



Criminal liability of perpetrators of Child Abuse in Daycare Centers

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Abstract

A critical issue that arises is the criminal liability of daycare operators when negligence or criminal acts occur against children under their supervision. The extent to which criminal responsibility can be attributed to perpetrators of abuse in daycare settings is an important topic to investigate. One high-profile case is the incident of toddler abuse at Wensen School Daycare in Depok in 2024. This study aims to analyze the elements of the criminal act of child abuse in a legal context and to evaluate the effectiveness of criminal sanctions as a deterrent measure to prevent similar violence in the future. The research employs a normative juridical method with legislative, conceptual, and case approaches. The legal materials used include primary, secondary, and tertiary sources collected through literature review and qualitatively analyzed. The findings indicate that the perpetrator's actions fulfill all elements of child abuse as stipulated in Law Number 35 of 2014 on Child Protection, supported by CCTV evidence, perpetrator's confession, and victim's medical examination. The imposed criminal sanction of one-year imprisonment and mandatory restitution is considered insufficient to provide an effective deterrent. Firm and proportional law enforcement is urgently needed to protect children's rights and prevent recurrence of abuse. The study underscores the importance of strengthening regulations, enhancing supervision, and standardizing services at childcare facilities as effective measures for child protection.

Keywords: Criminal liability, abuse, child

Introduction

Indonesia is a nation that is founded on the principle of the rule of law, and as such, it regards the protection of children as one of its highest priority within its institutional framework. The state, the children's families, and society as a whole have a responsibility to safeguard the fundamental rights of children, who represent the nation's future generation. Even in settings that are intended to be safe, such as childcare centers, children are frequently victims of physical, psychological, and sexual assault.⁽¹⁾ This kind of violence can occur in a variety of settings.

With the purpose of providing children with safety, care, and a sense of security while their parents are at work, this problem is quite disturbing. Daycare centers are developed to fulfill these functions. The occurrence of violent acts committed against children in daycare centers is not a recent phenomenon in Indonesia. The media has frequently covered abuse situations in daycare facilities in recent years. The issue of violence against children is still very much alive and well. Violence against children has been steadily on the rise, according to data from the Ministry of Women's Empowerment and Child Protection (Kementerian Pemberdayaan Perempuan dan Perlindungan Anak). There have been 1,193 reports of child protection offenses as of June 2024. Additionally, there were new reports of child abuse at childcare facilities in the Pekanbaru and Depok districts between the end of May and June 2024. These incidents of child abuse add to Indonesia's long history of such crimes. Child safety must be the first priority in childcare facilities and other educational and childcare environments.

Article 76C of Law Number 35 of 2014 concerning Child Protection, which states that "every person is prohibited from placing, allowing, committing, ordering, or participating in violence against children," and Article 80 paragraph (2), which threatens offenders with a maximum imprisonment of five (five) years and/or a fine of up to Rp. 100,000,000.00 (one hundred million rupiah) if the child suffers serious injury, are the legal regulations governing criminal acts of child abuse. Providing services to children who have been victims of crime is an endeavor that upholds core duties and human rights.

In order to promote truth, justice, and the welfare of the populace as the application of Pancasila⁽²⁾, efforts must be taken to guarantee that the supply and implementation of services for child victims of crime become a national movement founded on the 1945 Constitution. Criminal responsibility for child abuse must be carried out by those who are legally liable and must consider the aspects of intent, the crime itself, and the victim's effects. In this situation, those who commit crimes while working as caretakers in daycare facilities may face criminal charges.

In terms of the law, daycare centers must be regulated and watched over. Law No. 35 of 2014 on Child Protection is one of the laws and regulations that govern childcare services in Indonesia. The purpose of these rules is to guarantee that all children are sufficiently protected, even while they are being watched over by outside parties like daycare facilities. Even with a legal framework in place, there are still a number of obstacles to overcome in order to execute and enforce these policies.

The criminal culpability of childcare providers in cases of negligence or crimes against children under their supervision is one important problem that has come up. An

important area of research is the question of how much criminal responsibility can be placed on those who commit abuse in childcare services. The 2024 toddler abuse incident at the Wensen School Depok daycare center is one instance that has garnered national notice. In this instance, Meita Irianty, a childcare facility owner and parenting influencer, was accused of violently assaulting two toddlers, ages two and nine months.

Meita Irianty is accused of committing a slew of violent crimes against the two children under her supervision at the Wensen School Depok Daycare Center between June 10 and June 22, 2024, which started the event.

