

SEXUAL HARASSMENT BY CHILDREN IN THE ACEH PROVINCE: A CASE STUDY ON THE JINAYAT BYLAW

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Abstract: The Aceh province is a special autonomous region with the authority to carry out Islamic Sharia. Article 125 of Law Number 11 of 2006 concerning the Aceh Government emphasizes that the Sharia implemented in Aceh includes *aqidah* (creed), *syar'iyah*, and *akhlaq* (disposition). However, Sharia implementation in Aceh has not fully affected the social conditions of its people, especially since child crimes, such as sexual harassment, still happen. Acehnese people are religious and view the relationship between men and women as sacred and can only happen through marriage. Hence, sexual harassment is against the Acehnese people's Islamic life views and beliefs. This study aims to explain the factors that cause children to commit sexual harassment in Aceh Province. This study is empirical legal research that collects primary and secondary data. Data analysis employed a descriptive-analytical approach. The study shows that children commit sexual harassment in Aceh due to two factors, namely internal factors, i.e., children's lack of religious knowledge and sexual desire, and external factors, i.e., lack of parental supervision as well as influence from communication and social media.

Keywords: Sexual Harassment, Children as Perpetrators, Jinayat Law

Abstrak: Propinsi Aceh sebagai Daerah Otonomi khusus mempunyai kewenangan untuk menjalankan syari'at Islam, dalam Undang-Undang Nomor 11 Tahun 2006 tentang pemerintah Aceh, pada Pasal 125 ditegaskan bahwa Syari'at Islam yang dilaksanakan di Aceh meliputi *aqidah*, *syar'iyah* dan *akhlak*. Namun kebijakan penerapan syari'at Islam di Provinsi Aceh belum sepenuhnya berpengaruh terhadap kondisi social masyarakatnya, terutama masih terjadi tindak criminal yang dilakukan oleh anak yaitu Pelecehan seksual. PadadasarnyamasyarakatAcehadalahmasyarakatyangreligius,danmemandanghubungan antara laki-laki dan perempuan sebagai hubungan yang sakral. Hubungan tersebut hanya dapat dilakukan melalui lembaga perkawinan. Sehingga tindak pidana pelecehan seksual sangat bertentangan dengan pandangan hidup dan keyakinan masyarakat Aceh yang Islami. Penelitian ini bertujuan untuk menjelaskan bagaimanakah faktor penyebab anak

melakukan pelecehan seksual di Propinsi Aceh. Penelitian ini menggunakan penelitian hukum empiris, pengumpulan data dilakukan melalui data primer dan data sekunder. Analisis data menggunakan pendekatan deskriptif-analitik. Berdasarkan hasil penelitian dapat diketahui bahwa anak melakukan pelecehan seksual di Propinsi Aceh disebabkan oleh dua factor yaitu factor internal, berupa; anak kekurangan ilmu pengetahuan agama dan dorongan nafsu birahi. Adapun faktor eksternal, anak melakukan pelecehan seksual karena kurang mendapatkan pengawasan orang tua dan pengaruh media komunikasi dan media social.

Kata Kunci: Pelecehan Seksual, Anak Sebagai Pelaku, Hukum Jinayat

Introduction

Children¹ are a nation's future asset and the forerunner of the nation's generation of hope; the nation's future is their responsibility. Law Number 4 of 1979 concerning Child Welfare regulates child welfare, child age, and children's rights, including the rights of orphans, poor children, children with behavior problems, and children with disabilities. This law also regulates parental responsibility for child welfare and child welfare efforts. Article 2 emphasizes the following:

- (1) A child has the right to welfare, care, nurture, and guidance based on affection within the family and in special care to grow and develop normally.
- (2) A child has the right to services to develop their abilities and social life following the nation's culture and character, to become good and useful citizens.
- (3) A child has the right to care and protection before and after birth.
- (4) A child has the right to reasonable protection against the environment that can harm or hinder his/her growth and development.

However, as the nation's generation of hope, children are currently involved in crimes even though they are categorized as juvenile delinquency.² Juvenile delinquency is an act or behavior that violates applicable laws and moral values. Juvenile delinquency has an asocial purpose, i.e., the act or behavior is contrary to social values or norms.³

According to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the term juvenile delinquency is related to the term child who conflicts with the law in which one of its forms is a juvenile offender. Juvenile offenders are still given legal protection. The actions of children who violate the law should differ from crimes committed by adults because they have their characteristics; therefore, their handling is different from those of adult crimes.

