



## Implementation Of Legal Protection Of Children Who Become Victims Of Criminal Action Sexual Violence In Jombang District

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### Abstract

This research aims to find out the implementation of criminal protection against child victims of criminal acts against child victims of sexual violence in Jombang District. This research uses empirical juridical methods, namely research in the form of empirical studies to find theories regarding the implementation of legal protection for children who are victims of criminal acts of sexual violence in Jombang. Data sources were obtained from literature, applicable legislation and interviews with the Protection Unit for Women and Children at the Jombang Regional Police. Analysis of the data used is a qualitative approach to primary data and secondary data. The results of the study can be concluded that the implementation of legal protection provided by the Jombang Regional Police Unit for children who are victims of criminal acts of sexual violence is to conceal the identity of the victim, provide counseling outside the legal channels, conduct investigations, provide a Notification of the Progress of Investigation (SP2HP), cooperating with Non-Governmental Organizations (NGOs).

**Keywords:** Legal Protection, Victims, Criminal Acts of Sexual Violence

### I. Introduction

Children born into this world have freedom. This freedom gets recognition from human rights, therefore children's freedom is protected by the state and the law must not be eliminated or eliminated by anyone. Children are children who are inherent in lack of independence, they really need love and protection for their rights from adults. Children in growth and development need legal and other protection and attention from parents, society and the state. That the protection of children is the foundation for children to become adults to answer future challenges.

In fact, the protection of the life and livelihood of these children is still the responsibility of various parties, namely their parents, family, community, and the state. This protection can be in the form of clothing, food, and shelter. Not only that, the protection given to a child can also be in the form of protection against the psychological or mental condition of the child, especially his psychological development. This means that the child can develop and live normally not only his physical development but also his mental or psychological development. Furthermore, protection for this form of protection is legal protection for victims of criminal acts, which can be interpreted as protection to

obtain and obtain legal guarantees for the suffering or loss of parties who have been victims of criminal acts.

Philosophically, children are the future assets of the nation, and as the next generation of struggle, a child who is afflicted by a problem means a national problem as well, therefore the best interests of the child become an interest that must be prioritized in dealing with children who have problems or conflicts in law. Children as a young generation is an effort to prepare and realize the future of the nation and state, but if the child does not reach and get attention from his immediate environment, it is easy for him to do deviations (delinquency) from the norms and rules of law that already apply in society. Acting against someone who violates the rules of another person will be in the form of compensation or a fine, whereas for someone who commits a criminal offense will be subject to criminal sanctions in the form of corporal punishment, whether imprisonment, confinement or fines.

Crime of sexual violence against children as a victim is one of the social problems that is troubling the community so it needs to be prevented and dealt with seriously. Therefore, problems like this need to get serious attention from all groups, especially criminologists and law enforcers. One of them is in Jombang Regency so that it is handled by the authorities well, in Jombang it is also busy being stirred up with the news of fathers who have intercourse with their biological children and children who are impregnated with their boyfriends, some who are rotated by 12 men.

Violence against women and children in Jombang continues to increase. Every month on average 2 to 3 women become victims of sexual violence. Ironically, the majority who are victims of sexual violence are still children. While the perpetrators of child sexual violence, the majority of people close or relatives. The data is based on cases included in Women's Crisis Center (WCC) assistance Jombang during 2017. WCC itself is an NGO that is active in women's and children's issues. If in 2016 there were 53 cases of violence against women in Jombang, in 2017 it rose to 63 cases. From these data, 43 of them, or 81 percent were cases of sexual violence.

## II. Method

This research uses empirical juridical methods, namely research in the form of empirical studies to find theories regarding the implementation of legal protection for children who are victims of criminal acts of sexual violence in Jombang. Data sources were obtained from literature, applicable legislation and interviews with the Protection Unit

for Women and Children at the Jombang Regional Police. Analysis of the data used is a qualitative approach to primary data and secondary data.

### **III. Main Heading of the Analysis or Results**

Legal protection is a picture of the operation of the legal function to realize legal objectives namely justice, benefit and legal certainty. Legal protection is a protection given to legal subjects in accordance with the rule of law. The law can protect the rights and obligations of each individual in a real condition, with a strong legal protection will be realized in general law objectives namely order, security, peace, welfare, peace, truth, and justice. So legal protection is all forms of efforts to protect the dignity of human beings and the recognition of human rights in the field of law, including children.

Protection of girls as victims of sexual violence is an activity to develop human rights and human rights obligations. Attention and protection to victims of sexual violence must be considered because they are very sensitive to various kinds of threats to mental, physical, and social disorders. In addition, they often do not have the ability to maintain, defend, and defend themselves. Efforts to protect the law against children as victims of sexual violence continue to be improved in order to maintain the welfare of children, bearing in mind that children are one of the valuable assets for the progress of a nation in the future.

