

Law Enforcement Against Parents Perpetrating Physical Violence Against Children Which Causes Death

Beauty Rachmah Yubinas, Kayus Kayowuan L
Universitas Pembangunan Nasional Veteran Jakarta
rachmahbeauty81@gmail.com, kayusklewoleba@upnvj.ac.id

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Abstract

This research aims to determine the factors that cause physical violence by parents against children, which causes death, and how law enforcement applies to parents as perpetrators of physical violence against children, which causes death. This research is based on the phenomenon of vulnerability and the increasing cases of physical violence by parents against children, which causes death. Based on Data received throughout 2023 shows 985 instances of physical violence, with 35% of them occurring in the family environment. This research is a normative juridical method with a statutory approach. The results of the study show that the factors causing physical violence against children by parents, which causes death, are children as targets of domestic violence, economic factors, parental personality factors or stress, experiences of violence, and culture in society. The implementation of the Child Protection Law No. 35 of 2014 and the Law on the Elimination of Domestic Violence No. 23 of 2004 is used as a law enforcement effort to prevent criminal acts of physical violence against children which causes death.

Keywords: Children; Death; Law Enforcement; Parents; Physical Violence.

Introduction

Violence against children is still immensely worrying in Indonesia. Children are the result of love from both parents as a gift and gift from the creator who must be cared for, guided, educated, and develop their potential as much as possible according to their nature. On the other hand, children are the hope of their parents, the hope of the nation, and also the hope of the country, which has the potential to play a strategic role as the nation's successor, heir to the nation's ideals and the nation's struggle to transform Indonesia into a more progressive country¹. Every child

¹ Randy Pradityo, "Restorative Justice Dalam Sistem Peradilan Pidana Anak," *Jurnal Hukum Dan Peradilan* 5, no. 3 (2016): 319, <https://doi.org/http://dx.doi.org/10.25216/jhp.5.3.2016.319-330>.

should receive training and support from the start and be given the best opportunities to grow ideally.

Law Number 35 of 2014 states that a child is someone under 18 years of age, including children before birth. Based on this declaration, every child is a gift from the creator with total value and humanity. Every child has the right to protection from violence and discrimination by having the right to live, grow, and participate in line with human values. Children have the right to receive special protection to maintain their honor and dignity. In the end, children's intellectual development differs from that of people who are old enough. Parents play an essential role in their children's physical and mental development by taking responsibility and carrying out their obligations as appropriate. The role of parents is to protect and care for their children based on their child's rights and obligations.

Incidents of violence against children, especially physical violence, require legal instruments that are not only effective, but also able to prevent crimes or criminal acts and provide a deterrent effect. Until the enactment of "Law Number 23 of 2002 concerning Child Protection" which addressed and adapted the phenomenon of increasing violence against children, then changes were made through "UU No. 35 of 2014 concerning Amendments to Republic of Indonesia Law No. 23 of 2002 concerning Child Protection." The implementation of the Child Protection Law is part of law enforcement efforts to prevent criminal acts of physical violence against children. According to Article 1 number 15 a "Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection states that violence is all actions against children that result in physical, psychological, sexual and/or misery or suffering—neglect, including threats to commit acts, coercion, or unlawful deprivation of liberty.

However, in fact, the number of cases of physical violence against people is increasing. Based on complaint statistics in the Indonesian Child Protection Commission in the last 3 years in the child protection group, in 2020 children were victims of physical violence such as abuse, beatings in 249 cases and children were victims of murder in 12 cases. Throughout 2021, KPAI recorded that there were 574 complaints regarding children who were victims of physical violence. As of 2022, data is coming in regarding children as victims of physical and psychological violence in the form of direct complaints as many as 6 cases, indirect complaints as many as 23 cases, online complaints as many as 127 cases, based on print media as many as 17 cases and online media as many as 73 cases with a total of 246 cases of complaints about children being victims of abuse. Then, according to statistics announced by the National Commission for Child Protection, there will be 3,547 complaints of violence against children in 2023. This is dominated by cases of sexual violence with 1,915 complaints and followed by physical violence with 985

cases. Based on the location of the incident, as many as 35% of cases of violence against children are most widespread in the family environment.²

