

Implementation Of Special Protection For Children As Victims Of Sexual Violence In The D.I. Yogyakarta Region

Mita Sri Rejeki M¹, Jeanne Darc N Manik², Rio Armanda Agustian³

^{1,2,3} Fakultas Hukum, Universitas Bangka Belitung

Received ; June 29, 2024

Revised ; July 17, 2024

Accepted: July 22, 2024

Published: July 27, 2024

Corresponding Author:

Author Name*:
Mita Sri Rejeki M

Email*: mhyt.sd@gmail.com

Abstrak: *The younger generation under the age of 18, including those who are still in the womb, is categorized as children. They are the successors of the nation's ideals and the foundation of hope for the nation's progress in the future, so they need to get protection and guidance in order to contribute optimally to national development. Children, in accordance with Law No. 35 of 2014 Article 1 number 2, are entitled to protection. This protection aims to ensure that they can live, grow, develop, and contribute optimally in accordance with human dignity, as well as avoid violence and discrimination. Behind these rights, children have limitations in protecting themselves from various dangers that can interfere with their mental, physical, and social health, as well as their lives as a whole. Therefore, they need help and support from others to ensure their safety and well-being. The state, both through the central and local governments, as well as related institutions, is required to provide Special Protection to children. This protection is provided in certain situations and conditions to ensure a sense of security for children from various threats that can endanger their growth and development. Ironically, despite various regulations and protection efforts, the rights of many children are still violated. They are victims of various forms of violence, exploitation, mistreatment, discrimination, and even inhuman actions. One of the rampant occurrences is sexual violence against children. Worse, the impact of sexual violence on children does not only depend on the type, but also how often they experience it. The more often, the greater the trauma suffered and the longer the recovery..*

Keywords : *Children, Protection, Criminal Law, Sexual Abuse, Special Protection*

INTRODUCTION

A child is someone who is not yet 18 years old, including children still in the womb.¹ Children who are a component of the nation's future generation lie in the hands of youth as agents of

¹ Law Number 35 Year 2014 on Child Protection, Article 1 Number 1.

change and development..² Therefore, sustainable development is important to ensure the survival, growth, and development of children holistically, as well as to protect them from dangers and threats.

Arif Gosita revealed that children must be protected and ensured that children are protected from all forms of victimization, both direct and indirect, by anyone, both individuals and groups, private and government organizations.³ A child has the right to be protected as stated in Law No. 35 of 2014 Article 1 point 2 Child protection is all activities to ensure and protect their rights so that they can live, grow, develop, and participate optimally in accordance with the dignity of humanity, and receive protection from violence and discrimination.

Children are vulnerable to various forms of exploitation and abuse that can harm their mental, physical and social health in various aspects of life..⁴ Children need the assistance of others to ensure their safety given their situation and condition. Providing Special Protection to children is a duty and responsibility that must be carried out by the central government, local governments, and other state institutions.⁵ In dangerous situations and conditions, children are entitled to special protection to ensure their sense of security and smooth development.⁶ Special Protection to children is regulated in Article 59 paragraph (2) of Law No. 35 of 2014 concerning Child Protection is given to:

- a. Children in emergency situations;
- b. Children in conflict with the law;
- c. Children from minority and isolated groups;
- d. Economically and/or sexually exploited children;
- e. Children who are victims of abuse of narcotics, alcohol, psychotropic substances, and other addictive substances;
- f. Child victims of pornography;
- g. Children with HIV/AIDS;
- h. Child victims of abduction, sale, and/or trafficking;
- i. Child victims of physical and/or psychological abuse;
- j. Child victims of sexual crimes;
- k. Child victims of terrorism networks;
- l. Children with disabilities;
- m. Child victims of abuse and neglect;
- n. Children with deviant social behavior; and

² Ediwarman, *Peradilan Anak di Persimpangan Jalan dalam Prespektif Victimology (Belajar dari Kasus Raju)*, Jurnal Mahkamah, Fakultas Hukum Universitas Lancakuning, Vol. 18 No. 1, 2006, hlm. 8.

³ Arif Gosita, *Masalah Perlindungan Anak*, Bhuana Ilmu Populer, Jakarta, 2009, hlm. 24

⁴ Candra Hayatul Iman, *Kebijakan Hukum Pidana Perlindungan Anak Dalam Pembaruan Sistem Peradilan Pidana Anak di Indonesia*, Era Hukum, Jurnal Hukum dan Peradilan, Vol. 2 No. 3, 2013, hlm. 9.

⁵ Law Number 35/2014 on Child Protection, Article 59 Paragraph (1).

⁶ Law No. 31/2014 on Witness and Victim Protection, Article 1 Point 15.

- o. Children who are victims of stigmatization from labeling related to their parents' condition.

