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Factors Causing Incest with Child Victims in North Bengkulu Regency

Syalsa Nurafifah YultiraFakultas Hukum, Universitas Bengkulu, syalsa223nurafifah@gmail.comCorresponding Author: syalsa223nurafifah@gmail.com¹

Abstract: Incest is defined as sexual intercourse between partners who are closely related, such as father and daughter, mother and son or between biological family members. Incest is referred to as a “blood desecration” event because it can give birth to children who are physically and mentally disabled. This problem requires serious attention from various parties, so it is necessary to conduct an in-depth study related to the factors that cause incest with child victims in North Bengkulu Regency and efforts to overcome them. This study aims to determine and describe the factors that cause incest with child victims in North Bengkulu Regency, as well as to determine and describe how the countermeasures are carried out. The research method used is descriptive empirical legal research. The research was conducted at RSJK Soeprpto Bengkulu Province, North Bengkulu Police, Argamakmur District Court, North Bengkulu District Attorney and Argamakmur Class IIB Correctional Institution. The results showed that the factors causing incest in North Bengkulu Regency include individual factors, emotional factors, situation or opportunity factors and low education factors. Efforts to overcome incest that have been made apply preventive efforts and repressive efforts. Preventive efforts include mental health support for parents, counseling to the community, and supervision of community behavior. Meanwhile, repressive efforts are carried out by law enforcement officials, namely the police, prosecutors, and courts by imposing strict sanctions in the form of prison sentences at the Argamakmur Class IIB Correctional Institution to provide a deterrent effect for the perpetrators.

Keyword: Causal Factors, Incest, Countermeasures, North Bengkulu.

INTRODUCTION

Sexual violence against children is an increasingly concerning phenomenon that occurs across various layers of society. One of the most shocking forms of sexual violence is incest, which is a sexual relationship conducted by individuals who have a close family bond. The victims are not only girls; even boys have the potential to become victims. Incest crime in the Indonesian dictionary is a sexual relationship between closely related individuals that is considered to violate customs, laws, and religion. (Kemenristek RI, 2024) Incest not only violates social norms and laws but also has a detrimental impact on the physical, psychological, and social development of the victims. Incest cases often go unreported due to the pressure,

threats, or shame experienced by the victims and their families. This results in many cases going unreported and being difficult to uncover by law enforcement agencies.

Incest is a sexual relationship conducted by partners who have a strong family bond, such as a father with his daughter, a mother with her son, or between blood relatives. Incest can occur consensually, which can then lead to marriage, and there are cases where it happens forcibly, which is more accurately referred to as rape. According to data from Komnas Perempuan, incest cases continue to rise each year and have become one of the most common forms of sexual violence occurring within families. In the annual report by Komnas Perempuan, it was mentioned that out of 2,363 cases of sexual violence against women in the personal realm recorded by service institutions in 2022, incest ranked third with 433 cases found, or about 18% of the total cases. (Komnas Perempuan, 2022)

Incest falls under the category of domestic violence, which includes forms of violence and sexual abuse. Forms of incest are not limited to physical sexual violence, but also include psychological and mental aspects such as seduction and enticement. (Vifi Swarianata, et al., 2016) This definition includes several categories of prohibited sexual relationships, namely (a) parental incest, relationships between parents and children; (b) sibling incest, relationships between siblings; and (c) family incest, sexual relationships with close relatives such as uncles, aunts, or grandparents. (Komnas Perempuan, 2021)

Children are part of the smallest social group known as the family. Members of that small community group must provide opportunities for children to learn proper behavior that can be beneficial for their growth and development. Therefore, we can say that a child is a strategic individual in fulfilling the duties for the future of the nation. However, despite having these duties, a child still needs parental guidance to nurture, educate, and direct them in their growth toward maturity. (Siska Lis Sulistiani, 2015)

In dangerous situations, children have the first right to receive help, assistance, and protection. Children who experience behavioral problems are provided with services and care aimed at helping them overcome obstacles during their growth and development. (Maidin Gultom, 2010:49)

As for the rights and obligations of children that must be fulfilled, children's rights are found in Article 66 of Law No. 39 of 1999 concerning Human Rights and in Articles 4 - 18 of Law No. 23 of 2002 concerning Child Protection. Meanwhile, children's obligations are regulated in Article 81 of Law No. 23 of 2002 concerning Child Protection.