The Jombang Regional Police Women's and Children's Services Unit (UPPA) is a special unit under the supervision of the Criminal Investigation Unit which serves to serve certain cases related to criminal acts involving women and children both as perpetrators and victims, one of which is sexual violence. The establishment of the Jombang Regional Police Unit has a vision to provide protection services for women and children who are victims of violence and crime in a professional manner, and law enforcement against women and children as perpetrators of crime. The PPA Unit consists of a Head in the form of a Head of the Women's and Children's Services Unit (Kanit PPA) and an Assistant Head and Implementer in the form of a Protection Unit Officer (Protected Panit) and an Investigation Unit Officer (Panit Idik), all of whose members consist of women. This is due to the large number of women who have been victims of sexual violence so ashamed to provide information about the violence they experienced. In providing protection to women and children who are victims of crime, the Jombang Regional Police Unit has several procedures that must be carried out. The procedure is as follows:

1. Before the Court Session

In this stage the legal protection given to victims of sexual violence against children was first given by the Police, namely by means of the victim placed in a Special Service Room (RPK) where victims of sexual violence in this place the victim will be handled by a number of female police officers to create comfort for the victims. The pre-trial stages are as follows:

1) Acceptance of Police Reports

Mechanisms for receiving Police Reports in the PPA Unit, namely:

- a. Victims received by PPA investigators.
- b. The process of making a Police Report is preceded by interviews or observations and assessments of investigators or officers of the victim witness situation.
- c. If the victim's witness is in a condition of trauma or stress, the investigator carries out a rescue action by sending the victim's witness to Bhayangkara Hospital to get psychological medical treatment and monitor its progress.
- d. In the event that a witness or victim needs a break the officer escorts to the rest room or safe house or shelter.
- e. If the victim is in good health and condition, the investigator can carry out an interview or interview to prepare a Police Report.
- f. Preparation of police Reports by PPA Unit officers and if necessary go to the scene to find and collect evidence.
- g. Register Police Report to the Central Integrated Police Service or SPKT.
- h. In witnesses and / or victims need to be referred to the Integrated Service Center (PPT) or other place, the officer must deliver to the destination of the referral and submit to the officer concerned accompanied by an explanation of the problem.
- i. In the event that the witness and / or victim are finished with a Police Report and need a post mortem, the officer delivers the witness and / or victim to the Integrated Service Center (PPT) to obtain health and a post mortem.
- j. Cases that do not meet the criminal element are carried out with relief efforts through counseling and psychological approaches.

2. During the court hearing

During the trial process the victim in giving testimony was accompanied by LBH / NGO so that the victim could be more calm and not feel afraid during the trial. Considering the victim was still psychologically drained and felt depressed after undergoing an examination during the trial process.

## 2) Investigation Investigation

Mechanism in the PPA Unit, namely:

- a. Investigator makes a health request and post mortem to the Head of the Bahayangkara Hospital or other Hospital that can legally issue a post mortem in connection with the Police Report reported by the victim.
- b. The investigator prepares the administrative investigation.
- c. If the victim is ready to be examined and is willing to provide information related to the Police Report reported by the victim, the investigator can carry out activities to prepare an Official Report on the Examination (BAP) of the victim.
- d. If the victim's case involves one victim, and only one suspect, then the Police Report is followed up only by the investigator.
- e. If the case reported by the victim involves many victims, the suspect within a period of time, evidence and the place of the incident, the investigating officer is carried out in the form of a predetermined team. The PPA Unit and witnesses and / or victims continue to be examined by the PPA Unit Policewomen, while the development can be carried out by Male Police Investigators.
- f. If the victim's witness comes from out of town, then for the purpose of investigating the victim can be deposited at a shelter owned by the Republic of Indonesia Social Ministry (MOSA) or other parties deemed able to provide protection and services until the victim is ready to be sent home.

## 3. Final Stage of Investigation

The final stage of the investigation mechanism in the PPA Unit is:

- a. Coordination with relevant agencies as experts in order to strengthen the evidence of the case being handled.
- b. Carrying out case cases investigated.
- c. Research on case files to be sent to the Public Prosecutor.

- d. Leave the victim in a safe house owned by the Indonesian Ministry of Social Affairs or other parties that are considered to be able to provide protection and services to victims if their presence is required in court.
- e. Coordinate with agencies and NGOs that care about women and children who are not criminal victims in a court session so that the judicial process and its verdict truly meet a sense of justice.