According to Nasir Jamil, the two categories of children's behavior that make them have to face the law are:

1. Offense status is a child's delinquent behavior that is not considered a crime if

1 Children are an integral part of the survival of human life and the sustainability of a nation and state, a mandate and gift from God Almighty, to whom dignity as a complete human is attached. Children are sprouts, potentials, and a younger generation that continues the ideals of the nation's struggle. They have a strategic role and special characteristics that guarantee the nation's and state's continued existence in the future. For every child to receive this responsibility in the future, he needs to access the broadest possible opportunity to grow and develop optimally, physically, mentally, and socially and have a noble character. It is necessary to protect and realize a child's welfare by guaranteeing the fulfillment of their rights and treatment without discrimination, General Explanation of Law Number 35 of 2014, concerning Child Protection..

2 Juvenile delinquency covers every act. The act is a crime, which is against the law if conducted by an adult, Sudarsono, *Kenakalan Remaja* (Rineka Cipta 2012), p 11.

3 Ny. Singgih Gunarso and Singgih Gunarso, *Psikologi Remaja* (Gunung Mulia 1985), p. 30.

committed by an adult, such as disobedience, skipping school, or running away from home.

2. Junevile delinquency is a behavior considered a crime or a violation of the law if committed by an adult.⁴

Crimes committed by children are categorized as delinquency because they have an unstable mental state; the psychological stability process results in a critical and aggressive attitude, showing behavior that disturbs public order. This act is not considered a crime; instead, it is classified as delinquency caused by an unstable psychological condition in which the child is unaware of the actions committed.

Criminal acts committed by children,⁵ including sexual harassment, are concerning. Sexual harassment is an act of sexual nuance carried out through physical or non-physical contact which targets a person's sexual body parts or sexuality. Sexual harassment includes whistling, flirting, comments or remarks with sexual nuances, showing pornographic materials and sexual desires, poking or touching body parts, and sexual movements or gestures. Such actions cause discomfort, offense, and feelings of humiliation and can also cause health and safety problems. Sexual harassment occurs when a child is used as an object of sexual gratification by another child who is less than eighteen years old.⁶

Sexual abuse by children also occurs in Aceh, even though this province is a special autonomous region that has the authority to carry out Islamic law⁷ in accordance with Law Number 44 of 1999 concerning the Implementation of Privileges of the Special Region of Aceh. Article 4 paragraph (1) stipulates that implementing religious life in the region is realized by implementing Islamic law for its adherents in society. It is strengthened by Law Number 11 of 2006 concerning the Government of Aceh, which emphasizes, in Article 125, that the Sharia implemented in Aceh includes *aqidah*, *syar'iyah*, and *akhlak*. However, implementing Islamic law in Aceh has yet to affect its people's social conditions thoroughly.⁸

The Acehnese people are a religious society that view the relationship between men and women as sacred and can only happen through marriage; therefore, sexual harassment is against the Acehnese people's Islamic life views and beliefs. However, some Acehnese people are inconsistent in applying Sharia in their families, so there are still cases of sexual harassment committed by children, which is concerning. Based on a study the author conducted in Aceh Province until 2020, there were many crimes of sexual harassment committed by children. There were 94 sexual harassment cases in 2017, 21 cases in 2018,

4 M. Nasir Djamil, *Anak Bukan Untuk Dihukum* (Sinar Grafika 2013), p. 33.

5 According to Bambang Waluyo, children who receive less or no attention physically, mentally, or socially often behave and act asocially and even antisocially, which is detrimental to themselves, their families, and society. Bambang Waluyo, *Pidana Dan Pemidanaan* (Sinar Grafika 2004), p. 10.

6 Febrina Annisa, 'Penegakan Hukum Terhadap Anak Yang Melakukan Tindak Pidana Pencabulan Dalam Konsep Restorative Justice' (2017) 7 Adil, Jurnal Hukum 203; JH McLaughlin, 'Crime and Punishment: Teen Sexting in Context' (2010) 115 Penn St. L. Rev 135; Robert H. Wood, 'The Failure of Sexting Criminalization: A Plea for the Exercise of Prosecutorial Restraint' (2009) 16 Mich. Telecomm. & Tech. L. Rev 151.

