

LEGAL PROTECTION FOR CHILD VICTIMS OF SEXUAL ABUSE IN PALU CITY: A MAQASHID SHARIA PERSPECTIVE

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Abstract. This study examines the implementation of legal protection for child victims of sexual abuse in Palu City from a Maqashid Sharia perspective. The research utilizes an empirical juridical design with a qualitative case approach, collecting data through interviews, observations, and documentation from the Palu City Resort Police, the Women's Empowerment and Child Protection Office (DP3A), and the Palu District Court. The findings reveal that legal protection is implemented through the PPA Unit at the police level, comprehensive assistance by DP3A including legal and psychological aid, and child-friendly judicial proceedings at the District Court. However, significant obstacles remain, including limited professional human resources, budget constraints, and persistent social stigma against victims. From the Maqashid Sharia perspective, the protection efforts in Palu City reflect the core values of *hifz al-nafs* (protection of life), *hifz al-'ird* (protection of honor), and *hifz al-nasl* (protection of lineage). These measures serve as an implementation of *maslahah* (public interest) aimed at preventing further harm to children. Nevertheless, the realization of full benefit is still hindered by gaps in victim recovery and restitution mechanisms. The study concludes that greater institutional synergy and community education are essential to eliminate stigma and fulfill children's rights effectively according to sharia principles.

Keywords: Child Sexual Abuse, Legal Protection, Palu City, Maqashid Sharia, Victim Recovery.

I. INTRODUCTION

Islam teaches about children's rights, specifically that they should be well cared for both in the womb and after birth, as explained in the Al-Qur'an Surah An-Nisa Verse (9) as follows:

رَبُّهُ صَاعِقًا وَهَكَذَا هُمْ عَلَيْهِمْ فَمَلَيْتُوا اللَّهَ وَلِيًّا قِيلَ هَسْبُكَ الْوَالِدُ الَّذِي هُنَّ لِيَوْكُنَّ هُرُكًا مِنْ حَقْلِهِمْ ذِي

Translation: "And let those [executors and guardians] fear [injustice] as if they had left weak offspring behind and feared for them. So let them fear Allah and speak words of appropriate justice [in maintaining the rights of their offspring]."

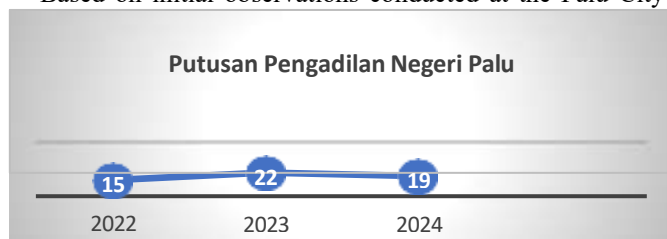
According to *Tafsir Al-Muyassar*, this verse provides a warning to everyone to realize that if they pass away and leave behind young or weak children, they need to feel watched by Allah in treating the children under their responsibility, including orphans and other children. This obligation is manifested by maintaining and managing their property correctly, educating them well, protecting them from all forms of disturbance, and guiding them through fair and kind speech.

In Indonesia, there are already regulations governing legal protection against child sexual crimes, namely Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Law Number 11 of 2012 concerning the Juvenile Justice System, as well as provisions in Articles 81 to 83 and Articles 289 to 296 of the Criminal Code. Meanwhile, at the regional level, legal protection for children is regulated in Central Sulawesi Provincial

Regulation Number 9 of 2011 concerning Child Protection and Welfare, Central Sulawesi Provincial Regulation Number 3 of 2019 concerning the Implementation of Protection for Women and Children from Acts of Violence, and Palu City Regulation Number 1 of 2021 concerning the Implementation of Protection and Fulfillment of Children's Rights.