The efficiency of criminal penalties is examined in this article as a crucial component of criminal responsibility that necessitates careful consideration, especially with regard to the crime of child abuse. In addition to meeting the requirements for a criminal crime, this also involves prevention measures to ensure that such acts don't happen again and legal protection for children as victims as outlined in the Child Protection Law. This leads the author to conclude that there is a discrepancy between the facts that exist in practice and the legal norms.

Research Methods

Normative juridical research is the research methodology employed, which takes a problem-based approach through legislative, conceptual, and case approaches. Primary, secondary, and tertiary legal texts are the sources of information used. The process of gathering legal materials involved a review of the literature, and qualitative techniques were employed for processing and analyzing the materials.

Results and Discussion

Child Abuse Committed by Daycare Owners

The tempo.id website detailed the timeline of the abuse case at the daycare center by Meita Irianty, a social media parenting influencer. After it was revealed that Meita Irianty, better known as Tata Irianty, the head of the foundation, had mistreated the children under her care, a daycare center in Depok, West Java, came under scrutiny. The timeline of the abuse case at the daycare facility known as Wensen School Indonesia was disclosed by the victim's family's attorney. After noticing injuries on the victim's body, the parents disclosed the suspected abuse. Statements from the daycare center's teachers supported the accusation. The child was abused, according to the childcare center's teachers.

When she first met the head of the foundation that runs the daycare facility on Jalan Putri Tunggal, Kelurahan Harjamukti, Kecamatan Cimanggis, Kota Depok, the victim was often frightened and emotional, which made the teacher suspicious of her conduct. The teacher looked at the CCTV footage out of curiosity. Our client was given the video, and it was verified that the victim had been physically abused. The victim's parents had previously called the daycare manager to get an explanation after discovering bruises on their child's back and chest. The management, however, claimed that during the victim's stay at the daycare facility, nothing had occurred. "So our client had a positive thought, perhaps the bruises were caused by an illness," he stated.

The victim was ill with a cold and cough at the time, so the family did not suspect anything more. After that, the parents

brought their youngster to the doctor for a checkup. The examination revealed that the victim's bruises were the result of damaged blood vessels rather than an infection. Leon said, "The doctor explained that the bruises were caused by external pressure rather than illness." In order to have this occurrence looked into, the parents reported it to the Depok Metro Police. In order to obtain legal protection, the parents also visited the Indonesian Child Protection Commission (KPAI). Regarding the legal processes, the police have received all of the evidence.

The victim's parents have also been asked to provide preliminary statements to the police. The police will review the follow-up. Questions have already been asked of a number of witnesses. We expect that the inquiry into the reported party will proceed when all witnesses have been questioned," Leon stated.

A report of suspected child abuse at the childcare facility in the Cimanggis neighborhood of Depok was received, according to Diah Puspitarini, a member of the Indonesian Child Protection Commission (KPAI). The KPAI is making sure that the procedure, including the legal proceedings, is accelerated since she believes there might be infractions of the Child Protection Law. The victimized youngster must also be given legal protection and psychological counseling right away.

Along with the spread of CCTV or surveillance camera footage demonstrating the mistreatment of toddlers at the childcare facility, this case went popular on social media. The X (Twitter) user @gianluigich posted the video. Several tragic film clips depicting violent behaviors against two toddlers at Wensen School Indonesia Daycare are included in the upload. One of them depicts a weeping toddler in an orange shirt attempting to follow a woman—possibly the childcare center's leader—out of the room. But the woman uses her foot to halt the toddler. Additionally, the toddler is seen being kicked, punched, squeezed, and dragged.

It is known that the abuse took place on June 10, 2024. Meita Irianty, the proprietor of the Wensen School Daycare, has been listed as a suspect in the child abuse investigation by the Depok Metro Police in the wake of the incident. On Wednesday evening, July 31, 2024, the woman was taken into custody at the Depok Metro Police Station. According to Arya Perdana, chief commissioner of Depok Metro Police, the suspect acknowledged that she was the person captured on camera. Meita admitted to abusing the two little children.