This data shows that the number of incidents of violence against children has continued to increase in the last three years, which shows that children are very vulnerable to violence and are helpless in this situation. Every child has the right to be guided and raised by their parents, and every parent must also ensure that they do not commit violence against their children. Various reasons, such as economic pressure, poverty, conflicts between husband and wife, and naughty children, cannot be used as reasons for using violence against children. The number of incidents of violence against children, especially physical violence, is a phenomenon at the tip of the iceberg because there is more accurate data than reported data.

For example, a case of physical violence between a parent and child that resulted in death was a father who slammed his child to death in Penjaringan, North Jakarta. The violence case began when the child with the initials K (10) was reprimanded by one of the residents at the scene. Then, the father (the perpetrator) came and physically abused his child by hitting, kicking, and then slamming. Then, the victim suffered an injury to the head and experienced a nosebleed through his nose until the victim died. The motive for this violence was carried out out of emotion and embarrassment at being reprimanded by residents.

This research has several considerations as reference material in creating novelty. Among them are research by I Ketut Detri Eka Adi Pranata, I Nyoman Putu Budiarta, I Made Minggu Widyantara (2022). This research analyzes and describes criminal acts of child abuse by parents, which are viewed from a child protection perspective, thus examining how legal protection efforts are made for children as victims³. The difference in this research is that it discusses aspects of law enforcement against parents as perpetrators of physical violence against children, which results in death. Another research was conducted by Rommy Pratama and Irma Rahmayanti (2020). This research discusses criminal acts of violence against newborn babies that result in death and are committed by the biological mother. The results of the research show that the violence that caused this death is considered a criminal act of killing a baby (infanticide), which is caused by the shame factor associated with conceiving and giving birth to a child out of

² Nabilah Muhamad, "Komnas PA: Ada 3547 Kasus Kekerasan Anak 2023, Terbanyak Kekerasan Seksual," *Katadata Media Network*, 2023, <https://databoks.katadata.co.id/datapublish/2023/12/29/komnas-pa-ada-3547-kasus-kekerasan-anak-2023-terbanyak-kekerasan-seksual>.

³ I Ketut Detri Eka Adi Pranata, I Nyoman Putu Budiarta, and I Made Minggu Widyantara, "Tindak Pidana Penganiayaan Anak Oleh Orang Tua Ditinjau Dari Aspek Perlindungan Anak," *Jurnal Preferensi Hukum* 3, no. 2 (2022): 260–65, <https://doi.org/10.55637/jph.3.2.4927.260-265>.

wedlock⁴. The following research was conducted by Magerbang Silaban, Herlina Manullang, and Ojak Nainggolan (2019). This research discusses the criminal responsibility of the biological father who took the life of his child based on court decision No.65/Pids.sus/2017/PN TRT. The results show that the defendant's actions were appropriate, so he was sentenced under Article 80 paragraph (4) "RI Law Number 35 of 2014 concerning amendments to RI Law Number 23 of 2002 concerning Child Protection⁵,

Research methods

Research methodology is an effort to investigate and explore a specific problem through scientific methods, carefully and precisely combining, processing, and analyzing data and drawing systematic and objective conclusions to solve the problem⁶.

The method used in this research is normative juridical. It is carried out by studying library materials or secondary data. It is a document study that refers to statutory regulations, court decisions/decisions, legal principles and principles, legal theory, and doctrines/opinions of legal experts⁷. Then, proceed to use a statutory approach in analyzing statutory regulations and related regulations regarding law enforcement against parents in cases of violence against children that result in death.

