

## CHAPTER I

### INTRODUCTION

#### A. Background

Cases of sexual abuse have increased every year. Victims of sexual abuse not only come from adults but also children while the perpetrators of sexual abuse also come from adults to minors. Most perpetrators of sexual abuse come from the environment around the victims like from the families, schools, educational institutions, and the social environment of children.

The Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi Korban/LPSK*) noted an increasing number of requests for protection and assistance against child victims of sexual abuse. In 2017, the total number of requests for cases of sexual abuse against children reached 70 requests. In 2018 there was an increase of number in cases until 149 applications and in 2019 until June there were 78 requests for cases of sexual violence against children.<sup>1</sup>

Accurate data on sexual abuse against children has not been available yet, because many cases of sexual abuse against children are not reported. According to the Head of the Children Services Unit (*Pelayanan Perempuan dan Anak/PPA*) in Sub Regional Police Kebumen (*Polres Kebumen*), data on cases of children confronted to the law (*Anak Berhadapan dengan Hukum*) in Kebumen Regency dominance with sexual cases, namely sexual intercourse and obscene action.

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<sup>1</sup> Lembaga Perlindungan Saksi dan Korban. "Lindungi Anak dari Kekerasan Seksual di Keluarga" [https://www.lpsk.go.id/berita/berita\\_detail/3030](https://www.lpsk.go.id/berita/berita_detail/3030) accessed on 25 October 2019 22.35

In 2017, there were 22 cases of sexual intercourse with a total of 6 child perpetrators and 22 child victims, while in obscene action cases there were 8 cases with 1 child perpetrator and 8 child victims. In 2018 there were 18 cases of sexual intercourse with a total of 7 child perpetrators and 18 child victims, while in obscene action cases there were 3 cases with child victims. In 2019 there were 9 cases of sexual intercourse with a total of 6 child perpetrators and 9 child victims, while in obscene action cases there were 2 cases with 1 child perpetrator and 2 child victims.

Sexual abuse occurs when a child or youth is engaged in sexual activities that are developmentally inappropriate and for which the child is emotionally or physically unprepared. Sexual abuse can be divided broadly into 2 forms: contact and non-contact abuse. Non-contact abuse involves exposing the child to sexual acts that he or she cannot comprehend. It includes exposure to or inclusion in pornography. It also includes exhibitionism by which the child is exposed to inappropriate sexualize content. Contact abuse can be divided into acts involving non-penetration, such as touching and fondling or masturbation. The other forms of contact abuse involve penetration of the vagina, mouth, or anus.<sup>2</sup> Violence against children is an intentional act that causes harm to children (physical and emotional).<sup>3</sup> Forms of violence against children classified into physical violence, psychological violence, and sexual challenge.<sup>4</sup>

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<sup>2</sup> Antonia Chiesa, MD, Edward Goldson, MD, "Child Sexual Abuse", *Pediatrics in Review* Vol 38 No.3, 2017, p. 106.

<sup>3</sup> Ivo Noviana, "Child Sexual Abuse: Impact and Handling". *Sosio Informa* Vol. 01, No. 1, 2015, p. 15.

<sup>4</sup> *Ibid.*

A child is a person who born from a marriage between a woman and a man without regard to it born inside or outside of marriage. A child is a person who still pure sensitive with stimulation from the environment.<sup>5</sup> Children are figures who are vulnerable to any kind of violence. Children are weak, helpless, and still dependent on adults. This is what makes children helpless when threatened to obey the will of the offender and not to report what they happen, especially when experiencing violence.

In the Indonesian constitution, children have a right for their survival, growth, and development, protection from any violence, and discrimination that guaranteed by the state. The existence of children needs attention because of the negative impacts that arise from the globalization in the field of communication and information, the advancement of science and technology and lifestyles brought fundamental social changes in the community that influence the values and behavior of children and causes an increase in the number of crimes.

Children who commit a crime will be regulated based on Law No. 11 of 2012 concerning the Juvenile Court System. This condition is very alarming because many children have to deal with the justice system and sanctioned. Sanctioning children as the perpetrators of criminal acts will be different from adults. In sanctioning children, we need to look for their future like in physical and mental health. To protect children from the influence of the process of the criminal justice system that can harm children, then the thought of public or the

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<sup>5</sup> Singgih D Gunarsa, *Dasar dan Teori Perkembangan Anak*, Jakarta, Gunung Mulia, 1986, p.23.

experts in law and humanity arise to make another alternative that is considered better for children, namely through diversion.<sup>6</sup>

Cases of sexual abuse committed by minors become a phenomenon and take attention in many circles. Sexual abuse cases become more complex ranging from the factors of the perpetrators until the consequences caused to the victim. Penalties against perpetrators of sexual abuse are also distinguished between minors and adults. Based on the background above, the author interested in conducting a study entitled "**Sentencing for minors who committed sexual abuse in Kebumen Regency**".

### **B. Research Problem**

Based on the background above, the researcher formulates the research problem as follows:

1. What factors do stimulate minors to do sexual abuse?
2. What are the consideration of the judges in imposing punishment against the minor perpetrators?

### **C. Objectives of Research**

1. To find out the factors that stimulate minors to do sexual abuse.
2. To find out the consideration of the judges sentencing the perpetrators.

### **D. Benefits of Research**

1. Theoretical Benefit

This study provide benefits in the form of insight and knowledge about factors that stimulate minors to do sexual abuse and the

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<sup>6</sup> Claudia Carolina Indra Putri, "Juridical Review of Restorative Justice in the Juvenile Justice System through Diversion". *Indonesian Journal of Criminal Law Studies* 4(1): 1-9. 2019. p. 3

consideration of the judges in the sentencing of the perpetrators in Kebumen Regency.

## 2. Practical Benefit

The results of this study are expected to provide useful benefits for the society and readers regarding sexual abuse that is committed by minors so, from this research expected the judges will give the right sentence to make a deterrent effect and to prevent the rise of sexual abuse in Kebumen Regency.