In reality, there are still many children whose rights are violated, and become victims of various forms of violence, exploitation, mistreatment, discrimination and even inhumane acts against children. One form of criminal offense that has recently occurred in the community is sexual violence against children.⁷ Sexual violence has now become a serious and concerning social problem. This crime is not only experienced by adults, but many victims are also children. The number of sexual violence against children may be higher, but many victims do not have the courage to report to child protection agencies or the authorities. The reasons for this are, among others, the threats they receive and the fear of stigmatization and ridicule from the community towards them as a tainted person.

In Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, Article 59 paragraph (2) states that child victims of sexual violence are included in children who need special protection. In general, victims of sexual harassment will be exposed to psychological pressures such as fear, shame, stress and some even want to commit suicide because they are unable to recover from the depression they experience.⁸ Physically and psychologically, they are helpless in the face of adult violence. The effects of child sexual abuse vary depending on its type and intensity.⁹ The more often children receive sexual violence, the greater the trauma that arises and requires a long recovery time. Therefore, parents must play an active role in supervising and educating children, children must be given education according to their age so that children know the limits of themselves. Wounds caused by physical activity may be healed in a short period of time, but wounds caused by psychological trauma will be very difficult to heal.

The Indonesian State's attention to children and the handling of children's problems is very clear. This provision is based on the 1945 Constitution, which is the highest constitution in Indonesia. The creation of new regulations is a form of the government's seriousness about this issue, including Law No. 35 of 2014 which regulates the amendment of the previous Child Protection Law which emphasizes the need for additional criminal penalties and applies large fines for perpetrators of sexual crimes against children as a form of additional punishment, and encourages concrete steps to restore the physical, psychological and social well-being of children.¹⁰ Between Article 59 and Article 60, 1 (one) article is inserted, namely Article 59A, which states:

⁷ https://id.wikipedia.org/wiki/Pelecehan_seksual_terhadap_anak, accessed on February 29, 2024.

⁸ Hadi Supeno, *Sekolah Bukan Tempat Aman bagi Anak*, Kompas, Jakarta, 2018, hlm. 7.

⁹ *Ibid*, hlm. 9.

¹⁰ Abintoro Prakoso, *Pembaharuan Sistem Peradilan Pidana Anak*, Aswaja Pressindo, Yogyakarta, 2016, hlm. 14.

Special protection for children as referred to in Article 59 paragraph (1) of Law Number 35 of 2014 concerning Child Protection is carried out through efforts:

1. Prompt treatment, including physical, psychological, and social treatment and/or rehabilitation, as well as prevention of disease and other health problems;
2. Psychosocial assistance during treatment until recovery;
3. Provision of social assistance for children who come from poor families;
4. Providing protection and assistance in every judicial process.

To compensate for the suffering caused by sexual violence, the government has issued regulations for children affected by sexual violence, which are regulated in the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2022 concerning Procedures for Settling Requests and Providing Restitution and Compensation to Victims of Crime. As a manifestation of this regulation, each region is authorized and responsible for providing facilities and services for victims of sexual violence. In its implementation, the state has facilitated the existence of the Witness and Victim Protection Agency (LPSK). Article 7A Paragraph (1) of Law No. 31/2014 on Witness and Victim Protection states that victims of criminal acts are entitled to restitution in the form of:

- a. Compensation for loss of wealth or income;
- b. Compensation for losses incurred as a result of suffering directly related to the criminal offense; and /or
- c. Reimbursement of medical and/or psychological treatment costs.

LPSK is an important actor that is part of the government's function to create truth and ensure fair law enforcement for witnesses and victims in the criminal justice process.¹¹ LPSK has the task of serving as an institution that provides assistance in applying for restitution to children as victims of violence. This is where the role of LPSK assistance is very influential in restoring the mental and losses borne by children who are affected by immoral acts.¹² However, in reality, assistance for child victims of sexual abuse is still inadequate. There are cases that have not received assistance or even the lack of willingness of victims to get their rights, especially restitution for the victims themselves.

Protection of victims of sexual violence must be strengthened and expanded to ensure that all victims, including girls, receive justice and redress. Law enforcement practices that favor the suspect, by providing more attention and protection, often lead to disappointment for victims.¹³ Seeing the problems of non-optimal legal protection for child victims of sexual violence in Indonesia, especially in Yogyakarta, the author is encouraged to conduct research on the regulation and implementation of legal protection for them. From the description of the problem

¹¹ Erly Pangestuti, *Peran Lembaga Perlindungan Saksi dan Korban Dalam Memberikan Perlindungan Hukum Terhadap Saksi dan Korban*, Yustitiabelen, Universitas Tulung Agung, Vol. 3 No.1, 2017, hlm. 5.