This research uses primary and secondary data sources. Primary legal material comes from the Criminal Code, Law Number 35 of 2014 concerning Amendments to Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection, and Law No. 23 of 2004 concerning the Elimination of Domestic Violence. Meanwhile, secondary legal materials come from literature, research, academic journals, books, internet sites, and articles regarding relevant law enforcement regarding physical violence that causes the death of children. The data analysis technique uses qualitative analysis techniques with predetermined data processing, namely primary data and secondary data relating to law enforcement regarding physical violence that causes the death of children and then produces descriptive

⁴ Rommy Pratama and Irma Rahmayanti, "Tindak Pidana Kekerasan Terhadap Anak Yang Menyebabkan Kematian Dilakukan Oleh Ibu kandungnya," *Supremasi Hukum* 16, no. 2 (2020): 114–23, <https://doi.org/10.33592/jsh.v16i2.748>.

⁵ Herlina Manullang and Ojak Nainggolan, "PERTANGGUNGJAWABAN PIDANA AYAH KANDUNG YANG MELAKUKAN PEMBUNUHAN TERHADAP ANAK KANDUNG (Studi Putusan No. 65/Pid. Sus/2017/PN TRT)," *Jurnal Hukum PATIK* 8, no. 2 (2019): 75–84.

⁶ Rifa'i Abubakar, *Pengantar Metodologi Penelitian* (Yogyakarta: SUKA-Press UIN Sunan Kalijaga, 2021).

⁷ .

analysis. This is done by organizing, interpreting and analyzing secondary data, which is the source of the research.

Results and Discussion

Factors that cause physical violence by parents against children which causes death

Violence against children by parents is influenced by several factors, especially when the act ends in death. Violence, as stated in Article 89 of the Criminal Code, is an act that causes helplessness and makes a person faint, which can be interpreted as an act of violence, namely the illegal use of force or physical force, for example, hitting with hands or weapons, kicking, etc. Making people unconscious or helpless is intended, according to the explanation in the article⁸. Meanwhile, "Law No. 35 of 2014 concerning Child Protection" states that violence is all treatment of children that results in neglect, deprivation, or physical, mental, or sexual suffering, including threats, coercion, or unlawful deprivation of liberty.

Several incidents of physical violence against children by parents have been going on for a long time, often the closest people such as neighbors and relatives are witnesses and see all the acts of violence but they do not dare to take any action to provide help to the child victims. This is because many people still think that physical violence between parents and children is considered a private matter and is a way to discipline and educate children. Excessive violent behaviour towards children will result in physical and mental trauma, injury, or even death.

According to complaint data obtained by the Child Protection Commission, it shows that the factors that trigger violence against children are:

1. Children are targets of domestic violence.
2. Disruption of family function, namely the role of parents, is not generally in harmony.
3. Financial conditions where violence occurs due to economic pressure.
4. Misunderstanding of the child's place in the family, with the belief that they don't know anything.

According to the United Nations Children's Fund or UNICEF, violence between parents and children is caused by at least two factors: by parents and the children themselves. Parents experienced violence in childhood and experienced domestic violence, stress, drug abuse, depressed parents or personality disorders. Meanwhile, based on children they are premature babies, children with physical and mental limitations, and children who like to scream and have high needs⁹.

⁸ Edy Kurniawansyah and Dahlan Dahlan, "Penyebab Terjadinya Kekerasan Terhadap Anak (Studi Kasus Di Kabupaten Sumbawa)," *CIVICUS: Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila Dan Kewarganegaraan* 9, no. 2 (2022): 30, <https://doi.org/10.31764/civicus.v9i2.6866>.

⁹ Sumiadji Asy'ari, "Kekerasan Terhadap Anak," *Jurnal Keislaman* 2, no. 2 (2021): 178–94, <https://doi.org/10.54298/jk.v2i2.3383>.

Domestic violence often hurts children. Generally, the causes of domestic violence can be separated into external factors and internal factors. External factors cause arguments between parents and violence in the home. Where the incident originates from outside the perpetrator of violence, the impact of arguments between parents, which at first are expected or do not show an aggressive reaction, can lead to acts of violence in the face of various pressures or stress, such as economic problems, and family stress from children, husband/wife. This situation of being under pressure for a long time can lead the perpetrator himself to factors originating from himself or internally, namely being easily provoked to commit acts of violence to vent his anger¹⁰. Thus, difficulties in suppressing anger over problems within the household can place children as targets for venting their parents' anger.

