



## Legal Protection Victims of Victims of Handphone Release Against Children based on Unus Testis Nullus Testis in the Era of Pandemi Covid-19 in Indonesia

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### **Abstract**

The findings of this study provide legal protection that victims of confiscation of children using cellphones have been regulated as a criminal act. Preventive legal protection measures against victims of confiscation by, among others (1) the need for a complaint mechanism against victims of confiscation of cellphones against children and the rights of victims of confiscation; (2) regulating criminal and civil procedural procedures which are related to on another; and (3) provision of services to complement the roles that other law enforcement agencies don't currently have.

**Keywords:** *Legal Protection; Victims of Plunder; Children*

### **Introduction**

The conception of legal protection for children[1] covers a broad scope in the sense that child legal protection isn't only about the protection of all rights and interests which can ensure their growth and development properly, both spiritually, physically and socially, and child protection as well concerns the younger generation. During the Covid-19 Pandemic, when children were mostly at *home doing work / (work from home)* from home activities or learning activities at home, they always used (*cellphones*) to support learning activities at home. This has a negative impact on behaviors and actions that will lead to forms of violence, crime, and violations, such as the emergence of victims of confiscation of goods (*cellphones*) against children.[2]

The big question is whether the seizing activity is a form of crime and crime and fulfills criminal elements.[3] When looking at the behavior of expropriation, it is of course a form of violence and crime both physically and psychologically. Moreover, the victim of confiscation of goods (*cellphone*) against a child is a form and immoral act, because it would violate children's human rights. Thus it is necessary to have preventive and repressive legal protection in the form of victims of confiscation of goods (*cellphones*) against children, so that it will maintain a human rights justice and mutually in acts of violence, as well as acts of *restorative justice*.[4]

As for what becomes a formulation that can be taken from this research is First, how is the responsibility of victims of *cell phone* grabbing to children based on the *unus testis nullus testis*. Second, what is the form of legal protection for victims of confiscation of *cellphones* against children based on the *unus testis nullus testis*. [5]

By looking at the explanation above, the research originality that can be presented includes: First [6] the position of children as victims in Indonesia based on the Criminal Code is not given enough attention and is too focused on criminals. Inhibiting factors in carrying out legal protection for victims (children) are the evidence, the age of the child, the trauma of the child. If we look at the aspect of legal protection for victims of child abuse, the researcher considers that to have similarities, however, what becomes a comparison is looking at the forms of legal action and legal behavior against victims of child deprivation in the study of preventive and repressive legal protection.

Second [7] is to examine the form of legal protection for children as victims of cyber crime through penal and non-penal approaches. The number of cyber crimes that result in children being victims is increasing every year. The results showed that to tackle cyber crimes that result in children being victims, it's necessary to protect them in the form of penal and non-penal policies. The penal policy by criminalizing various forms of crime into a criminal act by offering the concept of compensation and special minimum punishment. [8] The non-penal policy offered is to restrict internet access to children.

### **Research Method**

The type of research used in this research is normative legal research. [9]

### **Research Results and Discussion**

#### **Accountability of Victims of Confiscation of Mobile Phones to Children Based on the *Unus Testis Nullus Testis***

Based on certain cases obtained from field data, it can be seen that the modus operandi of the perpetrators of the crime of confiscating goods (*cellphones*) with violence in certain jurisdictions varies. This is because the mode used varies depending on the location that will be used as the target to carry out the action. The modus operandi used by the perpetrator to carry out the criminal act of confiscating goods (*cellphones*) with violence, among others, by carrying out tools or objects or sharp weapons to threaten the victim and the perpetrator will not be reckless by injuring the victim if the victim resisted.

The modus operandi used by the perpetrator is well planned and neatly structured, because all actors have their respective roles and duties, making it easier for the perpetrators to escape. The forms of deprivation are of several kinds, namely physical deprivation, deprivation, due to changes in pressure. [10] When looking at the modus operandi, the researcher argues that seizure is an act of violence both physically and psychologically, and therefore there is a need for a criminal law regulation in accordance with legal needs through wise and prudent criminal law education without prioritizing the penal and judicial stages (*ultimum remedium*) as the last alternative in enforcing the crime of confiscation, especially the protection of victims of confiscation of goods (*cellphones*) against children based on the principles of the *unus testis nullus testis*.

In this case the subject of legal liability [11] is identical to the subject of legal obligation. In modern theory, there are two types of responsibility, namely responsibility based on mistakes and

absolute responsibility. As mentioned elsewhere, the legal injunction[12] relates a sanction to the actions of an individual based on the consequences of this action on other individuals. If the act has an effect which is considered to be detrimental by the legislator, and there is an external relationship between the action and the result. There is no relation between the mental state of the doer and the result of his actions is important. This type of responsibility is called absolute responsibility. A certain mental state of the criminal, namely that he anticipates or wills a harmful result, is an element of offense. This element is indicated by the term "error".[13]

### **Form of Legal Protection for Victims of Confiscation of *Mobile Phones* Against Children Based on *Unus Testis Nullus Testis***

At the level of legal protection, victims of confiscation of goods (*cellphones*) against children are meant that every time a crime occurs, it's certain that it will cause harm to the victim. Victims of crime must bear the losses due to both material and immaterial crimes.[14] However, in the settlement of criminal cases, it was found that many crime victims lacked adequate legal protection.

One form of protection for crime victims and it's the right of a person who is a victim of a criminal act is to get compensation and restitution. However, based on observations, it's very rare for victims of criminal acts to receive compensation. The Special Human Rights Courts for the Cases of East Timor, Tanjung Priok and Abepura haven't yet been able to practice providing compensation, restitution and rehabilitation to victims of serious human rights violations because the arrangements regarding compensation, restitution and rehabilitation are unclear.[15]

### ***Closing***

It should be noted that plunder is one of the legal acts that is not in accordance with the legal norms and the norms of decency. At the implementation level, for victims of confiscation of goods (*cellphones*) from children, of course there must be guarantees of legal protection. This is intended to maintain children's trust through physical and psychological activities during the Covid-19 Pandemic. Of course, protection cannot be directed to preventive measures alone, however moral actions that lead to certain legal sanctions, such as through negotiation and mediation approaches. The final action will be carried out as a criminal law action through the principle of *Ultimum Remedium*.

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