

# Legal Protection in Recovering Children from Victims of Sexual Violence

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## ABSTRAK

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Kekerasan seksual terhadap anak merupakan bencana sosial yang menghadirkan masalah serius yang mengkhawatirkan masyarakat di Indonesia. Kekerasan seksual adalah suatu bentuk perilaku berbahaya yang dilakukan secara sepihak dan tidak disengaja oleh korban melalui bahasa, tulisan, simbol, isyarat, atau tindakan yang memiliki makna seksual. Kekerasan seksual terhadap anak dapat berupa kekejaman terhadap hewan, pemerkosaan, pencabulan, dan inses. Idealnya, perlindungan hukum bagi anak korban berbagai bentuk kekerasan seksual harus tercapai secara optimal. Menurut UUD 1945, negara memiliki kewajiban hukum untuk menjamin hak anak atas kelangsungan hidup, tumbuh kembang, dan perlindungan dari kekerasan dan diskriminasi. Masalah yang dikaji dalam penelitian ini adalah bagaimana perlindungan hukum dalam pemulihan anak dari korban kekerasan seksual. Penelitian ini menggunakan penelitian hukum deskriptif-analitik yang bertujuan untuk memberikan gambaran permasalahan dengan cara mengolah dan menganalisis data untuk kemudian mendapatkan bahan dan usulan pemecahan masalah. Kesimpulan penelitian ini menunjukkan bahwa perlindungan hukum dalam pemulihan anak dari pelecehan seksual sangat penting untuk memastikan bahwa anak yang mengalami pelecehan seksual mendapatkan haknya dan mendapatkan dukungan dan perawatan yang mereka butuhkan untuk pulih dari pengalaman traumatis tersebut.

## ABSTRACT

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People in Indonesia are worried about a significant problem caused by sexual violence against minors, which is a social tragedy that presents a serious challenge. Sexual violence is a form of risky behavior that is carried out unilaterally and unintentionally by the victim using language, writing, symbols, gestures, or acts that have a sexual significance. The victim may be unaware that they are engaging in this form of dangerous behavior. Incest, rape, obscenity, and other forms of sexually abusive behavior toward animals can all be considered forms of sexual violence against children. Legal protection for children who have been victims of any of the many forms of sexual violence should ideally be at its highest level. According to the Constitution that was ratified in 1945, the state is under a constitutional obligation to protect the rights of children to survival, growth, and development, as well as protection from discrimination and violence. This research focuses on the issue of how effective legal protection is in the process of reclaiming

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children who have been the victims of sexual assault. This study makes use of descriptive-analytic legal research, the goal of which is to provide an overview of the problem by processing and analyzing data in order to subsequently get materials and problem-solving ideas. This research was carried out in order to achieve this purpose. The findings of this study indicate that legal protection is an extremely important component of the healing process for children who have been the victims of sexual abuse. This component helps to ensure that abused children receive the support and care they require in order to recover from the traumatic experience of having been sexually abused.

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## 1. INTRODUCTION

Responsibility As a state, state law guarantees children's rights to survival, growth and development and are entitled to protection from violence and discrimination based on the 1945 Constitution of the Republic of Indonesia (UUDNRI 1945). A new epidemic, namely sexual assault against children, has emerged as a consequence of both the rapid pace of globalization and the detrimental impact of innovations in information and communication technology. On the other hand, sexual violence against children is a serious crime that has significantly increased over the past few decades. It poses a risk to children's lives and, in some cases, even puts their lives in jeopardy; it hinders children's personal growth; and it disrupts children's sense of comfort, peace, security, and public order.<sup>1</sup>