For example, a case of physical violence between parents and children that resulted in death was the case of a father who slammed his child to death in Penjarangan, North Jakarta. The motive for the violence carried out by the perpetrator was emotional and embarrassed by being reprimanded by neighbors. The perpetrator is also known as a person with a bad temper and a drug user. Sometimes, parents are unable to control their emotions when their child makes them angry. The case above is an example of the temperamental attitude of parents who pinch, hit, kick, and even slam their children because they are annoyed when the child disobeys, makes mistakes, makes them embarrassed and so on. However, what needs to be considered is the emotions or sentiments of the parents themselves, not the child who is practicing. When parents are angry, they do not understand the impact of their actions, which can lead to child injury, trauma, physical injury, and even death. When undesirable things happen, such as death, then parents regret it¹¹

The personality condition of the parents is the main factor in violence against children. Personality immaturity, inability to deal with emotional stress, failure to deal with anxiety or disappointment. Parental personality disorders are caused by psychological disorders of both the father and mother, thus affecting the relationship between parents and children. If parents suffer from this condition, they will act aggressively or violently to solve their child's behavioural problems¹².

Economic factors also lead to violence against children. The majority of domestic violence is related to financial pressure and poverty as one of the stress triggers experienced by parents based on their personality conditions; parents can take it out on their children. The increasing pressure of life and helplessness in facing financial problems makes it easy for parents or people with psychologically deviant behaviour to express their emotions to others. Children, as weak and

¹⁰ Isyatul Mardiyati, "Dampak Trauma Kekerasan Dalam Rumah Tangga," *Raheema: Jurnal Studi Gender Dan Anak* 2, no. 1 (2015): 26–35, <http://core.ac.uk/download/pdf/291677026.pdf>.

¹¹ Lulu'il Maknun, "Kekerasan Terhadap Anak Oleh Orang Tua Yang Stress," *Jurnal Harkat : Media Komunikasi Gender* 12, no. 2 (2018): 117–24, <https://doi.org/10.15408/harkat.v12i2.7565>.

¹² Alit Kurniasari, "Kekerasan versus Disiplin Dalam Pengasuhan Anak Violence versus Discipline in Parenting," *Sosio Informa* 1, no. 02 (2015): 141–59.

vulnerable creatures, are made the easiest targets to express their anger by acting furiously, cursing, slapping, kicking, hitting and even killing their children¹³.

Various twists and turns of violence in the past experienced by parents contributed to the formation of role models in caring for their children in adulthood and became the underlying aspect of physical violence against children. Parents with a background of violence in the past can carry a tendency to perpetrate violence in their children¹⁴. With the twists and turns of violence experienced by parents during childhood, it is assumed that violence is a way of disciplining children.

Another factor that leads to violence in children is the mistaken view that pinching, hitting and so on is part of educating children. Some parents think that pinching and hitting are the best forms of teaching children obedience. In fact, this action is a serious mistake in the process of raising children and a form of parents' inability to convey to their children about good and bad¹⁵. This misperception can lead parents to continue carrying out forms of physical violence against their children, assuming they don't know anything. Most parents expect too much and force their children to do what they want or they will be punished. Based on this, parents often abuse their children¹⁶. The more children make mistakes, the stronger the physical violence perpetrated by parents, which can unconsciously lead to traumatic impacts, injuries, broken bones and even death.

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^{13 13} Eva Harianti and Nina Siti Salmaniah Siregar, "Faktor-Faktor Penyebab Terjadinya Kekerasan Orang Tua Terhadap Anak," *Jurnal Ilmu Pemerintahan Dan Sosial Politik* 2, no. 1 (2014): 44–56, <https://www.ojs.uma.ac.id/index.php/jppuma/article/download/580/924>.

¹⁴ Dewi Eko Wati and Intan Puspitasari, "Kekerasan Terhadap Anak, Penanaman Disiplin, Dan Regulasi Emosi Orang Tua," *Jurnal VARIDIKA* 30, no. 1 (2018): 21–26, <https://doi.org/10.23917/varidika.v30i1.6541>.