A child who becomes a victim of a crime, particularly rape, has various rights and obligations that must be fulfilled according to their age-related abilities. These rights and obligations are stated by Arief Gosita as follows (Arief Gosita, 2009:58) :

a. The Rights of Children Who Become Victims of Criminal Acts

1. Receiving physical assistance (first aid, clothing, shelter, etc.).
2. Receiving assistance in problem resolution (reporting, legal advice, and defense).
3. Regaining ownership rights.
4. Receiving guidance and rehabilitation.
5. Refusing to be a witness if it endangers oneself.
6. Receiving protection from threats by the perpetrator if reporting or being a witness.
7. Receiving compensation (restitution, compensation) from the perpetrator (according to their ability) or other relevant parties for the sake of justice and the individual's welfare.
8. Refusing compensation for the common good.
9. Using legal remedies (rechtsmiddelen).

b. Children's Obligations as Victims of Criminal Acts

1. Not creating victims alone by seeking revenge (taking the law into one's own hands).

2. Participating with the community to prevent the creation of more victims.
3. Preventing the destruction of the perpetrator, whether by themselves or by others.
4. Being willing to be rehabilitated or rehabilitating oneself to avoid becoming a victim again.
5. Not demanding compensation that exceeds the perpetrator's ability.
6. Giving the perpetrator the opportunity to compensate the victim according to their ability (installment payments/reward services).
7. Being a witness if it does not endanger oneself and there is a guaranty of safety for oneself.

The factors causing incest are very complex and cannot be simplified into just one aspect. Based on the research conducted, the factors contributing to the occurrence of incest include individual factors, emotional factors, situational or opportunistic factors, and low levels of education. Individual factors encompass the psychological aspects of the perpetrator, who may have deviant tendencies or personality disorders. Emotional factors are often related to imbalances within the family, such as lack of parental attention, domestic violence, or negative environmental influences. Situational or opportunistic factors refer to conditions that allow incest to occur, such as living in the same house without supervision, easy access to the victim, and weak social control in the surrounding environment. Meanwhile, low levels of education are often related to a lack of understanding of social norms, laws, and the consequences of incestuous actions themselves.

The consequences of incest for victims, in general, in cases of sexual violence against women and children, are that the victims will experience short-term effects and long-term effects. (Jalil B, 2022:367) Short-term impacts are usually experienced moments to several days after the incident. These short-term impacts include the physical aspects of the victim, such as disturbances to the reproductive organs (infections, hymen damage, tears, etc.) and injuries to other parts of the body due to resistance or physical abuse. The long-term impact can take the form of negative attitudes or perceptions toward men or toward sex.

In addition, the impact of incest also has medical implications. Incest has significant reasons that should be considered from a medical health perspective. A poor genetic history will often emerge when born from parents who are closely related. Additionally, many genetic diseases have a higher likelihood of appearing in children born from incest cases, such as schizophrenia, leukodystrophy, idiocy, and hemophilia.

Based on the prevailing laws and regulations in Indonesia, incest is a criminal offense regulated by various laws, such as Article 294 paragraph (1) of the Criminal Code (KUHP), Article 81 in conjunction with Article 76D of Law Number 35 of 2014 concerning Child Protection, as well as Articles 4, 5, and 6 of Law Number 12 of 2022 concerning Sexual Violence Crimes (UU TPKS). The regulation regarding incest in the latest Indonesian positive law is found in Law Number 1 of 2023 concerning the New Criminal Code (KUHP baru), which will come into effect in 2026. In this Penal Code, incest is not always explicitly mentioned as a separate term, but is regulated in several provisions related to blood relations, morality, and the abuse of family relationships.

One of its provisions is found in Article 418 of the 2023 Penal Code, which essentially regulates that anyone who commits lewd acts against a child who has a familial relationship or is under the perpetrator's authority, including incestuous relationships, shall be punished with imprisonment. Additionally, Article 473 paragraph (9) of the 2023 Penal Code regulates sexual intercourse with a child by a parent, guardian, or party who has a position of authority within the family, with a heavier penalty due to the special relationship. On the other hand, the new Penal Code also regulates prohibited sexual relationships within the family thru moral provisions, such as Articles 411 to 413, which include prohibitions on certain relationships,

including those with blood relations. However, in some conditions, enforcement is complaint-based, meaning a complaint from the entitled party is required for legal processing.