4. After the Trial Court / Decision

After the offender is sentenced by the judge, according to Article 5 paragraph (1) letter hs / dm of Law Number 13 Year 2006, the victim has the right to get protection which includes as follows:

- a. Knowing in the event that the convicted person is acquitted
- b. Obtain a new identity
- c. Obtain a new residence
- d. Obtain reimbursement of transportation costs as needed
- e. Obtain legal advice
- f. Obtain temporary living expenses assistance until the deadline for final protection.

The following is data on the relationship of victims in this case children and perpetrators of violent crimes that the author obtained from the Pombang Unit of Jombang Regional Police:

Table 1. Data About the Relationship of Victims and Perpetrators of Sexual Violence

Relationship Between Victims and Family	Number of	Percentages of
Friends / Lovers	58	31.52%
Neighbors	51	27.71%
Teacher	42	22.82%
Family	13	7.06%
Unknown people	20	10.86%

<b>Total</b>	<b>184</b>	<b>100%</b>
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Source: Pombang Unit of Jombang Regional Police

Based on the above table, it is known that generally between victims and perpetrators know or known by the victim. This can be seen from 58 cases of sexual violence committed by friends / lovers of victims, 51 cases of sexual violence committed by victims' neighbors, 42 cases of sexual violence committed by victims of teachers, perpetrators of acts 13 cases of sexual violence committed by the victims' families, and 20 cases of perpetrators of sexual violence committed by other people or persons unknown to the victim. In the case of the perpetrator is a friend or lover of the victim usually the offender seduces the victim in the name of love besides the offender usually also threatens to leave the victim. In the case of the perpetrator, the victim's neighbor, teacher, or immediate family, the offender usually entices the victim with food or toys and seduction invites to play together, in a lonely condition the perpetrator commits the crime.

In order to provide maximum legal protection for victims of sexual violence, especially children, the efforts made by the Jombang Police Station are to deploy members to conduct investigations in accordance with their duties and authorities as stipulated in the existing legislation. This is in accordance with Article 7 paragraph 1 of the Criminal Procedure Code namely:

Article 7 paragraph (1) of the Criminal Procedure Code:

- (1) The Investigator as referred to in Article 6 paragraph 1 letter a because of his obligation to have the authority:
  - a. Receive a report or complaint from someone about a criminal act.
  - b. Perform the first action at the scene.
  - c. Telling someone to stop or checking the ID of the suspect.
  - d. Make arrests, detention, search and seizure.
  - e. Examining and confiscating letters.
  - f. Take fingerprints and take pictures of someone.
  - g. Calling people to be heard and examined as a suspect or witness.
  - h. Bring in experts who are needed in the relationship in the examination of the case.
  - i. Hold a stop to the investigation.

- j. Carry out other actions according to responsible law.

The forms of legal protection provided by the Jombang Regional Police Unit for children who are victims of sexual violence are:

1. Confidentiality of the Victims of Jombang Regional Police provide a form of protection against victims of sexual violence by concealing the identity of the victim and conducting examinations in a closed manner in a room that has been specifically provided by the PPA Unit.
2. Provision of Counseling in the Legal Path Provision of counseling is a consultation to victims outside the law, this is done before an investigation is conducted. This subtle approach is carried out with the aim that the victim does not feel afraid and traumatized after an investigation.
3. Conducting Investigation Efforts What is meant by investigations based on Article 1 paragraph (2) of the Criminal Procedure Code is a series of investigative actions in terms of and according to the methods stipulated in the Law to search and collect evidence, with this evidence making clear the criminal acts that occur in order to find the suspect.

#### *A. Obstacles In Providing Legal Protection Towards Children Who Become Victims Of Criminal Sexual Violence In Jombang District*

Legal protection for children in Indonesia still requires special studies related to how children become victims of crime in this context children as victims of sexual abuse. Legal protection for children can be interpreted as an effort to protect the law of children's freedom and human rights as well as various interests relating to children's welfare. But in this case the issue of legal protection for rights does not only include legal protection in the judicial process, but also covers all matters of the freedom of children to get proper treatment like other citizens.

Other obstacles that often arise in terms of culture are sometimes the values of local wisdom which hinder to expose cases of sexual violence against children because it is considered a disgrace by the victim's parents or is judged to be a shame to the family, for children with disabilities that hinder the investigation process, especially children who are mute, In terms of facilities it is also not yet very supportive, it requires special attention from all parties who have the authority in tackling sexual violence against children.

Based on the research the writer has done, the writer sees a number of obstacles in implementing legal protection for children who are victims of criminal acts of sexual violence in Jombang. As for the obstacles as follows:

1. Legal Substance Issues

Related to the issue of legal substance, the obstacles in legal protection against children arise because there are things that are principally not heeded and implemented properly so that legal protection for children who are victims of criminal acts of sexual violence does not run optimally. The penal system in the Indonesian Penal Code does not provide criminal compensation for victims of sexual violence against children so that the child's position as a victim remains in an unfavorable position as a victim of sexual violence.