7 Basic and general rules are the provisions of Allah and the Prophet. Thus, Sharia can turn into positive law (a law that applies to a specific place and time) according to the needs of the law and the times. This concept is known as Islamic law. Sodikin, 'Constitutional Guarantees Regional Regulations of Sharia in Indonesia' (2021) 23 Kanun Jurnal Ilmu Hukum 85.

8 Faradilla Fadlia and Ismar Ramadani, 'The Qanun Jinayat Discriminates Against Women (Victims of Rape) in Aceh, Indonesia' [2018] Journal of Southeast Asian Human Rights; Nyak Fadhlullah, 'Metode Perumusan Qanun Jinayah Aceh : Kajian Terhadap Pasal 33 Tentang Zina' (2017) 7 in Right (Jurnal Agama dan Hak Azazi Manusia) 16 <<http://ejournal.uin-suka.ac.id/syariah/inright/article/view/1456/1262>>.

and 61 cases in 2019 which the police had handled.⁹ Based on the background above, the problem is identified as what factors cause children to commit sexual abuse in Aceh Province?

Methods

This study employed an empirical legal method, i.e., a legal research method that seeks to observe the law in a real sense or examines how the law works in society.¹⁰ Primary data were collected through interviews with PPA unit investigators at the West Aceh, Aceh Besar, North Aceh, and Aceh Tamiang Police, i.e., one investigator at each police station. Meanwhile, secondary data were collected from books, journals, articles, and other documentary materials related to this study. The data analysis used a descriptive-analytical approach to discuss and share problems and make systematic, factual, and accurate descriptions of the facts related to this research.¹¹

Result and Discussion

Definition of a Child

According to Indonesia's positive law, a child is defined as an immature person (minderjaring/underage person), an underage person or underage condition (minderjarighaid/inferiority), or a child under the supervision of a guardian (minderjarige ondervoordij). According to Law Number 4 of 1979 concerning Child Welfare, a child has not reached the age of twenty-one years old and has never been married. According to the Compilation of Islamic Law, which was promulgated under the Presidential Instruction No. 1 of 1991, the age limit of a child who is independent or mature is 21 years old as long as the child is not physically or mentally disabled or has never been married.

Article 1 point 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that a child in conflict with the law, hereinafter referred to as a child, is twelve years old but not yet eighteen and is suspected of committing a crime. Meanwhile, according to Law Number 35 of 2014, a child is not yet eighteen, including unborn children.

Sexual Harassment Crimes

Crimes committed by minors are social problems that are detrimental to society. It contradicts society's expectations of a peaceful and prosperous life for children. This condition is undoubtedly one of the factors that hinder social welfare.¹² Sexual harassment¹³ is physical violence which is categorized as a crime. The perpetrator commits sexual violence to satisfy his desires by force. Sexual harassment is an act of sexual nuance carried out through physical or non-physical contact that targets a person's sexual or sexual body parts, including whistling, flirting, commenting or remarking with sexual nuances, showing pornographic materials and sexual desires, poking or touching body parts, movements or gestures of a sexual nature that result in discomfort, offense,

9 Data Source: 'Polres Aceh Tamiang Dan BP3A Aceh, 2020'.

10 Ulber Silalahi, *Metode Penelitian Sosial* (Refika Aditama 2009), p. 10.

11 Chairul Fahmi and Rahmi Putri Febriani Febriani, 'The Role of Local Government in Maintaining Coffee Prices Volatility in Gayo Highland of Indonesia' (2023) 8 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* <<https://petita.ar-raniry.ac.id/index.php/petita/article/view/168>>, p. 42.

12 Isnatul Rahmi and Rizanizarli Rizanizarli, 'Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Pencurian Oleh Anak Dalam Perspektif Adat Aceh' (2020) 4 *Syiah Kuala Law Journal* 11 <<http://jurnal.unsyiah.ac.id/SKLJ/article/view/16876>>, p. 12.