In an effort to tackle incest cases, there are two main approaches used, namely the preventive and repressive approaches. According to Barda Nawawi Arief, non-penal crime prevention, or what is commonly referred to as efforts made outside of criminal law, is a form of prevention. This non-penal prevention is preventive in nature, meaning it involves measures taken to prevent criminal acts before they occur. (Barda Nawawi Arief, 2011:72) In this study, crime prevention measures include education about reproductive health and the dangers of sexual violence, strengthening the role of families in educating children, and raising public awareness about the importance of child protection. In addition, the role of educational institutions, social organizations, and the government is very important in providing the community with an understanding of the negative impacts of incest and how to prevent it.

On the other hand, according to Barda Nawawi Arif, penal crime prevention, commonly referred to as prevention thru the criminal justice system, is an effort that emphasizes a repressive nature, where the actions taken occur after the crime has happened, with sanctions in the form of imposing penalties according to the nature of the crime committed, extending to the stages of guidance and even rehabilitation. (Barda Nawawi Arief, 2011:46)

Thus, the regulation of incest in the latest Criminal Code does not stand as a single article, but is spread across several articles that fundamentally emphasize the protection of children and the prohibition of the abuse of family relationships or power in the context of lewd acts or sexual intercourse. The punishment for incest offenders can include imprisonment with severe penalties, especially if the offender is a relative of the victim or has power over the victim.

However, despite law enforcement efforts, there are still various challenges in handling incest cases. One of the biggest challenges is the low reporting rate by the victims or their families. Fear, pressure from family, and social stigma often make victims reluctant to report their cases to the authorities. Additionally, in some cases, families choose to resolve these issues amicably without involving the law, which ultimately results in the perpetrators not receiving appropriate sanctions and the victims not receiving adequate protection. (Firdaus Efendi, 2024)

In the context of criminology, according to P. Topinard (1830-1911), a French anthropologist, he was the first to introduce the term criminology. Criminology comes from the Greek language, consisting of two syllables: "crimen," which means crime, and "logos," which means science. Therefore, criminology is defined as a science that studies everything related to crime. (Topo Santoso & Eva Achjani Zulfa, 2014:9) The theories of crime causation in criminology used in this research are the criminal psychology theory with a cognitive approach and the psychoanalytic approach, as well as the social control theory. These theories can be used to analyze the causes of incest and the factors influencing the behavior of the perpetrators. (J.E. Sahetapy, 1992:20) Criminal psychology theory explains that psychological factors and the personality of the perpetrator play an important role in deviant behavior. (Andi Thahir, 2016:2) Meanwhile, the social control theory states that a person is likely to commit criminal acts if social control in society weakens. (Yesmil Anwar & Adang, 2013:101)

This study aims to identify the factors causing incest in North Bengkulu Regency and evaluate the effectiveness of its mitigation strategies. By understanding the root of the problem in depth, this research is expected to provide more comprehensive recommendations in handling incest cases, both in terms of prevention, law enforcement, and victim rehabilitation. Identifying this issue is crucial for formulating more effective policies to create a safe environment for children and prevent the recurrence of incest cases in the future.

METHOD

This research uses an empirical legal approach, which conceptualizes law as a social phenomenon that can be observed in real life. The empirical legal research method is a research method that obtains data from primary sources, namely data obtained directly from the community thru field research. (Suratman & Philips Dillah, 2012:53) The approach used in this research is a non-doctrinal approach. This approach is an empirical study aimed at understanding how law functions in society and how law influences and is influenced by social factors. (Bambang Sunggono, 1997:121) Therefore, this research relies on interview methods with various parties involved in the incest case in North Bengkulu Regency, including the perpetrators, law enforcement officers, and experts competent in the fields of criminal psychology and criminal law.

The population in this study includes all perpetrators of incest crimes in North Bengkulu Regency, law enforcement officers handling the cases, as well as experts in the fields of psychology and criminal law. The sample for this study was determined using the purposive sampling method, which is a sampling technique based on specific considerations to obtain data relevant to the research. (Zainudin Ali, 2013:175)

The data sources in this research are divided into two, namely primary data and secondary data. Primary data is obtained directly thru interviews with informants, while secondary data is obtained thru literature studies that include legislation, scientific journals, previous research reports, and other official documents. (Hilman Hadikusuma, 1995:65)

The data collection methods used in this research consist of two main techniques, namely document study and interviews. The document study was conducted by reviewing various relevant legal materials, such as laws, court decisions, and literature related to incest cases. Meanwhile, structured interviews were conducted with informants to obtain in-depth information regarding the causes of incest and the efforts to address it in North Bengkulu Regency.