Forms of Torture

When discussing criminal acts of abuse, there is also a disparity. In general, criminal acts against the body are referred to as abuse, and are regulated in the Criminal Code as follows(3)

1. Abuse as regulated in Article 351 of the Criminal Code, which consists of:
 - a. Ordinary abusepenerbitwidina@gmail.com
 - b. Assault resulting in serious injury
 - c. Assault resulting in death

Article 351 paragraph (1) does not include minor assault, serious or premeditated assault, or assault that does not result in serious injury or death. Article 351 only states that maltreatment is punishable by imprisonment for a maximum of two years and eight months or a maximum fine of three hundred rupiah. However, here the author focuses on only

- one type of maltreatment, namely Article 351 paragraph (1) of the Criminal Code "Ordinary Maltreatment".
2. Minor assault as regulated in Article 352 of the Criminal Code.
 3. Premeditated assault in Article 353 of the Criminal Code consists of
 - a. Causing serious injury
 - b. Causing death
 4. Severe assault in Article 354 of the Criminal Code consists of
 - a. Causing serious injury
 - b. Causing death
 5. Premeditated severe assault as stipulated in Article 355 of the Criminal Code consists of:
 - a. Severe and premeditated assault
 - b. Severe and premeditated assault resulting in death.

Elements of Criminal Offenses Against Persons

Criminal law is one of the laws that exist in Indonesia, regulated in the Criminal Code (hereinafter referred to as KUHP) as one of the positive laws. Criminal law has a general objective, which is to maintain public order. Its specific objectives are to combat crime and prevent crime by imposing harsh and severe sanctions to protect legal interests, namely individuals (dignity, life, property, body, etc.), society, and the state.(4)

Criminal law with harsh sanctions is said to have a subsidiary function, meaning that it is only used when other legal functions are insufficient.(5) It is also often said that criminal law is the *ultimum remedium* or last resort. However, in the current situation, and as is often seen in media reports, criminal law is no longer the last resort for dispute resolution. Instead, criminal law has become the preferred means of resolution or *premium remedium*.(6)

One type of crime that we often hear about through electronic media (television) or other social media is violent crime, such as abuse. Abuse is regulated in Articles 351 to 358 of the Criminal Code. The prevalence of assault crimes that we see and hear about through electronic media and social media is a phenomenon that occurs in society, which is inseparable from the attitudes and behaviors of people that are not well controlled.(7) This is caused by factors such as education, poor environment, economic factors, and so on. Arguments or disputes, whether carried out individually or in groups, can be a cause of violence between individuals, which can ultimately result in abuse.(8)

The elements of criminal abuse include intent, action, and consequences in the form of pain or injury to the victim's body. This action must be carried out unlawfully and cause suffering, such as pain, injury, or damage to a person's health.(9)

Intent: The perpetrator commits the act intentionally and desires the consequences.

Act: There must be a physical act committed by the perpetrator.

Consequences of the act: The act must have a negative impact on the victim, namely:

- a. Pain: Pain to the victim's body.

- b. Injury: Injury to the victim's body, which can be categorized as minor or severe depending on its severity.
- c. Damage to health: An act that damages a person's health.(10)

Case Chronology

The chronology of the abuse case at the daycare center by Meita Irianty, also known as a parenting influencer on social media, was reported on the tempo.id website.(11) A daycare center in Depok, West Java, came under the spotlight after it was reported that the head of the foundation, Meita Irianty, also known as Tata Irianty, had abused the children in her care. The victim's family's legal representative revealed the chronology of the abuse case at the daycare center called Wensen School Indonesia. The alleged abuse was revealed after the parents noticed bruises on the victim's body. The allegation was reinforced by statements from teachers at the daycare center. Teachers at the daycare center reported that the child was a victim of abuse.

Initially, the teacher was suspicious of the victim's behavior, who was always fearful and hysterical whenever she met the head of the foundation that manages the daycare center on Jalan Putri Tunggal, Kelurahan Harjamukti, Kecamatan Cimanggis, Kota Depok. Out of curiosity, the teacher checked the CCTV footage. The footage was shown to our client, and it was confirmed that there had been physical abuse against the victim.

Previously, the victim's parents had found bruises on their child's chest and back and contacted the daycare manager to ask for an explanation. However, the manager said that nothing had happened while the victim was at the daycare center. "So our client thought positively, maybe it was an illness that caused the bruises," he said. The family did not suspect anything further because at that time the victim happened to be sick with a cough and cold. The parents then took their child to the doctor for an examination. From the examination, it was discovered that the bruises suffered by the victim were not due to illness, but were the result of broken blood vessels. "The doctor explained that the bruises were not due to illness, but due to external pressure," explained Leon.