¹² Afisah Wardah Lubis, *Memahami Perkembangan Psikologi Anak Dalam Rangka Implementasi Perlindungan Anak*, Majalah Konvensi, Universitas Widya Mataram, Vol. 2 No. 1, 2023, hlm. 62.

¹³ Harrys Pratama Teguh, *Teori dan Praktek Perlindungan Anak dalam Hukum Pidana*, Andi Yogyakarta, Yogyakarta, 2018, hlm. 417.

above, a research problem entitled “IMPLEMENTATION OF SPECIAL PROTECTION FOR CHILDREN AS VICTIMS OF SEXUAL VIOLENCE IN THE D.I. YOGYAKARTA REGION” is examined.

METHOD

This research uses a normative juridical method, in which legal studies are carried out by examining library materials such as laws and regulations and related legal literature.¹⁴ The normative approach in this research focuses on an in-depth analysis of all regulations and legal materials related to the crime of sexual violence against children in Indonesia. In obtaining data, this study uses the literature method, where various written sources such as books, journals, and relevant scientific articles are studied and analyzed to obtain the necessary information. This research uses a qualitative descriptive analysis method, in which the data that has been analyzed is presented logically and comprehensively by describing the problem, describing the object of research systematically, and analyzing its parts based on problem identification

RESULTS AND DISCUSSION

a. Efforts to Implement Legal Protection Against Child Victims of Sexual Violence in the D.I Yogyakarta Region

The juridical provisions that protect children fall into two categories: protection in private law and protection in public law. Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection in Article 1 point 2 provides an understanding that child protection is a comprehensive effort to guarantee and safeguard children's rights, ensuring they can live, grow, develop, and contribute optimally in accordance with human dignity, and avoid violence and discrimination.

According to **Philipus M Hadjon**, Legal Protection signifies an obligation for certain parties to immediately provide all the resources needed by the protected subject to ensure the survival and continuity of the legal subject protected by law, so that its power is organized when determining political and economic policies, especially in terms of resource allocation, both at the individual and structural levels. Legal protection theory essentially focuses on the provision of services to society.

According to **Muchsin**, legal protection can be divided into two, namely:

1. Preventive Legal Protection

The government offers legal certainty to prevent legal irregularities through regulation. These regulations aim to reduce opportunities for irregularities and provide limits when carrying out obligations.

¹⁴ Bambang Sunggono, *Metode Penelitian Hukum*, PT. Raja Grafindo Persada, Jakarta, 2006, hlm. 111.

2. Repressive Legal Protection

Repressive legal protection is enforced as a last resort to resolve violations or disputes. Sanctions such as fines, imprisonment, and additional penalties are consequences that must be accepted by violators. When viewed from Muchsin's opinion regarding the division of differences in legal protection above, the legal protection studied by the author is included in repressive legal protection. Repressive efforts are carried out with the aim of restoring the balance that has been lost due to an event. In this study, legal protection in the form of special treatment does not include prevention, but existing protection efforts focus more on handling post-sexual violence, not on prevention. Law enforcement officials play an important role in helping children to protect themselves from harm. Article 59 Paragraph (1) of Law No. 35/2014 on Child Protection stipulates that the Government, Regional Governments, and other state institutions are obliged and responsible for providing special protection to children.

At Polda D.I. Yogyakarta, the Women and Children Services Unit (PPA) is tasked with handling cases involving women and children, which is part of the Directorate of General Criminal Investigation (Ditreskrim). Here are some examples of cases handled by the PPA Unit, cases of rape and sexual abuse against women and children, cases of trafficking and human smuggling involving women and children, cases of domestic violence experienced by women and children, cases of gambling and prostitution involving women and children, cases of illegal adoption that are not in accordance with applicable procedures, cases of spreading pornography and pornographic content involving women and children, cases of money laundering derived from the proceeds of crimes against women and children.

In addition to conducting examinations and investigations, the Women and Children's Services Unit (PPA) is also active in prevention efforts to protect children from various forms of violence and rights violations:¹⁵

1. Providing socialization in schools in the Yogyakarta Regional Police jurisdiction (elementary, junior high and senior high schools)
2. Sexual violence seminar

In handling cases of child victims of sexual violence, the Police PPA Unit cooperates and coordinates with the Yogyakarta Special Region Social Service to ensure comprehensive legal protection for victims. The Yogyakarta Special Region Social Service is under the auspices of the Indonesian Ministry of Social Affairs, a state institution with a clear vision and mission, taking responsibility for providing social welfare services to the community. This institution also has an important role in providing special legal protection for child victims of sexual violence. The D.I. Yogyakarta Social Service has a Technical Implementation Unit (UPT) called the Youth Social Protection and Rehabilitation Center. The Technical Implementation Unit, hereinafter abbreviated as UPT, is a Technical Implementation Unit within the Service. This institution is authorized as a technical implementer in organizing social protection, social rehabilitation, advocacy, reunification, and referral services for socially troubled youth and