Currently, children are vulnerable to becoming victims of sexual abuse. This is because they have certain characteristics or a lack of protection from parents, making it easier for perpetrators to commit sexual abuse. Harassment is a deviant act, an act that involves someone in a sexual relationship, namely making someone an object they do not want. Sexual harassment can occur through inappropriate actions, such as touching sensitive body parts or through words and statements that are indecent [1]. Child sexual abuse is a form of child abuse where an adult or older teenager uses a child for sexual stimulation. Forms of child sexual abuse include asking or pressuring a child to perform sexual activities (regardless of the outcome), providing indecent exposure of genitals to the child, displaying pornography to the child, performing sexual intercourse with children, physical contact with a child's genitals (except in certain non-sexual contexts such as medical examinations), looking at a child's genitals without physical contact (except in non-sexual contexts such as medical examinations), or using a child to produce child pornography [2].

Based on initial observations conducted at the Palu City



Class IA District Court, the author obtained Palu District Court verdicts within the period of 2022 to 2024 [3].

Fig 1. Palu District Court Verdict Graph

Based on this data, it shows that law enforcement efforts have not yet been fully able to provide effective prevention effects. This illustrates that law enforcement officials tend to emphasize a repressive approach, namely acting after the violation occurs, while prevention strategies such as legal education and strengthening community supervision have not run optimally. The involvement of children as perpetrators, recorded in 2 cases in 2022, 6 cases in 2023, and 4 cases in 2024, also presents challenges in the application of the Law on the Juvenile Justice System because officials are obliged to protect victims while ensuring the fulfillment of the rights of children as perpetrators through restorative justice mechanisms. Law enforcement for child sexual abuse cases in Palu City still shows weaknesses in aspects of prevention, investigation, and case follow-up. Thus, the urgency of legal protection for children is becoming increasingly complex, as it must include protection for victims as well as appropriate handling for child perpetrators, in accordance with the principles of restorative justice in the juvenile justice system. Based on these realities, the author is interested in conducting research on cases of children as victims of sexual abuse titled "Legal Protection for Child Victims of Sexual Abuse in Palu City: A Maqashid Sharia Perspective".

Previous research becomes one of the researchers' references in studying the theory to be used. This research is inseparable from previous studies that have been conducted as comparison material between current and previous research. A journal regarding "Legal Protection for Victims of Sexual Violence After the Ratification of the Law on Sexual Violence Crimes: Application and Effectiveness" by M. Chaerul Risal, Faculty of Sharia and Law, Alauddin State Islamic University Makassar, 2022 [6]. This study aims to examine the legal protection for victims of sexual violence after the ratification of Law Number 12 of 2022 concerning Sexual Violence Crimes. The similarity of that research with this study lies in the focus of the discussion, which is examining legal protection for victims of sexual violence, while the difference lies in the victims; in M. Chaerul Risal's research, the discussion regarding victims is still general, while this study specifically discusses children as victims.

A thesis regarding "Implementation of Legal Protection for Victims of Sexual Abuse in Public Spaces in South Tangerang City" by Syauro Rahmadani, Law Study Program, Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta, 2022 [7]. The similarity of that research with this study lies in the research focus, both discussing sexual abuse, while the

difference lies in the focus of the discussion; Syauro Rahmadani's research focuses on sexual abuse in public spaces, while the researcher focuses on legal protection for child victims of sexual abuse.

A thesis regarding "Implementation of Restitution Rights in Legal Protection for Child Victims in Sexual Violence Cases in Magelang City" by Latifa Dwi Apriliana, Department of Law, Faculty of Social and Political Sciences, Tidar University, 2024 [8]. This study aims to analyze legal rules related to restitution rights in legal protection for child victims, as well as the implementation of restitution rights in sexual violence cases against child victims linked to the principle of the best interests of the victim. The similarity between that research and this study lies in the theoretical study used, while the difference lies in the discussion study, namely Latifa Dwi Apriliana's research examines restitution rights in legal protection, while the researcher examines legal protection for child victims of sexual abuse and examines it from the aspect of Islamic Law.

Viewed from the *Kamus Umum Bahasa Indonesia*, the etymological definition of a child is defined as a human who is still small or a human who is not yet an adult [9]. A child is a term used to refer to individuals in the developmental period from birth until reaching adolescence. Generally, a child is a human who is not yet an adult and still needs guidance and attention from adults in various aspects of their life. Children are young humans in age, young in soul and life journey because they are easily influenced by their surroundings; therefore, children need to be paid serious attention. However, as vulnerable social beings, children are often placed in a disadvantaged position, not heard, and they are even frequently the victims of acts of violence and violations of their rights [10]. Viewed from the juridical aspect, the definition of a child in Indonesian positive law is interpreted as a person who is not yet an adult, a minor, who is still under the supervision of parents or guardians and is not juridically capable of performing a legal act [11].