The data obtained in this study were analyzed using qualitative analysis methods. This technique aims to systematically describe and interpret the research results, thereby gaining a deep understanding of the phenomenon of incest and its coping strategies. (Yesmil Anwar & Adang, 2013:101) Inductive and deductive approaches are used in data analysis, where the inductive approach functions to draw conclusions from specific data toward a more general understanding, while the deductive approach is used to test existing theories against data obtained from field research. (Topo Santoso & Eva Achjani Zulfa, 2014:87)

RESULTS AND DISCUSSION

Causing Incest with Child Victims in North Bengkulu Regency

A. Individual Factors

Individual factors refer to personality disorders and psychological backgrounds or past traumas that influence someone to engage in deviant sexual behavior. Personality disorders are based on the strength of the ego that provides self-identity, leading to imbalances that ultimately result in the choice between negative or positive actions in a person. is one of the main causes in the cases of incest that occur in North Bengkulu Regency.

Based on interviews with three incest perpetrators currently serving sentences at the Class IIB Argamakmur Correctional Facility, it was found that they committed the incestuous acts due to the emergence of lustful desires, which made them unable to control their sexual urges to engage in intimate relations with their biological children. The psychological background or past trauma also influences the perpetrators to commit incest because they were treated similarly in their childhood. (Yesmil Anwar & Adang, 2013:101)

Cognitive theory explains that perpetrators have deviant thought patterns and cognitive distortions that lead them to consider incest as an acceptable behavior, allowing them to

continue committing violence without feeling guilty due to past trauma they have experienced, thus justifying such actions.

B. Emotional Factors

Emotional factors are related to feelings, moods, and a person's state that influence behavior, decisions, and ways of interacting with others. The perpetrator may have difficulty controlling emotions such as anger or frustration and may express these emotions inappropriately. Disharmony within the family is the main trigger for incest, such as a father seeing his daughter as the only one who can be used to channel his emotions. Feelings of loneliness or lack of support from others, in this case, a partner, can drive someone to seek comfort or intimacy in the wrong way. Interview results show that some perpetrators experienced traumatic childhoods, such as emotional neglect or domestic violence.

In the cognitive theory approach, emotional factors such as loneliness due to divorce also play a significant role in underlining cognitive distortion behaviors. Uncontrolled or unexpressed emotions often drive perpetrators to engage in negative behaviors to cope with those feelings and justify their actions by committing sexual deviations solely due to emotions or frustration without considering the consequences.

Meanwhile, in the psychoanalytic theory approach in psychology, it explains that a weak personality structure, particularly in the control of the id and superego, can make someone prone to committing criminal acts. (Andi Thahir, 2016:67) Emotional factors also include the tendency of some perpetrators to experience psychological disorders, such as depression or an inability to control sexual impulses due to a lack of sexual education in the family environment.

C. Situational and Opportunistic Factors

Incest cases that occur in North Bengkulu Regency generally happen in environments that allow the perpetrator full access to the victim. In the past three years, all reported incest cases involved perpetrators living in the same house as the victims. The closed living environment and minimal social supervision also facilitate the perpetrator in carrying out their actions without being detected.

From interviews with law enforcement officials, it was found that in several cases, the victims were in a very vulnerable position because they had no one else to protect them. For example, in one case, the victim was a child raised by their biological father after he divorced his wife, where the perpetrator used this situation to create a psychological dependency in the victim, making it difficult for the victim to report the incident they experienced. In fact, they feel they have control over the victim, so the child feels afraid to refuse and report due to threats. In addition, the presence of inducements or temptations makes it even easier for the perpetrator to commit such acts.

D. Factors of Low Education

Based on the results of interviews with investigators from the Women's and Children's Service Unit (PPA) of the Bengkulu Utara Police, it was found that the majority of incest perpetrators have low levels of education, which leads them to not understand legal boundaries and social norms. This lack of understanding causes them not to comprehend the psychological impact experienced by the victims as well as the punishment awaiting them if this act is revealed.

The social control theory states that individuals with low levels of education tend to have weak attachments to social norms and laws, making them more likely to engage in deviance. (1992:21) Moreover, low levels of education also make the perpetrators less aware of the long-term impacts their actions have on the victims, including psychological trauma

and the victims' inability to lead a healthy social life in the future. Minimal sexual education also contributes to the occurrence of incest. Most perpetrators do not have a proper understanding of boundaries in family relationships, nor do they understand the legal consequences of their actions.