People in Indonesia are worried about a significant problem caused by sexual violence against minors, which is a social tragedy that presents a serious challenge. Sexual violence is a form of risky behavior that is carried out unilaterally and unintentionally by the victim using language, writing, symbols, gestures, or acts that have a sexual significance. The victim may be unaware that they are engaging in this form of dangerous behavior. Incest, rape, obscenity, and other forms of sexually abusive behavior toward animals can all be considered forms of sexual violence against children. It is possible that the world of children, which should be full of smiles and fun, might become a hazy picture and a portrait of fear as a result of the prevalence of many sorts of sexual violence against children. This is because now children are the topic of the violence. regarding sexual violence.<sup>2</sup>

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<sup>1</sup> Lewoleba, KK, & Fahrozi, MH (2020). Faktor-Faktor Studi Terjadinya Tindak Kekerasan Seksual Pada Anak-Anak. *Jurnal Esensi Hukum* , 2 (1), 27-48.

<sup>2</sup> Sari, KIP, Farida, LN, Prameswari, VE, Khayati, N., Asmaret, D., Pramana, C., ... & Alfianto, AG (2022). *Kekerasan Seksual* . Media Sains Indonesia.

Children are gifts from Allah, the Almighty God, given to their parents. It has become a common understanding that these gifts should be maintained, protected and developed for their talents and potential according to the wishes of these children. Families and the State should pay special attention to the growth and development of children.<sup>3</sup>

There has not been a significant drop in the number of cases of sexual assault in Indonesia as a direct result of the country's laws protecting children. Sexual assaults on minors are still committed in a variety of settings, including both urban and rural communities. In Indonesia, sexual violence against children can take place not just in settings known for high levels of violence, but also in settings such as the home and the classroom. Children can be victims of sexual assault not just by persons they do not know, but also by people they are familiar with, who are near to them, and in whom they place their trust. In practically every aspect of Indonesian society, sexual assault places children in a particularly precarious position, putting them at risk for injury or death. The fact that there are so many reports of sexual assaults on women indicates that the government is not paying enough attention to the issue. The difficulty in safeguarding children in Indonesia from being harmed by other children is in both recognizing children's rights and preventing them from being put in a position where they are at risk of being neglected.

Ideally, legal protection for child victims of various forms of sexual violence must be optimally achieved. According to the Constitution that was ratified in 1945, the state is under a constitutional obligation to protect the rights of children to survival, growth, and development, as well as protection from discrimination and violence. Yet the reality is that it is still a significant departure from what was anticipated. About victims of sexual violence who are believed to have caused physical, psychological, and financial stress, it turns out that this issue has not yet become a specific priority for the state to deal with it. This is despite the fact that it has the potential to become such a worry. A country that still attaches importance to deterring perpetrators of sexual crimes has not seen the victim's side. Given that laws and regulations that protect child victims of sexual violence cannot provide a full legal basis for the protection of victims of sexual violence, this is, of course, a very unfortunate situation to be in.

Various phenomena and facts about cases of sexual violence against children that are happening in Indonesia today are very interesting and important for further research. It is only natural for children to have protection and a safe place, which can be a real guarantee. Due to the problems described above, the authors are interested in researching this work by raising the title "Legal Protection in Recovering Children from Victims of Sexual Violence".

## 2. METHODOLOGY

This study uses descriptive-analytic legal research, the purpose of which is to provide an overview of the problems by processing and analyzing data to then obtain materials and problem-solving proposals. We talk about analysis because the analysis of various formulations of legal principles is carried out to find out the legal basis of the subject matter. In this study, descriptive and analytical methods are combined in such a way that when solving the problem investigated using this method, critically expected solutions are expected.