13 Sri Wahyuni, 'Perilaku Pelecehan Seksual Dan Pencegahan Secara Dini Terhadap Anak' (2016) 4 *Jurnal Raudhah*; Novrianza Novrianza and Iman Santoso, 'Dampak Dari Pelecehan Seksual Terhadap Anak Di Bawah Umur' (2022) 10 *Jurnal Pendidikan Kewarganegaraan Undiksha* 53; Rajeev Seth and RN Srivastava, 'Child Sexual Abuse: Management and Prevention, and Protection of Children from Sexual Offences (POCSO) Act' (2017) 54 *Indian Pediatrics* 949 <<http://link.springer.com/10.1007/s13312-017-1189-9>>.

feeling degraded, and possibly causing health and safety problems.¹⁴

The forms of sexual harassment include indecent verbal expressions (comments, jokes, and many more), indecent behavior (poking, groping, kissing, hugging, and many more), showing pornographic or obscene pictures, indecent assaults and coercion, such as forced kiss or hug, threatening women when refusing sex, and rape.¹⁵

Sexual harassment of children is defined as interactions between a child and another child or someone older or adults such as strangers, siblings, or parents in which the child is used as a sexual object.¹⁶ Sexual harassment crimes involve coercion, threats, bribes, deception, or pressure.¹⁷

The causes of child sexual violations are not clearly understood. Children who were sexually harassed did not show a causal relationship because most children who were sexually harassed did not grow up to become offenders, while most adult offenders were not sexually harassed as children.¹⁸ In general, the causes of sexual harassment can be divided into the following categories:

1. Internal Factors¹⁹

- a. Identity Crisis: Internal factors arise from within oneself. When a child is treated against his wishes by a more mature person, the child rebels and refuses. The child cannot respond to the treatment, so it is transferred to a younger child. "Please note that most human behavior is mimicking. They mimic what needs to be seen, heard, and read. If a parent threatens a child to do something, the child will emulate it and apply it to others who are younger. Biological and sociological changes in adolescents allow two forms of integration to occur. The first is forming a feeling of consistency in his life. The second is the achievement of role identity. Child delinquency occurs because the child fails to reach the second integration period.
- b. Weak self-control: Children who cannot learn and distinguish between acceptable and unacceptable behavior will be drawn to 'bad' behavior. It is similar for those

- 14 Nuzul Qur'aini Mardiya, 'Penerapan Hukuman Kebiri Kimia Bagi Pelaku Kekerasan Seksual' (2017) 14 Jurnal Konstitusi 213 <<http://ejournal.mahkamahkonstitusi.go.id/index.php/jk/article/view/14110>>.
- 15 Marcheyla Sumera, 'Perbuatan Kekerasan/Pelecehan Seksual Terhadap Perempuan' (2013) 1 Lex et Societatis 44. See also A Hamid Sarong & Nur A Fadhl Lubis, 'The Child Rights In Islamic Law With A Special Focus On Aceh' (2019) Volume 4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah; Ali Abubakar, 'The Chance on Islamic Family Law in Indonesia' (2019) 4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 42.while the sunnah that represents the latter should be seen through adjusting the context to particular places and times. In general, the former is much related to the issues of ritual practices (Ibadah / God worshipping
- 16 Nurur Rohmah, 'Kekerasan Seksual Pada Anak: Telaah Relasi Pelaku Korban Dan Kerentanan Pada Anak' (2015) 12 Jurnal Psikologi Dan Psikologi Islam, p. 5.
- 17 Laurensius Arliman, 'Reformasi Penegakan Hukum Kekerasan Seksual Terhadap Anak Sebagai Bentuk Perlindungan Anak Berkelanjutan' (2017) 19 Kanun Jurnal Ilmu Hukum 305; Muhammad Siddiq Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies.
- 18 Wahyuni (n 12), p 37. See also Muhammad Siddiq Armia and others, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113 <<http://ejournal.iainmadura.ac.id/index.php/alihkam/article/view/4987>>.
- 19 Nunung Unayah and Muslim Sabarisman, 'Fenomena Kenakalan Remaja Dan Kriminalitas' (2015) 1 Sosio Informa 132; Horgan DD and Reeder G S, 'Sexual Harassment' (1986) 34 AAOHN J. 83; Raden Muhammad Arvy Ilyasa, 'Legal and Victimological Perspective on Sexual Violence against Children Cases in Indonesia' (2021) 3 The Indonesian Journal of International Clinical Legal Education 281 <<https://journal.unnes.ac.id/sju/index.php/iccle/article/view/48269>>.

who already know the difference between the two behaviors but cannot develop self-control to behave according to their knowledge.