On that basis, the parents filed a report with the Depok Metro Police so that this incident could be investigated. The parents also went to the Indonesian Child Protection Commission (KPAI) to request legal protection. As for legal proceedings, all evidence has been submitted to the police. The police have also requested initial statements from the victim's parents. "The next steps will be reviewed by the police. Witness examinations have also been conducted. We hope that once all witnesses have been examined, the investigation into the reported party will continue," said Leon.

Analysis of the Elements of Criminal Acts of Child Abuse by the Perpetrator

As the perpetrator of child abuse at the Wensen School Depok daycare facility, Meita Irianty's conduct met the requirements for criminal acts of abuse as outlined in the Child Protection Law and the Criminal Code (KUHP). Article 351 of the KUHP lists the following as components of the crime of child abuse: the commission of a purposeful act that results in the victim's pain, suffering, discomfort, or injury. In this instance, CCTV footage, the perpetrator's

confession to detectives, and the victim's physical bruises and trauma from the medical examination all provided legal and convincing proof that Meita Irianty had abused a kid. The reason the abuse was committed was because the victim was In this instance, CCTV footage, the perpetrator's confession to detectives, and the victim's physical bruises and trauma from the medical examination all provided legal and convincing proof that Meita Irianty had abused a kid. The victim's reputation as finicky and mischievous was the perpetrator's motivation for abusing her, but this does not take away from the criminal act of abuse's element of purpose.

In the case of abuse of a toddler at the Wensen School daycare in Depok, there are several elements of abuse committed by the perpetrator that can be described based on the provisions of Law Number 35 of 2014 concerning Child Protection and the facts revealed in the investigation process, namely as follows

1. The first element that must be fulfilled is the element of intent, namely that the perpetrator consciously and without justification committed a prohibited act. In this case, Meita Irianty, the owner of the daycare center, has admitted to her actions, and the acts of violence were clearly recorded on CCTV, indicating intent and deliberation in abusing her charges.
2. The second element is the perpetrator's actions, which include various forms of physical or psychological violence that can cause pain, injury, or suffering to the child. Based on CCTV footage and witness statements, the victim suffered physical violence in the form of beatings, kicks, pinches, and even stabbing in certain parts of the body. These actions clearly fulfill the elements of abuse as stipulated in Article 80 paragraphs (1) and (2) of Law Number 35 of 2014 concerning Child Protection.
3. The third element is the consequence of the abuse committed by the perpetrator, namely the infliction of pain, injury, or suffering, both physically and psychologically, on the victim. In this case, the toddler who was the victim suffered physical injuries that could be medically proven, as well as psychological trauma characterized by behavioral changes such as fear and hysterics whenever he encountered the perpetrator. This consequence is one of the important elements that confirms that the crime of abuse has occurred.
4. The fourth element is that the act was directed at a child, in this case a victim aged two years and nine months, who clearly falls into the category of a minor as referred to in the Child Protection Law.

Meita Irianty's actions satisfy the requirements of the crime of child abuse as outlined in Article 80 of Law Number 35 of 2014 concerning Child Protection because all of the aforementioned elements—namely, the existence of violent acts, the existence of intent, the consequences to the victim, and the victim's status as a minor—are met. Given these facts, it can be said that Meita Irianty's actions satisfied all requirements for the criminal act of child abuse, including formal requirements (the presence of intent and criminal responsibility) as well as material requirements (the presence of violent acts that caused the child to be harmed and suffer).

Legally speaking, Meita was charged under Law Number 35 of 2014 concerning Child Protection, specifically Article 80 paragraph (1) and (2). These provisions state that anyone who commits violence against a child faces imprisonment and/or a fine, with a maximum penalty of five years in prison if the child suffers serious injuries. In the court's ruling, Meita was also found guilty, given a one-year prison sentence, and mandated to reimburse the victim.

The components outlined in Article 76C and Article 80 paragraphs (1) and (2) of Law Number 35 of 2014 concerning Child Protection may be used to prosecute Meita Irianty for her abuse of a child at the Wensen School Depok daycare center. Any act of physical or psychological harm against minors is expressly forbidden by Article 76C. Meita Irianty's acts in this case, which caused the child victim to suffer physical harm or psychological anguish, unquestionably amount to physical assault. The child's right to be protected from violence can be gravely violated by abuse that manifests as acts that inflict pain, harm, or even chronic trauma.(12)

Furthermore, Article 80 paragraph (1) of the Child Protection Law states that "Any person who violates the provisions referred to in Article 76C shall be punished with imprisonment of up to 3 (three) years and 6 (six) months and/or a maximum fine of Rp72,000,000.00 (seventy-two million rupiah)". Article 80 paragraph (2) of the same article emphasizes that "In the event that the child referred to in paragraph (1) suffers serious injury, the perpetrator shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah)".