¹⁵ Interview with Ms. Sri Mawar Indah, Head of the PPA Unit of Ditreskrim Polda D.I. Yogyakarta, December 5, 2023.

children in conflict with the law. The goal is to increase the percentage of fostered residents who are able to live normatively in family care.¹⁶

Within the Youth Social Protection and Rehabilitation Center, there is a Social Protection and Rehabilitation Section that is responsible for providing social protection and rehabilitation to socially troubled youth and children in conflict with the law.¹⁷ The rehabilitation activities include physical rehabilitation, mental rehabilitation, and social rehabilitation. Explained in Article 21 Paragraph (2) of the Regulation of the Governor of the Special Region of Yogyakarta Number 16 of 2020 concerning Amendments to the Regulation of the Governor of the Special Region of Yogyakarta Number 90 of 2018 concerning the Establishment, Organizational Structure, Duties, Functions, and Work Procedures of the Social Service Technical Implementation Unit, the Social Protection and Rehabilitation Section has an important role in:

- a. Preparation of Section work plan;
- b. Preparation of technical operations for social protection and rehabilitation;
- c. Information dissemination and socialization;
- d. Implementation of identification, assessment, and mapping of services;
- e. Implementation of social protection and rehabilitation;
- f. Implementation of mediation assistance in diversion hearings and prosecution hearings for children in conflict with the law;
- g. Implementation of social assistance and advocacy;
- h. Implementation of coordination, network development, and referral;
- i. Implementation of service capacity building;
- j. Implementation of consultation and education;
- k. Monitoring, evaluating and preparing reports on the activities of the Social Protection and Rehabilitation Section;
- l. Implementation of other tasks assigned by superiors in accordance with the duties and functions of the UPT.

In an interview conducted by the author with a social counselor in the Social Rehabilitation Division, he said that the Yogyakarta Social Service carries out its role in implementing programs to prevent and handle sexual violence against children. The Social Service is residual. Residual here means that the Social Service in carrying out its duties must be based on referrals

¹⁶ Regulation of the Governor of the Special Region of Yogyakarta Number 16 of 2020 on the Amendment to Regulation of the Governor of the Special Region of Yogyakarta Number 90 of 2018 on the Establishment, Organizational Structure, Duties, Functions, and Work Procedures of the Technical Implementation Unit of the Social Service, Article 2 Paragraph (1) Letter D.

¹⁷ Regulation of the Governor of the Special Region of Yogyakarta Number 16 of 2020 on the Amendment to Regulation of the Governor of the Special Region of Yogyakarta Number 90 of 2018 on the Establishment, Organizational Structure, Duties, Functions, and Work Procedures of the Technical Implementation Unit of the Social Service, Article 18 Letter C.

from the Yogyakarta Regional Police or the Yogyakarta District Court. After getting a referral from the Police and the Court, then the Social Service will collect data through an assessment of children affected by sexual violence which is then used to determine the needs that must be given to the child victims.¹⁸

In providing protection for children, the Social Service has Social Workers, which are professional activities to help individuals, groups, and develop the social capacity of the community to better carry out their roles and create a society that allows them to achieve their goals. Social Workers have a task, one of which is assistance Assistance is provided by going through a thorough psychological assessment or counseling with children first, both in terms of social, spiritual, and others.¹⁹ From the psychological assessment process, it will be known what the child needs and needs as a victim. Social workers have the principle of "be man behavior in social movement" which means humans with their social environment, meaning that intervening does not always lead to the child who is a victim but also intervenes with his family, because things experienced by children can occur due to lack of supervision of children by their parents.²⁰

During the protection process, children are kept in the Social Service center or orphanage. The Social Service Center is facilitated by the Yogyakarta Regional Government, which is then called the protected house.²¹ Social workers also provide psychologists to restore the trauma experienced by children. In an effort to restore the trauma experienced by this child, the Social Service uses empty chair therapy techniques. According to **Bhrownell**, empty chair therapy or Gestalt is a therapy intended for individuals who are powerless to express what is an obstacle in their lives, the inability of individuals to express unfinished problems and become unfinished business, by externalizing introjections or conflicts within themselves.²²

The empty chair technique is a powerful intervention, which can be used to help clients of all ages who have conflicts with a third person who is not present in the counseling process. Based on the results of interviews conducted by the author with the Social Counselor for Rehabilitation, he stated that the empty chair therapy technique can reduce feelings of guilt in adolescents at

¹⁸ Interview with Mr. Heru Cahyo Romadhon, Social Counselor of Social Rehabilitation Division of Social Service D.I. Yogyakarta, January 3, 2024

¹⁹ Interview with Mr. Heru Cahyo Romadhon, Social Counselor of Social Rehabilitation Division of Social Service D.I. Yogyakarta, January 3, 2024.