2. External Factors²⁰

- a. **Family and Parent Divorce:** Family and parental divorce are causes of juvenile delinquency. It happens due to a lack of communication or disputes between family members, which can trigger negative behaviors in children. Incorrect education in the family, such as spoiling children too much, providing religious education, or rejecting the children's existence, can cause juvenile delinquency. Factors causing juvenile delinquency are dysfunctional family and the social community. Families are considered to be failing in educating adolescents, causing them to commit deviance, leading to social sanctions. This condition causes society to be considered as failing to take preventive measures against deviant behaviors. Sarwono mentioned that a family is a primary environment for every individual. Children get to know their family environment before they understand the wider environment. Therefore, before children understand the norms and values of society, they absorb the norms and values that apply in their family to become part of their personality. Parents play an important role in adolescents' positive and negative emotions, which shows that parents are still a very significant environment for adolescents.²¹ Society does not tolerate juvenile delinquency, even though natural factors cause it. Therefore, the parent's role is very influential in shaping an adolescent's personality.²²
- b. **Bad Peers:** Children involved in legal cases, such as immoral cases, drugs, murder, robbery, and theft, are influenced by their friends. Social groups and peers put strong pressure to conform to group social norms. Therefore, efforts to avoid stressful situations can destroy personal values.²³
- c. **Poor Community and Environment:** Children's deviant behavior in the form of criminal acts encourages us to rethink integration in society. Juvenile delinquency in the form of criminal acts can significantly affect society, although the influence is unintended. This fact causes society to be considered as failing to take preventive measures against this deviant behavior.

3. Factors Causing Children to Conduct Sexual Harassment in Aceh

Based on the study in the province of Aceh, the reasons children conduct sexual harassment include the following:

- a. **Lack of religious knowledge:** Aceh's status as a special autonomous region with authority to implement Islamic law has not fully affected the social conditions of its people. The Acehnese people are religious, but some do not implement Sharia

20 Mary L Paine and David J Hansen, 'Factors Influencing Children to Self-Disclose Sexual Abuse' (2002) 22 *Clinical Psychology Review* 271 <<https://linkinghub.elsevier.com/retrieve/pii/S0272735801000915>>; Erica L Weiss, James G Longhurst and Carolyn M Mazure, 'Childhood Sexual Abuse as a Risk Factor for Depression in Women: Psychosocial and Neurobiological Correlates' (1999) 156 *American Journal of Psychiatry* 816 <<http://psychiatryonline.org/doi/abs/10.1176/ajp.156.6.816>>; David Finkelhor, *Child Sexual Abuse: New Theory and Research* (Free Press 1984).

21 W Sarwono, S., *Psikologi Remaja* (Raja Grafindo Persada 2008); Sally R Ramsden and Julie A Hubbard, 'Family Expressiveness and Parental Emotion Coaching: Their Role in Children's Emotion Regulation and Aggression' (2002) 30 *J Abnorm Child Psychol* 657; M V Salisch, 'Children's Emotional Development: Challenges in Their Relationships to Parents, Peers, and Friends' (2001) 25 *International Journal of Behavioral Development* 317.

22 Nunung Unayah and Sabarisman (n 19).

23 'https://tribrataneews.Kepri.Polri.Go.Id/2020/01/21/Faktor-Internal-Dan-Eksternal-Penyebab-Kenakalan-Dan-Kriminalitas-Anak/'.

in their families anymore. One of the neglected areas is the obligation to provide religious education to children. Children do not have religious knowledge, so the relationship between boys and girls who are not muhrim is common. Boys and girls are free to socialize without being limited by place and time, and some even date at a young age. Children do not care about religious rules because they do not receive sufficient religious education; as a result, children become involved in sexual harassment.

- b. Sexual desire: Crimes occur when perpetrators follow their desires without considering the consequences. It also applies to the relationship between boys and girls. Nowadays, the relationship between boys and girls is free; they date and even conduct a conjugal relationship repeatedly. The act is discovered after the courtship breaks up because the daughter does not accept being dumped and reports it to her parents.
- c. The lack of parental supervision: The social conditions in certain areas in Aceh Province are concerning, especially regarding the relationship between boys and girls who are not muhrim. Boys and girls are free to be alone in public areas or closed spaces without any warning from parents. The causes of sexual harassment include lack of supervision and protection from close families and lack of parental concern. These conditions are exploited for sexual harassment.

Parents are good supervisors, especially for children who are underage. Parents need to supervise their children so children can avoid making mistakes. However, not all parents can supervise their children's behavior, especially children's social interactions; hence, their children become involved in sexual harassment.

