the community as perpetrators. Community stigma is a very burdensome thing for victims of sexual violence, when it is the victim who creates or invites the sexual violence to occur. Where their clothing or their behavior is targeted by society as the cause of someone experiencing sexual violence. However, can this be used as a basis for why sexual violence occurs when victims turn into perpetrators because of social stigma so that many victims do not want to report their cases. When victims dare to report incidents after successfully fighting their fear, here many law enforcement officials do not want to accept reports because they think there is no solid evidence. The handling of cases of sexual violence in Indonesia so far can be associated with the iceberg phenomenon, where many cases have occurred but no action has been taken. There are many cases but there is a lack of responsive action from law enforcement officials, the denial given by the perpetrators is also the reason for cases not being resolved, especially children who do not know that they have become victims. Children more easily become victims of sexual violence in children, most of them are family or who have a close relationship with the victim.

The general understanding of sexual violence against children is all forms of things that are done to

¹⁹ Taufiq, Legal Sanctions Against Perpetrators of Violence Against Women and Children, Volume 17 No. 1, 2017

minors that contain the smell of sexuality. Meanwhile, according to ECPAT (End Child Prostitution Institution Asia Tourism), sexual violence against children is a relationship that is owned by a child with an older person, which will become an object for the perpetrator to satisfy his sexual desires. From this understanding, it states that if sexual violence against children occurs due to a lack of knowledge of children regarding matters related to sexuality, the age of the child who is still underage is also one of the reasons where they will be afraid of someone who is older who has greater power relations than them. In addition, there are several reasons why children become targets of sexual violence, namely the position of the child who is weak and helpless, the perpetrator's low morality, the low supervision and attention of parents in controlling children's social interactions. The reasons put forward are in accordance with the current conditions, because parents tend to let their children play freely and without giving them supervision or basic knowledge about child sexuality. Basically, children are imitators of their surroundings, so by providing basic knowledge about this, it is hoped that children can distinguish which parts may or may not be touched [20]. Sexual violence that occurs in the family will leave deep scars which will traumatize the child from an early age, the perpetrator will continue to roam in front of the victim without guilt putting great pressure on the child's psychological condition. The impact of sexual violence on families is very diverse, some are mentally handicapped due to excessive fear and more importantly, the victims will experience post-traumatic trauma. Self-healing for victims of trauma will be very difficult especially for children who still cannot fully understand the situation and conditions that occurred. Cases of sexual abuse experienced by children within the family circle tend to have a greater impact on children, because people who so far have been considered as people who will protect and love them actually undermine children's trust by becoming perpetrators of acts of sexual violence against them. The impact that children receive also varies, but most often children will lose trust and experience depression, which of course takes a long time to heal. So it is very necessary to know about the norms and values that exist in the family, this applies to maintaining the form of interaction that takes place between fellow family members so that they can be harmoniously intertwined. Interaction between fellow family members will create good communication so that it can influence the role of each family member and create a real family function. Appropriate functions and interactions between families can reduce the number of sexual violence received by children in the family environment because each family member will respect each other and carry out their respective roles.

Children with a bad family environment or who often experience sexual violence by other family

members will tend to be introverted and feel afraid to tell about events they have experienced before. Therefore the perpetrators have a great opportunity to continue their actions without fear because they believe that the child who is the victim will return to silence without putting up a fight. Sexual abuse that continues to be repeated in children will make the child's attitude and behavior slowly change, the child will become quiet and obedient than before and even reluctant to be left alone by his parents. At a very young age, children will experience difficult times that make them afraid of the state of the world. So that parents must observe the strange symptoms that arise in their children, changes in attitude shown by children must be due to an incident that traumatized them. This is where the role of parents to pay attention and supervise children is very necessary so that children do not feel trapped alone. Everyone returns to the role of parents in caring for children from various awkward attitudes, so that sexual violence against children cannot happen again [21].