²⁰ Interview with Mr. Heru Cahyo Romadhon, Social Counselor of Social Rehabilitation Division of Social Service D.I. Yogyakarta, January 3, 2024.

²¹ Interview with Mr. Heru Cahyo Romadhon, Social Counselor of Social Rehabilitation Division of Social Service D.I. Yogyakarta, January 3, 2024.

²² Bhrownell at Trie Nurfadillah, *Terapi Gestalt Untuk Mengurangi Kemarahan Remaja*, Procedia, Universitas Muhammadiyah Malang, Vol. 9 No. 3, 2021, hlm. 2.

risk. Empty chair therapy can also overcome psychological problems in children who are traumatized by the criminal acts of sexual violence they experience.

One of the sexual violence based on data that has been obtained by the author is the crime of child abuse, this crime involves minors even though it should not be appropriate for adults to do to children. There are several forms of sexual violence that we often encounter in the community which include sodomy, rape, sexual harassment, and incest.²³

When associated with the theory of victimology, which sees victims categorized based on the identity of the perpetrator, the sexual violence studied by this author is included in the Familial Abuse category. What is included in familial abuse is incest, which is sexual violence when the perpetrator and victim are still related and are part of the main family. This includes someone who becomes a serial parent, such as a stepfather, domestic assistant, or person who is the guardian of the child. The process of incest can be due to parents who are too unrestrictive with their children, such as sleeping in the same bed, as well as similar and cramped housing conditions, allowing them to hide their relationship from others. Incest can be both accidental and carefully planned.

The increasing incidence of incest shows how potentially vulnerable children are to sexual violence. Moreover, the perpetrators are those closest to them who should protect them. Incest as a criminal offense occurs not only with the intention of the perpetrator, but also with opportunity. Sexual violence in the form of incest often occurs in the lower middle class.²⁴

According to the data obtained by the author in the case of the crime of sexual abuse committed by a father against his own biological child based on the Yogyakarta District Court Decision Number 68/Pid.Sus/2023/PN Yyk, the judge found the defendant guilty of repeated obscene acts against a child, whose suspect was none other than the victim's guardian. The prosecutor believes that the defendant is guilty based on the evidence presented of committing repeated sexual abuse of a child, where the perpetrator is the victim's parent, as regulated by the criminal penalties in Article 82 paragraph (2) of Law Number 17 of 2016 Jo Article 76 E of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Jo Article 64 of the Criminal Code.

Based on the decision of the Panel of Judges of the Yogyakarta District Court, it was confirmed that the defendant was guilty of committing repeated acts of obscenity against a child, whose suspect was none other than the victim's guardian. For his actions, the Panel of Judges determined a criminal sentence against the perpetrator with imprisonment for 6 (six) years and a fine of Rp. 550,000,000, - (five hundred and fifty million rupiah) If the defendant is unable to pay the fine, then the fine will be replaced with a sentence of 6 months imprisonment. In this

²³ Sabda Tuliah, *Kajian Motif Pelaku Kekerasan Seksual Terhadap Anak Melalui Modus Operandi di Lingkungan Keluarga*, Ejournal Sosiatri Sosiologi, Universitas Mulawarman, Vol. 6 No. 2, 2018, hlm. 4.

²⁴ Interview with Mr. Heri Kurniawan, Judge of Yogyakarta District Court, 4 December 2023.

decision the Panel of Judges also ordered the defendant to pay restitution in the amount of Rp. 31,422,660 (thirty one million four hundred twenty two thousand six hundred sixty rupiah). The Yogyakarta District Court focuses its legal efforts in handling cases of sexual violence against children at the trial and post-decision stages.

The defendant in the indictment of the Public Prosecutor was charged with alternative charges but basically had the same elements, the Panel of Judges mentioned the elements in the crime of sexual violence against children, including:

1. Everyone;
2. Committing violence or threatening violence, coercing, deceiving, telling a series of lies, or persuading a child;
3. To commit or allow obscene acts;
4. Conducted by Parents, Guardians, Caregivers, Educators, or Education Personnel;
5. If between several acts, although each constituting a crime or misdemeanor, there is such a connection that they must be considered as a continuous act.

In handling restitution, the state facilitates the existence of one of the state institutions, namely the Witness and Victim Protection Agency, hereinafter referred to as LPSK. The existence of the Witness and Victim Protection Agency as an institution that handles the protection of Witnesses and Victims, the presence of LPSK at least provides fresh air for people who have been victims of human rights violations or Victim Witnesses of crimes.²⁵ LPSK is an important actor that is part of the government's function to create the truth and uphold justice for Witnesses and Victims in the criminal justice system in Indonesia.