- d. Influence from communication and social media: Sexual harassment is also influenced by increasingly sophisticated information technology that makes it easier for children to access pornographic films in various media. A child commits sexual harassment after accessing porn sites, watching porn videos, and other related things. It is impossible to prohibit children from using social media because children already use sophisticated communication tools, especially cell phones, for online learning. However, this communication media can be misused by children, especially to access pornographic content and spread it to their peers. Children become accustomed to watching pornographic content on social media.

Two factors cause children to commit sexual abuse in Aceh Province. The internal factors include a lack of religious knowledge and sexual desire within the child as an effect of watching pornographic videos. So this is not delinquency but is already a sexual crime that is committed with full awareness. The factors that cause crimes of sexual abuse committed by children show a shift in the meaning of juvenile delinquency, which is conceptualized as a result of the transition from the current child's growth period to a premeditated crime.

The lack of religious knowledge in children is due to children being far from religious education because their parents do not understand it. Parents should have used Aceh's status as a special autonomous region to implement Islamic law in their families. Islam obliges parents to educate their children by teaching various knowledge so that their children can be assets for their parents, both in this world and in the afterlife. The parent's responsibility to their children is attached until the child becomes mukallaf. This responsibility includes Sharia's responsibility, which must be carried out at home, in the community, nation, and state as mandatory. Islam places this responsibility on two

aspects, namely the worldly aspect, which includes welfare and safety in the world, and the ukhrawiah aspect, which includes forgiveness and reward from the responsibility of fostering, caring, and education in the world. Islam places a burden of responsibility on everyone; no one is exempt from it. However, parents are responsible for providing their children with religious education.

According to the Indonesian Constitution, one of the social policies relates to child welfare.²⁴ The child's welfare is the responsibility of parents, in which they should care for and educate children in such a way so that children can grow and develop into smart, healthy, devoted to parents, virtuous, pious to God Almighty, as well as willing and capable to continue the nation's aspirations. Having children is a gift to be grateful for because they are a valuable treasure. Children are the pillars of hope for parents who can realize their wishes and dreams. For some parents, children are a source of inspiration that can provide a sense of security because they can care for and look after their parents in the future. According to Adi Fahrudin, children need to have a healthy personality and mentality to perfect their responsibilities to their parents. Children must know they are loved and accepted regardless of their strengths and weaknesses.²⁵

Parents and other family members influence children's development. The responses of parents, family members, and significant others, as well as other forms of interaction, can influence children's development. Parents play an essential role in overseeing the environment so children can grow physically, mentally, and spiritually healthy. The absence of a family institution leads to a nonexistent human civilization and society. Family is also a means for human life regeneration and a vehicle for love, sex instincts, and the continuity of offspring.

24 Child welfare is a system of life and livelihood for children that can naturally guarantee their spiritual, physical, and social growth and development. Article 1 number 1 letter a Law Number 4 of 1979 concerning Child Welfare. See also Muhammad Siddiq Armia, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse; Muhammad Siddiq et al Armia, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525; Chairul Fahmi and Muhammad Siddiq Armia, 'Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms' (2022) 6 Journal of Southeast Asian Human Rights 1 <<https://jurnal.unej.ac.id/index.php/JSEHR/article/view/30242>>; territories, and natural resources to non-ratification countries of the Convention on indigenous peoples' rights, especially to the Indonesian context. In the last few decades, the United Nations has developed and recognized the rights of indigenous peoples, including rights to their ancestral lands, territories, and resources. These rights have been stipulated in several instruments, such as the ILO Conventions No.169 and UNDRIP. Nevertheless, most Asian and African countries have not ratified the Treaty, including Indonesia. Consequently, the rights failed to be adopted into national policies, which the ratification is a pre-condition before came into force through the national regulations. Indonesia also doubted the exclusive rights of land, territories, and resources traditionally owned by indigenous peoples. Legally, lands, territories, and resources are controlled by the States, as mentioned in Article 33 of the 1945 Constitutional law. Economically, Indonesia relies on land, territories, and natural resources to boost its national revenues. To achieve this aim, the expropriation of indigenous land and territories often occurs through land concession policy for private or state-owned companies. As a result, land tenure and social conflict were common phenomena from the New Order Regime until the current day. This conflict spreads across the country from the west part (Sumatra) Alexander Latham-Gambi, 'Political Constitutionalism and Legal Constitutionalism—an Imaginary Opposition?' (2020) 40 Oxford Journal of Legal Studies 737 <<https://academic.oup.com/ojls/article/40/4/737/5939843>>.