¹⁵ Tri Sella Margareta and Melinda Puspita Sari Jaya, "Kekerasan Pada Anak Usia Dini (Study Kasus Pada Anak Umur 6-7 Tahun Di Kertapati)," *Wahana Didaktika : Jurnal Ilmu Kependidikan* 18, no. 2 (2020): 171, <https://doi.org/10.31851/wahanadidaktika.v18i2.4386>.

¹⁶ Pembayun Wresti Woro Ardhani, "Dampak Kekerasan Orang Tua Terhadap Perilaku Sosial Anak," *Dampak Kekerasan Orang Tua Terhadap Perilaku Sosial Anak* 5, no. 8 (2019): 603–15.

¹⁷ Gomgom TP Siregar and Irma Cesilia Syarifah Sihombing, "Tinjauan Yuridis Tindak Kekerasan Orang Tua Terhadap Anak," *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 2, no. 1 (2020): 75, <https://doi.org/10.46930/jurnalrectum.v2i1.758>.

Economic factors also lead to violence against children. The majority of domestic violence is related to financial pressure and poverty as one of the stress triggers experienced by parents based on their personality conditions; parents can take it out on their children. The increasing pressure of life and helplessness in facing financial problems makes it easy for parents or people with psychologically deviant behaviour to express their emotions to others. Children, as weak and vulnerable creatures, are made the easiest targets to express their anger by acting furiously, cursing, slapping, kicking, hitting and even killing their children¹⁸

Apart from that, several factors include physical violence by parents towards children, which causes death due to external factors, namely :¹⁹

- a) The external environment can be a trigger for violence against children. The environmental atmosphere is not good, as well as the high crime rate in the environment
- b) Mass media as media that presents or broadcasts scenes of violence, fight scenes, reporting on crime, abuse and even violence and murder in the family environment.
- c) A culture that still believes that the status of children is below or degraded, so children must be punished if they do not meet their parents' expectations. Or even a culture that says boys cannot complain and must be tough. So actions such as kicking, hitting, and so on by parents towards children are considered everyday actions in forming children.

Law Enforcement Against Parents as Perpetrators of Violence Against Children that Cause Death

The purpose of establishing a law is to enforce it. Otherwise, the Law will no longer exist, and the purpose of the Law will not be realized. The Law aims to create order and tranquillity, which will become a reality when the Law is implemented. Justice and expediency must be considered when implementing and enforcing the law[1]. According to Satjipto Rahardjo, law enforcement is a mechanism for achieving legal desires. What is called legal desires are ideas about legislative regulations that are formulated in these legal norms[2]. Law enforcement aims to increase stability and legal certainty in society. The functions, duties and authorities of the institutions responsible for enforcing the Law include, among other things, being carried out in an organized and harmonious manner in each proportion of their fields and with a sound system of cooperation and support for the goals to be achieved²⁰.

¹⁸ Nur Solikin, *Pengantar Ilmu Hukum Dan Tata Hukum Indonesia* (Jember: STAIN Jember Press, 2014).

¹⁹ Zainab Ompu Jainah, "Penegakan Hukum Dalam Masyarakat," *Journal of Rural and Development* 3, no. 2 (2012): 165–72.

²⁰ Sanyoto, "Penegakan Hukum Di Indonesia," *Jurnal Dinamika Hukum* 8, no. 3 (2008): 199–204, <https://doi.org/http://dx.doi.org/10.20884/1.jdh.2008.8.3.74>.

When criminal law enforcement is viewed as part of (criminal) law enforcement procedures, punishment can be interpreted as nothing more and nothing less than a consciously planned process. This means that for sanctions to be implemented effectively, they are designed in several steps or terms, namely²¹:

1. The formulation stage is the stage that determines the violation or criminal determination by the lawmaker.
2. The implementation stage is where the authorized official imposes the punishment.
3. The execution stage is the stage of carrying out criminal acts carried out by law enforcement officials.