Similar to the Social Service, LPSK provides protection that has been determined until the final limit of protection (the first 6 months), if within the first 6 months the legal process has been completed by considering the safety of the victim, then the LPSK no longer provides protection to victims. However, if within the first 6 months it turns out that there are still things that are in the form of threats or psychological trauma, the protection provided by LPSK may be extended again for the next 6 months, this must also be based on recommendations from experts such as the psychiatrist concerned.

According to **Stephen Schafer**, victims of criminal acts are entitled to compensation through criminal court decisions, where the perpetrator is required to bear these losses as a consequence of his actions.²⁶ The concept of child protection is also known as restitution, which is regulated in Article 71D of Law Number 35/2014 on Child Protection, which states that children who are victims of criminal acts have the right to apply to the court for restitution. When referring to

²⁵ Erly Pangestuti, *Op.Cit*, hlm. 1.

²⁶ Didiek Arief Mansur dan Elisatris Gultom, *Urgensi Perlindungan Korban Kejahatan Antara Norma Dan Realita*, PT. Raja Grafindo Persada, Jakarta, 2007, hlm. 166.

several regulations described above, according to the author, the regulation related to restitution for child victims of criminal acts is still very weak. This is because, in some of the regulations that have been described, there are no regulations regarding penalties for criminal suspects who do not provide restitution to victims.²⁷ The penalties given are not enough to deter the perpetrators from committing similar acts against children and the victims themselves do not benefit at all in these conditions. Sometimes, the replacement of the obligation to pay restitution with a relatively low jail or prison sentence makes the perpetrator prefer to serve a jail or prison sentence. Even though the concept of restitution is basically in the form of compensation, if this is not implemented, the essence of restitution itself is not achieved.

According to the author, there should be stricter sanctions for perpetrators of criminal acts against children as victims, for example by applying asset confiscation if within a certain period of time the perpetrator has not provided restitution to his victim as the court decision has determined. The role of LPSK in protecting witnesses and victims is increasingly important, especially after the enactment of Law No. 31 of 2014 which expanded the scope of protection for witnesses and victims.

b. Obstacles Faced in Providing Special Protection to Children as Victims of Sexual Violence

Steps taken to ensure a person's rights and interests are protected under the law. Law enforcement officials in the jurisdiction of Yogyakarta City are forms of assistance provided to victims of sexual violence in Yogyakarta, including services and assistance. Protection of victims of sexual violence in Yogyakarta is not only limited to meeting their needs, but also creating an environment that supports their overall recovery, including emotional, social, and psychological aspects, so that they can live independently and make their own decisions.

To protect the rights of children under the law that must involve parties who have competence in terms of the efforts given must be total, this effort is acknowledged by several parties who handle cases of child victims of sexual violence there are still many parties who handle not in harmony and have vested interests in order to achieve the rights of children who are protected and maintained their dignity.

The process of achieving legal protection for victims of sexual violence is full of challenges and many difficulties that must be overcome. Based on the data obtained by the author in research conducted at several related parties, it can be concluded that several things are obstacles in the implementation of providing special protection to children as victims of sexual violence. Obstacles in the implementation of providing legal protection in the form of special protection for child victims of sexual violence include:

²⁷ Interview with Mr. Heri Kurniawan, Judge of Yogyakarta District Court, 4 December 2023..

1. The families of victims, witnesses and perpetrators were not entirely receptive to the presence of an advocate because they felt ashamed of the disaster that their children had experienced.
2. Lack of interest and awareness of victims and their families of the importance of applying for restitution in order to obtain their rights to compensate for the losses suffered.
3. The post mortem as evidence could not be done because the victim only reported after the scars had disappeared due to the length of time. making it difficult to make a police report and implement psychosocial assistance.²⁸
4. Further rules related to the seizure of the defendant's assets if restitution is not fulfilled. According to the Panel of Judges handling cases of sexual violence against children who obtained restitution, further rules regarding the procedures for implementing the seizure of assets belonging to the defendant are needed.
5. High Sectoral Ego, which is a mindset and action inherent in certain sectors or sections that do not want to share information with other parties in the same organization/company/country.
6. The lack of personnel in the PPA unit of Polda D.I. Yogyakarta. There are currently only two personnel serving reports related to violence against women, which affects the services provided to victims to be less than optimal.
7. Lack of budget to carry out the duties of the PPA Unit. The budget provided to run the PPA program is smaller than the budget for handling other cases. In practice, handling cases of sexual violence against children is actually more expensive than handling other cases.
8. Counseling facilities and psychosocial assistance for children are still limited and inadequate, especially in terms of providing a special room. The room available at Polda D.I. Yogyakarta is limited and very basic. It is important to create a comfortable atmosphere when dealing with child victims, so that their trauma subsides and they are willing to open up during examination.²⁹

When associated with the theory of legal effectiveness which reveals that the obedience of the majority of targets to the rules is the main determining factor in the effectiveness of law enforcement. by considering the factors that influence the effectiveness of the law put forward by Soerjono Soekanto which includes legal factors, law enforcement factors, legal facilities or facilities, community factors, and cultural factors are good enough.³⁰

Based on legal factors, the state and government in ensuring the protection of children, including victims of sexual violence, in the criminal justice system such as sexual abuse has been very good, there have been many legislative products issued discussing the crime of sexual violence, starting from the 1945 Constitution, Law No. 35 of 2014 concerning Child Protection, Law No.