Legal culture concerns legal culture which is a human attitude (including the legal culture of law enforcement officials) towards law and the legal system. No matter how good the arrangement of the legal structure is to carry out the stipulated legal rules and no matter how good the quality of the legal substance is made without the support of a legal culture by the people involved in the system and society, law enforcement will not work effectively. Law as a tool to change society or social engineering is nothing but ideas that the law wants to realize. To guarantee the achievement of the function of law as engineering society in a better direction, it is not only necessary to have the availability of law in the sense of rules or regulations, but also to guarantee the implementation of these legal principles into legal practice, or in other words, guarantee that there will be law enforcement. (law enforcement) is good. So the operation of the law is not only a function of legislation, but also the activities of the implementing bureaucracy. This becomes very relevant if it is linked to contemporary discourse, in which the formation of laws resulting from the legislative process tends to be elitist, meaning that it is in favor of the interests of the elite rather than the interests of the people.

As adhered to in the perspective of Marxism, laws are made not to protect the interests of the whole society, but to protect the interests of the elite in conducting business activities, and the tools of the authorities to maintain their power. Such elitist statutory law, if applied in the tradition of legal thinking positivism which views law as limited to the circle of statutory regulations and which carries out the formal, textual meaning of legislation without regard to social values in society, then what will happen is law enforcement at the empirical level will side with the

²⁰ Dharma Pradnyananda dkk, 2019. Anthology of Crucial Issues Concerning Sexual Violence, Lakeisha: Klaten Central Java, page 19-21.

²¹ Ibid 22-23

interests of the elite, not the interests of the people at large, so that the goal of law to achieve justice will be further away from what is expected. Recently, what has been demonstrated by state elites has increasingly seen the truth of what Luthan has conveyed that law is only a tool to protect business interests, and a tool for those in power to maintain power. Law enforcers have detached themselves from values and morals, which as a result of their actions have extended the list of bad precedents for law enforcement in this country. I really agree with what was said by Mahfud MD (Chairman of the Constitutional Court of the Republic of Indonesia), that the practice of buying and selling law will continue to occur if legal scholars who act as judges, police, prosecutors and advocates do not have good morals.

Thus the role played by each law enforcer is a strategic position for the implementation of a just law. Law Number 28 of 1999 concerning state administration that is clean and free from corruption, collusion and nepotism, has established several basic principles. These basic principles are used as a guide for state administrators to realize law enforcement that can carry out their duties and responsibilities seriously. The factor causing weak law enforcement in Indonesia is the low level of morality of law enforcement officers, which has become a hereditary tradition. The existence of judicial corruption is considered to complicate law enforcement in Indonesia because law enforcers are supposed to enforce the law and are involved in corrupt practices, making it difficult to create good governance. Good law enforcement can only be implemented when legal institutions act in accordance with the obligations that are assigned to them in their field and are guided by existing professional ethics.

Several problems regarding law enforcement in this country are inseparable from the relationship between law enforcers and the people they regulate. The lack of professionalism of law enforcers has resulted in the entire existing system being negatively affected. And on the other hand, money politics is still rampant among law enforcers causing weak law enforcement in this country. Justice will never be created if money politics itself still exists and continues to operate in the government system and law enforcement system. Parties responsible for weak law enforcement in Indonesia Law is a unified system that is interrelated with one another. Prior to the enactment of a law or law, the law must initially be tested and ratified by the government, before it is stipulated and applied to the community as an applicable law or positive law. This is evidenced by the existence of an absolute government system, which cannot be separated from the state system of an international country. This is in line with the nature of the law which is binding and firm for violators. The law of a country is a rule that has been passed by law so that

the law is created. What had previously been examined by the legislature, namely the DPR. Then those who carry out the responsibility for implementing law enforcement in Indonesia are all citizens, especially the government as an executive agency and the judiciary as a judicial institution. As well as realizing the supremacy of law so that the implementation of fair and transparent law. Implementation of transparent law enforcement based on law No. 14 of 2008 concerning openness that is implemented by the government towards transparent participation and implementation, as well as efficient implementation. Information is the basic right of every citizen. Therefore, the community has the right to information, one of which is related to public policy, budgeting, monitoring and evaluation processes. This openness allows the public to know how well the government is performing and whether there are expectations and public interests. Communities can be informed about the ability of the government with public services for attitudes towards government policies. Public openness is a form of transparency that affects the government's ability to realize good government [22].