Physical violence by parents in Penjaringan, North Jakarta, is an example of the increasing number of cases of violence against children which have resulted in death. The violence case started when the child with the initials K (10) was reprimanded by one of the residents at the scene. Then, the father (the perpetrator) came and used physical violence against his child by hitting, kicking and then slamming. Then, the child suffered a head injury and a nosebleed from his nose until the victim died. According to the autopsy results, the victim died due to damage to brain tissue; blunt force was found on the left forehead, which fractured the skull and caused bleeding and damage to tissue on the left side of the brain. Not only that, the victim had open wounds on his face, as well as wounds on the upper and lower parts of his body, with blunt injuries to his hands and feet when he was slammed. As a temperamental figure, the perpetrator in this case, namely the biological father (U) of the victim (K), faces a sentence of 15 years in prison based on "Law no. 35 of 2014 concerning Child Protection" and "UU no. 23 of 2004 concerning the Elimination of Domestic Violence". In this incident, the perpetrator was named a suspect and officially detained at the North Jakarta Metro Police Detention Center (Rutan)²².

Violence against children is regulated in "Law no. 35 of 2014 concerning the second amendment to Law no. 23 of 2002 concerning Child Protection", which is contained in Article 76C: "Every person is prohibited from placing, allowing, committing, ordering to commit, or participating in committing violence against children." Furthermore, perpetrators of violence against children, based on the article above, can be prosecuted for imprisonment and fines by Article 80, "UU No. 35 of 2014 concerning the second amendment to Law no. 23 of 2002 concerning Child Protection". Article 80 paragraph (1) which reads: "Every person who violates the provisions as intended in Article 76C, shall be punished with

²¹Susan Kezia Valerrie Siahaya, Harly Stanly Muaja, and Cevonie M. Ngantung, "Penegakan Hukum Terhadap Pelaku Penindasan Atau Bullying Disekolah," *Lex Crimen* 10, no. 3 (2021): 236–46.

²² Larissa Huda, "Penyesalan Ayah Yang Banting Anak Hingga Tewas Di Muara Baru, Minta Maaf Tiada Henti," *Kompas.com*, 2023, diunduh dari "Penyesalan Ayah Yang Banting Anak Hingga Tewas Di Muara Baru, Minta Maaf Tiada Henti," *Kompas.com*, 2023, <https://megapolitan.kompas.com/read/2023/12/20/11490761/penyesalan-ayah-yang-banting-anak-hingga-tewas-di-muara-baru-minta-maaf?page=all>

imprisonment for a maximum of 3 (three) years and 6 (six) months and/or a fine of a maximum of IDR 72,000,000.00 (seven twenty-two million rupiah)". Article 80 paragraph (2) which reads: "In the event that the child as intended in paragraph (1) is seriously injured, the perpetrator shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of a maximum of IDR 100,000,000.00 (one hundred million rupiah)". Article 80 paragraph (3) which reads: "In the event that the child as intended in paragraph (2) dies, the perpetrator shall be punished with a maximum imprisonment of 15 (fifteen) years and/or a maximum fine of IDR 3,000,000,000.00 (three billion rupiah)". Furthermore, Article 80 paragraph (4) reads "The penalty is increased by one third of the provisions referred to in paragraph (1), paragraph (2) and paragraph (3) if the person carrying out the abuse is the parent.

The above regulations emphasize that all forms of violence against children will be subject to criminal responsibility. Whatever the factors that cause violence against children, it cannot be denied that children remain in a vulnerable position. "Human rights" also encompasses "children's rights", so that violence against children is a form of inhumane behaviour and violates Article 80, which stipulates that anyone who commits violence against children can be prosecuted, which shows that children are vulnerable and need to be protected²³. He added that if the violence results in serious injury, the perpetrator is threatened with imprisonment for a maximum of 5 (five) years and aggravated as stated in Article 80 paragraph (3) "UU no. 35 of 2014", which states that if violence against a child causes death, the perpetrator will be punished with a maximum sentence of 15 (fifteen) years and a maximum fine of IDR 3,000,000,000.00 (three billion rupiah).