²⁸ Interview with Mr. Heri Kurniawan and Ms. Sri Mawar Indah, Judge of Yogyakarta District Court and PPA Unit of Yogyakarta Regional Police, 21 November 2023 and 5 December 2023.

²⁹ Interview with Ms. Sri Mawar Indah, Head of the PPA Unit of Ditreskrimum Polda D.I. Yogyakarta, December 5, 2023.

³⁰ Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum*, Raja Grafindo Persada, Jakarta, 2007, hlm. 110.

31 of 2014 concerning Witness and Victim Protection, Law No. 11 of 2012 concerning the Child Criminal Justice System, Supreme Court Regulation No. 1 of 2022 concerning Procedures for Settling Petitions and Providing Restitution. 35 of 2014 on Child Protection, Law No. 31 of 2014 on Witness and Victim Protection, Law No. 11 of 2012 on the Juvenile Criminal Justice System, Supreme Court Regulation No. 1 of 2022 on Procedures for Settling Requests and Providing Restitution and Compensation to Victims of Crime, Government Regulation No. 78 of 2021 on Special Protection for Children, and State Special Region Regulation No. 2 of 2018 on the Implementation of Child Protection to protect and ensure that children's rights can be fulfilled.

However, in its implementation there are many obstacles faced by the legal apparatus, this makes law enforcement less than optimal so that it affects the quality of work and public confidence in the law itself, for example, sectoral ego is still high in some law enforcement officials. Good law implementation is the main key, even though the law made is perfect, without capable law enforcers, the law will not be effective.

Next is the legal facilities factor, this factor is certainly as important as other factors. The provision of adequate facilities and infrastructure, such as sophisticated equipment, adequate infrastructure, and trained human resources, is very important to support smooth law enforcement. This can lead to various obstacles and inefficiencies in the law enforcement process or policy implementation, a clear example is the lack of budget in handling cases of sexual violence against children and the unavailability of special rooms that support the comfort of child victims in undergoing the judicial process. Conditions like this will only cause pros and cons which should smooth the process, but instead result in obstacles in its implementation.

Furthermore, the community factor, low awareness from the community will greatly affect the law enforcement process, it will complicate law enforcement which then causes obstacles in its implementation. Supposedly, people should think more critically in dealing with problems that are not ordinary problems anymore. High public legal awareness will have a positive impact on law enforcement in the community. The willingness, awareness, and concern of the community to get what should be their rights is still somewhat in line with what is expected.

Then the last is the cultural factor, this factor is almost similar to the community factor of legal culture of people who still lack trust and do not understand the law enough to be a separate obstacle that must be faced in law enforcement in Indonesia today. Law comes from cultural values upheld by society, determining which ones are considered good and need to be embraced, and which ones are considered bad and need to be avoided, so culture has a major influence on law enforcement. A highly cultured society will encourage the creation of conducive and orderly conditions in the application of law.

The government needs to be more focused and firm in dealing with this incident and strengthen the rules in the Child Protection Law. the importance of creating clear and standardized rules to avoid multiple interpretations and misunderstandings in their application. In addition, harmonization between written rules and conditions in the field is needed so that the law can run effectively.