Efforts to Combat Incest with Child Victims in North Bengkulu Regency

Addressing incest involving child victims in North Bengkulu Regency is carried out with two main approaches, namely non-penal (preventive) efforts and penal (repressive) efforts. These approaches are implemented to reduce the incidence of incest and provide protection for the victims as well as appropriate punishment for the perpetrators.

A. Non-Penal Measures (Preventive)

Preventive efforts aim to prevent incest from occurring before the crime happens. This effort involves various agencies, including the police, prosecutors, clinical psychologists, and the community. Legal counseling and sexual education are among the main steps in preventing incest. Counseling is conducted at various levels of society, including schools, religious communities, and villages with high rates of incest occurrences. This program involves legal professionals and psychologists to provide understanding about the dangers of incest and protective measures for children. Prosecutors also participate in educational programs for children in schools. Therefore, the prosecutors established the "Prosecutor Goes to School" program in collaboration with child protection agencies such as the Indonesian Child Protection Commission (KPAI), which is conducted twice a year.

The community and families are expected to report any suspicious behavior related to incest to the authorities. The police also have the "SICEBUL" (Police Prevent Indecency) service to monitor children at risk of becoming victims.

B. Penal Measures (Repressive)

Repressive efforts aim to impose strict legal sanctions on incest perpetrators. Based on the concept of the "Double Track System," there are two types of sanctions applied, namely action sanctions (maatregel, treatment) and criminal sanctions (punishment). The police are responsible for the investigation, evidence collection, and the arrest of suspects who are alleged to have committed incest. The Women's and Children's Service Unit (PPA) of the Bengkulu Utara Police has a special team that handles incest cases with an evidence-based approach and the involvement of psychologists in the examination of victims.

In addition, prosecutors also play an important role in ensuring that incest perpetrators receive the maximum charges according to the applicable law. In some cases, the prosecutor demands a sentence of up to 20 years in prison to serve as a deterrent. Meanwhile, the judge at the Argamakmur District Court imposed a sentence based on strong evidence and considered the psychological impact experienced by the victim. The sentences imposed on incest perpetrators vary, with an average verdict of over 10 years in prison.

In some cases, incest perpetrators with psychological disorders are required to undergo mental rehabilitation at the Class IIB Argamakmur Correctional Institution before returning to society. This rehabilitation program aims to reduce the risk of recidivism and ensure that the perpetrator does not repeat their actions after being released. The local government collaborates with non-governmental organizations to provide temporary shelters for incest victims. This safe house serves as a rehabilitation center for victims before they return to normal life.

Efforts to combat incest in North Bengkulu Regency are carried out thru a combination of preventive and repressive strategies. Preventive efforts include counseling, legal education, and supervision of at-risk children. Meanwhile, repressive efforts are

implemented thru strict law enforcement, rehabilitation for victims, and the imposition of severe penalties for perpetrators. With the synergy between law enforcement, social institutions, and the community, it is hoped that the incidence of incest can be reduced, and the protection of children can be enhanced.

CONCLUSION

Based on the research conducted, it was found that the main factors causing incest with child victims in North Bengkulu Regency include individual factors, emotional factors, situational or opportunity factors, and low education factors. Individual factors include the characteristics of the perpetrator, such as low self-control and a history of domestic violence. Emotional factors are often triggered by disharmony in the household, loneliness, and economic pressure. Meanwhile, situational factors indicate that incest is more likely to occur in environments with minimal supervision. Low education also contributes to the perpetrators' ignorance of social norms and laws that prohibit incest.

In the effort to address the issue, a non-penal (preventive) approach has been implemented thru outreach in various layers of society, from families to schools, as well as strict supervision of at-risk children. Programs such as "Prosecutor Goes to School" and "SICEBUL" (Police Prevent Indecency) have become the main strategies in raising legal awareness and preventing incest.

On the other hand, penal (repressive) efforts involve the police in investigating and arresting the perpetrators, the prosecution in ensuring maximum legal charges, and the judges in delivering firm verdicts against the perpetrators. The punishment given to incest perpetrators aims to provide a deterrent effect and ensure protection for the victims.

The application of the results of this research can be used to strengthen child protection policies by increasing the effectiveness of legal education programs, expanding access to victim rehabilitation services, and optimizing the role of law enforcement in handling incest cases. In addition, the proposed recommendations include increasing the involvement of psychologists in the victim rehabilitation process, enhancing legal outreach in remote areas, and strengthening regulations to prevent similar cases in the future. With the synergy between various parties, it is hoped that incest incidents can be reduced, and children's rights can be optimally protected.

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