25 Adi Fahrudin, 'Ketahanan Institusi Keluarga Dan Kesejahteraan Anak' (2005). See also Novi Endira, 'Tinjauan Hukum Islam Tentang Kekerasan Non Fisik Terhadap Anak Dalam Keluarga: Studi Kasus Di Gampong Pisang Kecamatan Labuhan Haji Kabupaten Aceh Selatan' (2016) Volume 1 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 154; Rosita, 'Quo Vadis Pekerja Anak Pada Perkebunan Tembakau Di Kabupaten Jember' (2017) 2 Petita : Jurnal Kajian Ilmu Hukum dan Syariah; Al Khanif, 'Women, Islam, and Modern Family Construction in the Perspectives of Legal Pluralism in Indonesia' (2019) Vol.4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah <<http://www.petita.ar-raniry.ac.id/index.php/petita/article/view/24>>.

Children's welfare is greatly influenced by the parent's obligations in child care as well as the obligations of parents, families, and society in carrying out their duties and responsibilities to protect children from acts of violence and mistreatment. Regarding social welfare, children's problems are caused by the non-fulfillment of their physical, spiritual, and social needs, affecting their normal growth and development. Therefore, the family is responsible for socializing children with the upbringing and inculcation of moral-spiritual-social values so that they become adults responsible to themselves, their families, and their generations. The family plays a vital role in building welfare, parenting, and basic education for family members. In all societal cultures, the responsibility for nurturing is assigned to the family institution.

The implementation of family roles and functions influences child welfare. Family roles describe interpersonal behaviors, traits, and activities related to individuals in certain positions and situations. The various roles in the family are as follows:

1. Father, as a husband and father of the children, is the breadwinner, educator, protector, provides security, and head of the family.
2. Mother, as a wife and mother of the children, manages the household, nurtures and educates the children, and protects. Apart from that, a mother can also become a secondary breadwinner in the family.
3. Children play a psychosocial role according to their level of development, including physical, mental, social, and spiritual.

A family has several functions as follows:

1. Replacement of the population. Replacement indicates a regeneration function.
2. Care of the young means nurturing and caring until the child becomes a teenager. In this position, the family is a meta-institution in the child's life.
3. Socialization of new members functions to socialize cultural, norms, and language values to family members.
4. Regulation of social behavior serves to regulate social behavior. Failure to regulate social behavior results in a mismatch with desired expectations.
5. Source of affection. The function is to spread sincere love to all family members.

Child welfare consists of three variables. The first is welfare in the sense that families have an increased capacity to meet the needs of their children. Second, welfare in the sense that children and teens receive appropriate services to meet their educational needs. Third, welfare means that children and teens receive adequate services to meet their physical and mental health needs.

Each generation must be equipped with a will, willingness, ability, and skills to carry out the task to guarantee this effort. It can only be achieved if the younger generation, as the next generation, owns and lives up to the nation's philosophy. Therefore, efforts are needed so that the younger generation behaves according to the norms that apply in society. In order to achieve this purpose, it is necessary to develop, maintain, and improve children's welfare. Efforts to realize children's welfare in Indonesia are mandated in the constitution. Constitutionally children have the right to be protected. Article 34 of the 1945 Constitution states:

- (1) The poor and neglected children are cared for by the state.
- (2) The state develops a social security system for all people and humanely empowers weak and incapable people.

As an effort to carry out the constitutional mandate, Law Number 4 of 1979 concerning Child Welfare was enacted. This law regulates child welfare, child age, and children's rights, including the rights of orphans, poor children, children with behavior problems, and children with disabilities. This law also regulates parental responsibility for child welfare and child welfare efforts.

Conclusion

The study shows children commit sexual abuse in Aceh Province for two reasons, consists of tThe internal factors include children's lack of religious knowledge and sexual desire. Meanwhile, external factors include a lack of parental supervision and the influence of communication and social media. The lack of religious knowledge among children is caused by children being far from religious education because their parents do not understand it. Furthermore, the bylaw in Aceh Province have faced difficulties to punish child who breaking the bylaw as not fulfill the age limit imposed by bylaws and Indonesia legal system.

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