CONCLUSIONS

Based on the research findings, the author draws the conclusion that in an effort to protect child victims of sexual violence in D.I. Yogyakarta, the investigation process is carried out by policewomen (polwan) to provide a sense of security and comfort for victims in the Women and Children Service Unit of the Ditreskrimum Polda D.I. Yogyakarta, in order to maintain the privacy of victims, their identity is kept confidential and assistance is carried out continuously until the process is completed. Legal protection by the Yogyakarta District Court is special protection provided to ensure that children can give testimony comfortably and without fear, and that their rights are guaranteed during the trial process. Protection provided by the Yogyakarta Social Service is by conducting Social Rehabilitation carried out by the Social Protection and Rehabilitation Section through the presence of Social Workers. Furthermore, the protection provided by the Witness and Victim Protection Agency (LPSK) is as an institution that handles the rights of victims as well as assistance to victims with certain categories in applying for Restitution. In an effort to provide legal protection in the form of special treatment to children as affected by sexual violence in the Yogyakarta Regional Police, investigators find several obstacles or barriers such as the lack of members in the Women and Children Service Unit (PPA), the lack of budget in the implementation of protection, the unavailability of a room for children, and the lack of a room for children (implementation of psychosocial assistance). This resulted in victims not receiving adequate psychosocial support to help them recover from their trauma. The victim's scars have disappeared due to taking too long to report the crime. This results in the absence of physical evidence that can be used to substantiate allegations against the perpetrator. In the implementation of legal protection provided by the Yogyakarta District Court, there are also obstacles, namely judges are still experiencing confusion regarding further rules regarding the confiscation of assets belonging to the defendant if restitution is not fulfilled. Furthermore, in the implementation of protection by the Social Service of Yogyakarta D.I., there are obstacles in the form of the presence of assistants rejected by some families of victims, witnesses, and perpetrators because they are ashamed of the child's disaster. and the high sectoral ego of related agencies. Then the obstacles faced by LPSK in providing protection are in the form of a lack of interest and awareness of victims and their families of the importance of applying for restitution in order to obtain their right to compensate for the losses experienced.

REFERENCES

- Abintoro Prakoso, *Pembaharuan Sistem Peradilan Pidana Anak*, Aswaja Pressindo, Yogyakarta, 2016.
- , *Hukum Perlindungan Anak*, LaksBang PRESSindo, Yogyakarta, 2014.
- Arif Gosita, *Masalah Perlindungan Anak*, Bhuana Ilmu Populer, Jakarta, 2009.
- Bambang Sunggono, *Metode Penelitian Hukum*, PT. Raja Grafindo Persada, Jakarta, 2006.

Didiek Arief Mansur dan Elisatris Gultom, *Urgensi Perlindungan Korban Kejahatan Antara Norma Dan Realita*, PT. Raja Grafindo Persada, Jakarta, 2007.

Hadi Supeno, *Sekolah Bukan Tempat Aman bagi Anak*, Kompas, Jakarta, 2018.

Harrys Pratama Teguh, *Teori dan Praktek Perlindungan Anak dalam Hukum Pidana*, Andi Yogyakarta, Yogyakarta, 2018.

Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum*, Raja Grafindo Persada, Jakarta, 2007.

Afisah Wardah Lubis, *Memahami Perkembangan Psikologi Anak Dalam Rangka Implementasi Perlindungan Anak*, Majalah Konvensi, Universitas Widya Mataram, Vol. 2 No. 1, 2023.

Bhrownell dalam Trie Nurfadillah, *Terapi Gestalt Untuk Mengurangi Kemarahan Remaja*, Procedia, Universitas Muhammadiyah Malang, Vol. 9 No. 3, 2021.

Candra Hayatul Iman, *Kebijakan Hukum Pidana Perlindungan Anak Dalam Pembaruan Sistem Peradilan Pidana Anak di Indonesia*, Era Hukum, Jurnal Hukum dan Peradilan, Vol. 2 No. 3, 2013.

Ediwarman, *Peradilan Anak di Persimpangan Jalan dalam Prespektif Victimology (Belajar dari Kasus Raju)*, Jurnal Mahkamah, Fakultas Hukum Universitas Lancakuning, Vol. 18 No. 1, 2006.

Erly Pangestuti, *Peran Lembaga Perlindungan Saksi dan Korban Dalam Memberikan Perlindungan Hukum Terhadap Saksi dan Korban*, Yustitiabelen, Universitas Tulung Agung, Vol. 3 No. 1, 2017.

Sabda Tuliah, *Kajian Motif Pelaku Kekerasan Seksual Terhadap Anak Melalui Modus Operandi di Lingkungan Keluarga*, Ejournal Sosiatri Sosiologi, Universitas Mulawarman, Vol. 6 No. 2, 2018.

Law Number 31 of 2014 on Witness and Victim Protection.

Law Number 35 of 2014 on Child Protection.

Regulation of the Governor of the Special Region of Yogyakarta Number 16 of 2020 on the Amendment to Regulation of the Governor of the Special Region of Yogyakarta Number 90 of 2018 on the Establishment, Organizational Structure, Duties, Functions, and Work Procedures of the Technical Implementation Unit of the Social Service.

Interview with Mr. Heri Kurniawan, Judge of Yogyakarta District Court, Yogyakarta.

Interview with Mr. Heru Ramadhan, Social Counselor at the Social Rehabilitation Division of the D.I. Yogyakarta Social Service, Yogyakarta.

Interview with Ms. Sri Mawar Indah, Head of the PPA Unit of the D.I. Yogyakarta Police, Yogyakarta.



https://id.wikipedia.org/wiki/Pelecehan_seksual_terhadap_anak, accessed on February 29, 2024.