Children are the nation's successor generation who have a great responsibility for the achievement of the nation's goals. A child based on the definition in Article 1 Point 1 of Law Number 35 of 2014 concerning Child Protection explains that "A child is someone who is not yet 18 years old and is even still in the womb." One of these child rights is stated in Article 2 paragraphs (3) and (4) of the Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare, where the Law explains that "A child has the right to maintenance and protection, both during the womb and after birth" [13]. Furthermore, Paragraph (4) states that "A child has the right to protection against an environment that can harm or inhibit their growth and development reasonably." For the realization of these children's rights, child protection efforts should start as early as possible, so that later they can participate optimally in the development of the nation and state.

According to Fitzgerald, as quoted by Satjipto Raharjo, the origin of the emergence of this legal protection theory stems from the natural law theory or the natural law school. This school was pioneered by Plato, Aristotle (Plato's student), and Zeno (founder of the Stoic school). According to the natural

law school, law originates from God, which is universal and eternal, and law and morality must not be separated. Adherents of this school view law and morality as reflections and internal and external rules of human life manifested through law and morality [4]. Fitzgerald explains the legal protection theory that law aims to integrate and coordinate various interests in society because in a traffic of interests, protection of certain interests can only be done by limiting various interests on the other hand. Legal interest is managing human rights and interests so

II. RESEARCH METHODS

The research design that the author will use is a type of empirical juridical research, namely research using a case approach by examining various cases of sexual abuse against children that occurred in Palu City. The case approach in normative research aims to study the application of norms or legal rules carried out in legal practice. This type of approach is usually used regarding cases that have received a court decision. These cases have empirical meaning, but in normative research, they can be studied to obtain a picture of the impact of the norming dimension in a legal rule in legal practice, and use the results of the analysis as input in legal explanation [12].

The research location will be carried out in Palu City, by taking locations at several related institutions, namely the Palu City Women's Empowerment and Child Protection Office (DPPPA), the Palu City Resort Police, and the Palu District Court. The reason for choosing this location is based on the direct involvement of each institution in handling cases of sexual violence against children, especially in terms of protecting children as victims. In qualitative research, the presence of the researcher is absolute because the researcher must integrate with the environment that fits the research arena. The researcher as an instrument will ask, track, observe, understand, and abstract various data gathered in the field then analyzed critically to explore a more comprehensive understanding regarding the phenomenon of legal protection for children as victims of sexual abuse [15].

The type of data that will be used in this research is qualitative data. This study uses several data sources, namely primary and secondary data sources. Field data collection will be carried out using data collection techniques in the form of observation, interviews, and documentation. The observation used by the author is participant observation, where the author is directly involved at the research location. Structured observation is observation that has been systematically designed, about what will be observed, when and where the place is, while unstructured observation is observation that is not systematically prepared. Interviews are a process of question and answer in research that takes place orally between two or more people by meeting face to face, listening directly to the information or statements of the informant [15].

Data analysis techniques in this research are data obtained then collected, processed, worked on and utilized in such a way using the descriptive method. In this research, the author will use an inductive qualitative data analysis method, which is by analyzing data that is specific and then drawing general

conclusions. Qualitative research aims to maintain human forms and behavior and analyze their qualities. To obtain precise conclusions from qualitative research, it must be supported by the right data to obtain validation and the level of credibility of the data obtained. Checking the validity of the data is carried out by means of triangulation of data collection techniques, using reference materials, and peer checking [15], [16].

III. RESULTS AND DISCUSSION

A. Results

1) General Overview of Child Sexual Abuse Cases in Palu City

Based on the results of interviews with the Palu City Class IA District Court and the Palu City Women's Empowerment and Child Protection Office (DP3A), it is known that in the period of 2022–2024, cases of sexual abuse against children are still classified as high and concerning [3]. The forms of cases that often occur include molestation, intercourse with minors, and sexual exploitation based on social media. Perpetrators in most cases are people close to the victim, such as family or the surrounding environment. However, there is also an increase in cases originating from interactions through social media which then progress to direct relationships and lead to sexual violence.