Indonesia has ratified the Convention on the Rights of the Child and adapted it into "Law no. 23 of 2002 concerning child protection" as amended in "Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection". Article 13 paragraph (1) states, "Every child while in the care of parents, guardians or any other party responsible for the care, has the right to receive protection from treatment: a. Discrimination; b. Exploitation, both economic and sexual; c. Neglect; d. Cruelty, violence and abuse; e. Injustice; and f. Other wrongful treatment."

Article 13, paragraph 2 states, "If a parent, guardian or caretaker of a child carries out any form of treatment as intended in paragraph (1), the perpetrator will be subject to increased punishment." So, parents, as the element closest to the child, are obliged and entirely responsible for his upbringing and will receive a higher sentence if they use violence against a child and results in death by Article 80 paragraph 4 "UU No. 35 of 2014" namely the penalty plus one third the amount specified in paragraph (1), paragraph (2), and paragraph (3) if the person carrying out the violence is a parent, namely 20 years in prison.

²³ Beniharmoni Harefa, *Kapita Selekta Perlindungan Hukum Bagi Anak* (Yogyakarta: Deepublish, 2016).

Therefore, law enforcement against parents as perpetrators of violence against children and causing the death of victims is by "UU no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning child protection" above consists of:²⁴

1. Imprisonment

The "Child Protection Law" ensures the minimum and maximum prison sentences depending on the type of crime. With a minimum prison sentence of three to five years. And a maximum of fifteen years. In cases where parents are the perpetrators of violence, and it causes death, the maximum prison sentence is 15 years and an additional third.

2. Criminal fines

Every "Child Protection Law" criminal act always includes a fine. Either through the formulation of punishment or through cumulative alternatives. With a maximum fine of one hundred million to three billion rupiah.

Apart from that, physical violence against children carried out by parents and causing death falls into the realm of domestic violence. They are contained in "UU no. 23 of 2004 concerning eliminating domestic violence". This law defines domestic violence based on Article 1 number (1), namely "every act against someone, especially women, which results in physical, sexual, psychological misery or suffering, and domestic neglect, including threats to commit acts, coercion, or unlawful deprivation of liberty within the domestic sphere." In Article 1 number (3) "UU no. 23 of 2004" victims are "people who experience violence and threats of violence in the domestic sphere". The scope of the household includes husband, wife, and children.

This law also discusses the elimination of violence in the household sphere. Prohibitions regarding domestic violence are regulated in Article 5, "UU no. 23 of 2004", which states, "every person is prohibited from committing domestic violence against people within their household, by a. physical abuse; b. psychological violence; c. sexual violence; or d. domestic neglect." The relationship between physical violence and its consequences, namely pain, illness, serious injury, or death. Based on the existing formulation, physical violence is an action that causes pain, illness, severe injury or death.

²⁴ Giska Finillia Kumontoy, Roosje M.S Sarapun, and Vonny A Wongkar, "Penegakkan Hukum Terhadap Pelaku Kekerasan Anak Menurut Pasal 76C Dan Pasal 80 Undang - Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak," *Lex Privatum* 10, no. 4 (2022): 6–9, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/42433>.

Criminal provisions regarding physical violence within the household, namely parents against children, are regulated in Article 44, namely,

Article 44 paragraph (1) reads: "Everyone who commits acts of physical violence within the household as referred to in Article 5 letter a shall be punished with imprisonment for a maximum of 5 (five) years or a fine of a maximum of IDR 15,000,000.00 (fifteen million rupiahs)".

Article 44 paragraph (2) reads: "If the act as intended in paragraph (1) results in the victim falling ill or seriously injured, he shall be punished with imprisonment for a maximum of 10 (10) years or a fine of a maximum of IDR 30,000,000.00 (thirty million rupiah)".

Article 44, paragraph (3) which reads: "If the act as intended in paragraph (2) results in the death of the victim, he shall be punished with imprisonment for a maximum of 15 (fifteen) years or a fine of a maximum of IDR 45,000,000.00 (forty-five million rupiah)".