2. The victim and the victim's family do not want to report to the authorities because they feel ashamed about the incident they experienced because it was considered a disgrace for themselves and their families. In addition, there is a threat made by the perpetrators so that victims become depressed and afraid to tell the events they experienced to others and are afraid to report to the authorities.
3. The family and community who do not understand about the sexual violence that occurred and tend to blame the victim for the sexual violence they experienced.
4. Revocation of report from the victim. When the case was entered in the Jombang Regional Police Unit PPA then the case request was resolved peacefully (report retraction) resulting in the case being unable to proceed so that the disclosure of the case became raw again. The basic consideration of the victim to revoke the report was because she was pregnant and the suspect wanted to be responsible for marrying her.
5. The suspect ran away so this condition made it difficult for the police because there was no suspect so the case could not be continued. In this case the suspect must be included in the People's Search List (DPO). If the suspect is not found then the case just stops, and this of course harms the victim.
6. Acts of sexual violence were carried out in a quiet place and no one was there so that no witnesses saw.

To overcome the obstacles experienced by the Jombang Regional Police PPA Unit, efforts were made to provide legal protection for children who are victims of criminal acts of sexual violence in the City of Jombang, namely:

1. Preventive Efforts Preventive

efforts or preventive efforts, namely efforts made to prevent the occurrence crime of sexual violence. Prevention of preventive acts of sexual violence includes:

- a. Providing counseling or appeals to the community to respect each other in protecting rights and dignity, especially for women and children.
- b. Increase awareness in the community to avoid the occurrence of criminal acts of sexual violence that start from the family and to pay more attention to family members, especially female family members, especially girls.
- c. Increasing public awareness about practical steps in protecting themselves in the community in the community to anticipate crime, especially sexual violence.
- d. Give an appeal to the public to immediately report to the authorities in the event of a sexual crime that happened to him or someone else.

2. Repressive Efforts (Enforcement)

- a. For victims who are depressed or traumatized, Jombang Polres PPA Unit takes a variety of approaches, not infrequently even Jombang Polres PPA Unit also asks for help or collaborates with related agencies such as Social Services, Non-Governmental Organizations (NGOs), Women Crisis Center (WCC), and others to make efforts to approach victims so that they can escape trauma or depression.
- b. For victims who are afraid to report, a variety of public outreach activities are conducted on the effects of the victims of sexual violence in the future if the incident that befalls him or his child is not immediately reported to the police.
- c. For the victims to be given the understanding to be willing and cooperative in order to view that sexual violence is not just a disgrace but is a crime against human dignity and a violation of human rights.
- d. For the lack of role of the community around the victim's environment, the police, especially the Jombang Regional Police Unit, increased coordination with the Social Service and social institutions in the community. In addition, provide information to the public about the obligation to immediately report to the authorities if the public hears, sees, or is aware of a sexual violence.
- e. The effort to overcome obstacles in the investigation is to give an understanding of the victim to be able to fulfill all the examination programs. Witnesses should also

be able to assist in providing actual information for the smooth process of investigation and to uncover criminal acts of sexual violence, especially to children who are victims.

#### IV. Conclusion

From the discussion of the issues raised in this study, the author can draw several conclusions including: In providing protection to women and children who are victims of crime, the Jombang Regional Police Unit PPA has several procedures that must be carried out. The procedure is as follows: Revenue Police Report, Investigation, Final Phase of Investigation. Implementation of legal protection provided by the Unit PPA Police Jombang against children who are victims of criminal acts of sexual violence is a way to conceal the victim's identity, provide counseling extrajudicial, conduct investigations, provide Letter Notice of Progress of Investigation Results (SP2HP), collaborates with Non-Governmental Organizations (NGOs). Based on the research the writer has done, the writer sees a number of obstacles in implementing legal protection for children who are victims of criminal acts of sexual violence in Jombang. The obstacles are as follows: The victim is reluctant to report because he feels ashamed to experience the incident he experienced, The family and community who do not understand about sexual violence that tends to blame the victim, Revocation of report by victim, The suspect escaped, Lack of facilities and infrastructure from the Jombang Regional Police Headquarters.

The suggestion is based on the discussion and conclusions made in this study, the authors have the following suggestions: There must be a proactive attitude, especially from all walks of life and the Jombang Regional Police of course as an authorized party to help uncover cases of sexual violence against children. Jombang Regional Police are expected to be able to add or complete the facilities for Women and Children Services so that their existence as investigators can truly carry out their vision and mission well.

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