2) Law Enforcement Process

In handling cases, the Palu District Court has implemented special child-friendly mechanisms, such as the use of special courtrooms and assistance by related institutions such as PPA and LPSK. Children as victims receive special protection, including the possibility of filing for restitution. However, the implementation of restitution has not run optimally. Although normatively it has been regulated in legislation, the realization of restitution payments is often constrained by the perpetrator's economic inability and the lack of a monitoring mechanism.

3) The Role of DP3A in Child Protection

DP3A Palu City plays an active role in providing assistance to victims, starting from the reporting stage to the trial process. Assistance covers legal, psychological, and social aspects. DP3A also coordinates with various related institutions such as the police, prosecution, courts, and hospitals. However, in its implementation, there are still obstacles such as limited human resources, budget, and social stigma that develops in society.

4) Constraints and Challenges

The main obstacles in handling cases include:

- Limited professional assistance personnel
- Budget limitations
- Social stigma against victims
- Difficulty of proof, especially in cases that are reported late

In addition, the sub-optimal post-verdict recovery system is a separate challenge in ensuring the welfare of victims.

5) Maqashid Sharia Perspective

In a maqashid sharia perspective, the protection of child victims of sexual abuse has reflected the values of *hifz al-nafs* (protection of life), *hifz al-'ird* (protection of honor), and *hifz al-nasl* (protection of lineage) [20]. This is evident from the legal protection and assistance efforts provided to victims.

B. Discussions

1) Analysis of Case Increase and Crime Patterns

The increase in cases of sexual abuse against children indicates a change in crime patterns, especially with the emergence of digital-based modes. This indicates the need for increased digital literacy and parental supervision of children's activities on social media.

2) Effectiveness of Law Enforcement

Although the legal system has provided quite comprehensive protection, its effectiveness is still not maximal, specifically in terms of the implementation of restitution and victim recovery. This shows a gap between legal norms and implementation in the field.

3) Synergy Between Institutions

Coordination between DP3A, police, prosecution, and courts has been running, but still needs to be improved, especially in terms of synchronization of procedures and acceleration of case handling.

4) Victim Recovery as a Priority

Psychological recovery of victims should be the main focus in handling cases. However, limited facilities and professional personnel cause recovery to not yet run optimally.

5) Maqashid Sharia Analysis

From a maqashid sharia perspective, case handling is already in line with the principles of protection of life and honor. However, the aspect of benefit (*maslahah*) has not been fully achieved because there are still obstacles in the recovery and long-term protection of victims [20].

IV. CONCLUSIONS

The implementation of legal protection for child victims of sexual abuse in Palu City is carried out by three main institutions, namely the Palu City Resort Police, the Women's Empowerment and Child Protection Office (DP3A) of Palu City, and the Palu District Court. The Palu City Resort Police provides protection through the Women and Children Protection Unit (Unit PPA) starting from the investigation stage, while DP3A provides protection in the form of assistance including legal, psychological, and social aid to restore the victim's condition. Meanwhile, the Palu District Court provides protection through a child-friendly judicial process that prioritizes the best interests of the child. However, the implementation of protection still faces obstacles such as limited professional personnel, budget constraints, and the lack of an optimal monitoring mechanism for the implementation of restitution for victims.

From the perspective of Maqashid Sharia, the legal protection provided to child victims of sexual abuse in Palu City is fundamentally in line with the primary goals of Islamic law (*al-maqashid al-khamsah*), specifically in the aspects of *hifz al-nafs* (protection of life), *hifz al-'ird* (protection of honor), and *hifz al-nasl* (protection of lineage). Efforts to assist and handle cases legally represent an implementation of *maslahah* (public interest) to prevent further harm to children. Nevertheless, to achieve a more comprehensive benefit, it is necessary to strengthen the synergy between institutions and increase public awareness to eliminate the social stigma that still haunts victims, so that the protection and recovery of children can run optimally according to sharia principles.

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