The implementation of physical violence against children includes all forms of physical violence that cause physical pain to children. Not only are the consequences of causing pain, severe injury or death to a child, "causing pain" can include other consequences that are not included in the consequences in the form of falling ill, serious injury or death of a child victim²⁵.

Law enforcement applied to "UU no. 23 of 2004" is similar to "UU no. 35 of 2014", with provisions for imprisonment and fines. With a minimum of 5 years and a maximum of 15 years in prison. If the violence in question results in severe injury or illness, the maximum is ten years, and the maximum is fifteen years if it results in the death of the victim. However, using the Child Protection Law with the Law on the Elimination of Domestic Violence provides a different legal protection meaning. The Child Protection Law explicitly regulates protecting children's rights and parental obligations. The Child Protection Law also provides for heavier punishment for perpetrators who are the parents of the victim. Recognition of this protection does not appear in the Law on eliminating domestic violence. This only concerns acts of physical violence by anyone against individuals who live in the residence²⁶.

Based on the formulation of all the provisions above, it is necessary to pay close attention to the elements of criminal acts contained therein in order to

²⁵ ²⁵Maria Salmon, "Perlindungan Anak Terhadap Kekerasan Menurut Undang - Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga," *Lex Et Societatis* VII, no. 12 (2019): 73–80, <https://doi.org/https://doi.org/10.35796/les.v7i12.27581>.

²⁶ Novanca Bonita Pattiwael and Feronica, "Analisis Penggunaan Undang - Undang Perlindungan Anak Pada Kasus Kekerasan Dengan Korban Berusia Di Bawah 18 Tahun Dan Pernah Terikat Perkawinan," *Jurnal Gloria Justitia* 3, no. 2 (2023): 147–62, <https://doi.org/https://doi.org/10.25170/gloriajustitia.v3i2.4973>.

determine the punishment that needs to be imposed on perpetrators of violence against children. It needs to be carried out by analyzing the identity of the perpetrator, in this case the victim's parents, what type of violence they committed and what consequences their actions had on the victim, namely the child, whether it only resulted in minor injuries, serious injuries or even death. If it causes death, then Article 76C in conjunction with Article 80 paragraphs (3) and (4) "UU no. 35 of 2014 concerning child protection" and Article 5 letter a in conjunction with Article 44 paragraph (3) "UU no. 23 of 2004 concerning the elimination of domestic violence" has regulated law enforcement efforts against parents as perpetrators of acts of violence against children that result in death.

Conclusion

Factors that trigger parental violence towards children, which results in death, include domestic violence and children as targets. If trapped in a situation under pressure or stress due to financial problems, poverty, or family stress experienced by the child themselves or their husband/wife, parents can act aggressively and are capable of committing acts of violence. Personality factors from parents who are unable to control their emotions, immature personalities, inability to resolve emotional stress, and inability to overcome anxiety or disappointment are also causes of widespread violence in children. The background of violence against parents in the past can encourage the possibility of violence against their children as a way of disciplining children, even though carrying out excessive violence is a wrong view, so this act has become a culture in society. If a child does not meet his parent's expectations, he must be punished with the perception that the child does not know anything. Therefore, there is a need for law enforcement efforts to overcome the problem of parental violence against children, which results in death. Increasing order and legal certainty in society is the goal of law enforcement. To determine the type of punishment that will be imposed on perpetrators of violence against children, it is necessary to look at the elements of the crime, namely, looking at the identity of the perpetrator and the consequences of his actions. Law enforcement against parents who commit violence against children which leads to death is contained in Article 76C in conjunction with Article 80 paragraphs (3) and (4) "UU no. 35 of 2014 concerning Child Protection" in the form of a prison sentence of 15 years and an additional third if the perpetrator is a parent. As well as a maximum fine of three billion rupiah. Provisions for law enforcement against parents as perpetrators of physical violence against children and causing death are also contained in "UU no. 23 of 2004 concerning the elimination of domestic violence" Article 5 letter in conjunction with Article 44 paragraph (3) with a maximum prison sentence of 15 years. The implementation of this law was used as an effort by law enforcement to stem criminal acts of physical violence against children.

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