Law Number 35 of 2014 concerning Child Protection, by amending confinement and fine sanctions, so that Article 80 reads: (1) Everyone who violates the provisions referred to in Article 76C, shall be punished with imprisonment for a maximum of 5 (five) years and / or a maximum fine of Rp. 100,000,000.00 (One hundred million rupiah). (2) In the event that the child referred to in paragraph (1) is seriously injured, then the offender shall be punished with imprisonment for a maximum of 7 (seven) years and/or a fine of up to Rp. 150,000,000.00 (one hundred fifty million rupiah). in the event that the child as referred to in paragraph (2) dies, then the offender shall be punished with imprisonment for a maximum of 20 (twenty) years and/or a fine of up to Rp. 5,000,000,000.00 (five billion rupiah). And for Article 81 it reads: (1) Everyone who violates the provisions referred to in Article 76D shall be punished with imprisonment for a minimum of 7 (seven) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 7,000,000,000.00 (seven billion rupiah). (2) The criminal provisions referred to in paragraph (1) also apply to Everyone who deliberately commits deception, a series of lies, or induces a Child to have intercourse with him or with another person. (3) In the event that the crime referred to in paragraph (1) is committed by parents, guardians, caregivers, educators or educational staff, then the penalty is added to 1/3 (one third of the criminal penalties referred to in paragraph (1)).

D. CONCLUSION

Criminal law enforcement regulations for perpetrators of violence against children in Indonesia are not based on the value of justice because of the

²² <https://www.kompasiana.com/rifqiandipratama8957/61c5f1a19bdc406b965002d2/weakness-of-law-enforcement-in-indonesia>, Accessed on 20 April 2023, at 15.00 West Indonesia Time.

perpetrators of violence against children themselves, where the perpetrators do not see the law as a law that will bind an action that he has committed but only as a rule. what he can fool, it is evident that in recent years in Indonesia as well as in neighboring countries such as Malaysia, Thailand and the Philippines, violence against children has increased dramatically, this proves that the regulation of criminal law for perpetrators of violence against children in Indonesia and other countries other countries the punishment is still considered small, and even more so if there is peace between the parents of the victim and the perpetrator, peace here is in the form of compensation or restitution which does not create a sense of the value of justice for victims of violence, which in essence is considered not to have a deterrent effect on perpetrators of violence against children . Whereas in Islamic law it allows physical acts against children in ta'dib (education) steps in matters of worship (prayers), even though from a positive legal standpoint violence against children in any form is prohibited by the applicable laws. Weaknesses in enforcement regulations Criminal law for perpetrators of child sexual violence is contained in the first aspect, namely the legal structure, namely in this weakness it emphasizes the legal structure or the criminal justice system and all its sub-systems,

namely the police, prosecutors and judiciary. The second is a weakness in the aspect of legal culture, in this weakness there are still a number of problems because the attitude of law enforcement officers towards cases by not showing empathy for the victims, even the confidentiality of the victims is also often neglected. The lack of expertise in understanding cases of sexual violence and the absence of a victim's perspective is a problem in handling cases of sexual violence and also the slow handling of the law in a case by law enforcement officials. And the third is weakness in the substance aspect, the government has formulated a legal substance in the form of forms of victim protection in general and in particular, but the course of this substance is not as expected due to the weakness of legal regulations and the weakness of the government to take steps to resolve the problem violence against children. So that weak law enforcement in the process cannot make legal desires come true. These legal regulations will also determine how law enforcement will be carried out. As is the case in Law Number 35 of 2014 concerning Child Protection where prosecution is lighter than the threat of punishment stipulated by law so that the judge's decision is considered relatively light in cases of violence against children.