Imposing Criminal Sanctions on Perpetrators Has a Deterrent Effect

It is anticipated that the application of criminal penalties in criminal cases will deter offenders and contribute to a decrease in crime rates in the community. The purpose of the deterrent effect on criminals is to create fear in order to prevent them from doing the same crimes again. An essential step in law enforcement and child safety is the application of criminal penalties on those responsible for the mistreatment of toddlers at the Wensen School childcare in Depok. However, a thorough examination of the goals of criminal penalties, the social setting, and the psychological effects on offenders and society is required to ascertain whether these sanctions have a deterrent effect.

The two primary goals of criminal penalties are targeted and broad prevention. The goal of general prevention is to. While particular prevention seeks to stop offenders from carrying out the same violent crimes in the future, general prevention seeks to discourage the larger population from carrying out comparable acts. Strict penalties are anticipated to lower the prevalence of violence against children in childcare facilities and other settings when it comes to child abuse.(13)

The case of abuse of toddlers at the Wensen School daycare in Depok highlights the urgency of legal protection for children and the effectiveness of criminal sanctions in creating a deterrent effect for perpetrators of violence. However, in practice, the effectiveness of criminal sanctions as a deterrent depends heavily on the severity of the punishment imposed and the consistency of law enforcement. If the punishment imposed is too light or disproportionate to the consequences, the desired deterrent

effect tends not to be achieved optimally. Severe and firm criminal sanctions can instill fear and deep remorse in perpetrators, as well as serve as an effective warning to the community.

Conversely, if the sanctions imposed are minimal or too light, the perpetrator and the public may not feel afraid or deterred, so the potential for recurrence of child abuse cases remains high. Therefore, in addition to imprisonment, the imposition of additional sanctions such as fines or restitution is also important to increase the moral and economic burden on the perpetrator, while providing greater justice for the victim.

In this case, the 1-year prison sentence imposed on the perpetrator was lighter than the prosecutor's demand of 1 (one) year and 6 (six) months and far below the maximum penalty under the law. The criminal sanction of one year in prison imposed on the perpetrator of abuse at the Wensen School Depok daycare center was considered too lenient by various parties, including the National Commission for Child Protection (Komnas Anak). The punishment was deemed insufficient to provide a strong deterrent effect, raising concerns that it would not be able to prevent similar violence in the future. Komnas Anak even suggested that the sentence should be close to the maximum, which is around 4 years in prison, so that the perpetrator would truly be deterred and there would be a significant preventive effect. In addition, the perpetrator was also required to pay restitution to the victims as compensation for the abuse suffered by the children. However, this lenient sentence raises concerns that cases of violence against children in daycare centers could recur and not receive strict legal punishment. Thus, even though criminal sanctions have been imposed, their effectiveness in deterring perpetrators of abuse at Wensen School Depok is still questionable.

The author claims that the one-year prison sentence given in the Wensen School Depok case was mild and did not have the desired deterrent impact. Apart from incarceration, the offender might also have to compensate the victim by making restitution. There are worries that similar cases may recur in the future and that there won't be strict law enforcement because of the disparity between the sentence given and the highest penalty allowed by the Child Protection Law. If the penalty meted out is not proportionate to the victims' suffering, as in the example of toddler abuse at the Wensen School Depok daycare center, the intended deterrent effect will not be fully realized. Consequently, a strong commitment. If the penalty meted out is not proportionate to the victims' suffering, as in the example of toddler abuse at the Wensen School Depok daycare center, the intended deterrent effect will not be fully realized. For the protection of children and the avoidance of such crimes in the future, law enforcement officers must be firmly committed to enforcing severe, just, and proportionate penalties.

Conclusion

The actions of the perpetrator of child abuse at Wensen School Depok daycare center have met the elements of a criminal act as stipulated in Article 76C of Law Number 35 of 2014 concerning Child Protection, which states that child abuse is included in the category of unlawful acts. The criminal sanctions imposed in this case, which consist of a 1-year prison sentence, are considered too lenient and are deemed ineffective in deterring similar violence in the

future, raising concerns that they will be unable to prevent such incidents.

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