## 3. RESULTS AND DISCUSSION

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<sup>3</sup>Penjelasan Umum Peraturan Pemerintah Pengganti Undang Undang Republik Indonesia Nomor 1 Tahun 2016 Tentang Perubahan Kedua Atas Undang - Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak

Sexual violence is an act that is very dangerous and offensive to human rights, and it is one of the many crimes against self-esteem. It is a form of discrimination that must be eliminated so that it does not happen easily. This is also very clear in Law no. 12 of 2022. Referring to Article 1 Paragraph 1 of Laws No. 12 of 2022 (TPKS Law), crimes of sexual violence are acts included in the category of sexual violence. It is governed by law and not governed by this law. Previously, in the academic text of the TPKS Law, there were three terms of sexual violence. This type of sexual violence can find norms in laws and regulations.<sup>4</sup>

Child abuse is the intentional act of harming children (both physically and emotionally). Physical violence, psychological violence, sexual violence, and social violence are the four categories into which different kinds of violence against children can be categorized. According to End Child Prostitution Institution Asia Tourism (ECPAT) International, the definition of sexual violence against children is a relationship or interaction between a child and a parent or adult, such as a foreigner, sibling, or parent, in which the child is used as an object of gratification. This definition applies to situations in which a child is sexually exploited by a parent or another adult. perpetrator. sexual needs This activity is carried out by the use of compulsion, threats, bribery, fraud, and even more coercion. There should be no physical contact between the person who committed the act of sexual violence against the kid and the child who was the victim of the conduct. The act of sexual violence committed against a person might take the shape of rape or other immoral behaviors.

Abuse of children occurs when a person utilizes a youngster for the purpose of obtaining sexual pleasure or enjoyment for themselves. Not limited to sexual relations, but also including activities that lead to sexual activity towards children, such as: sexually touching the child's body, regardless of whether the child is clothed or not; any form of sexual penetration, including inserting objects or limbs into a child's mouth; induce or coerce a child to engage in sexual activity; fail to protect and prevent knowingly engaging in sexual activity in the presence of children or children observing the sexual activity of others; any form of sexual penetration that involves touching the.<sup>5</sup>

Factors that lead to sexual harassment at least There is six factor reason violence sexual on child, that is; First, factor economy like poverty cause situation frustrated Which trigger violence. Second, problem family, like connection person old Which the worse, so that Father can use violence to his son in form release. Third, divorce raises problem House ladder, so that no seldom mother father step do violence. Fourth, birth child in outside marry Which resulted child the harmed by environment social. Fifth For health mentally or problem health soul, sixth for education or knowledge religion Which not enough.<sup>6</sup>

Besides factors the, development technology digital Which the more massive has presenting Lots opportunity connection network whatever, Which Then can give gap for extent spread pornography. Moment This, Lots media social Which make consumption public to content pornography, Which on Finally influence person Which suffer addicted pornography. Lost control self on Finally can cause behavior sexual Which No normal. As a result, para perpetrator crime

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<sup>4</sup>Jaman, UB, & Zulfikri, A. (2022). Peran serta Masyarakat dalam Pencegahan Kekerasan Seksual diajukan dengan UU No. 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual. *Jurnal Hukum dan HAM Wara Sains*, 1(01), 01-07.

<sup>5</sup>Noviana, I. (2015). Kekerasan Seksual Terhadap Anak: Dampak Dan Penanganannya. *Sosio Informa : Kajian Permasalahan Sosial Dan Usaha Kesejahteraan Sosial*, 1(1).

<sup>6</sup>Suyanto, B. (2019). *Sosiologi Anak*. Kencana.

violence No reluctant utilise children for satisfying his lust through obscenity or violence sexual. Pornography cause function control self Which weak, especially through instinct aggression physique and sexual, which can trigger aggression social And become provocateur with loosen control self. Consequence provocation pornography open Which Keep going continuously traverse border, matter This impact on increasing case violence sexual.<sup>7</sup>

Sexual violence against children has no small impact or impact on child victims. Most of the rape victims suffer from a mental disorder known as post-traumatic stress disorder (PTSD), with symptoms of intense anxiety, high anxiety and post-traumatic emotional distress. It takes one to three years for victims of violence to open up to others.<sup>8</sup>

Finkelhor and Browne initiated four types of trauma effects due to sexual violence, namely: A. Betrayal (Betrayal) Trust is the main basis for victims of sexual violence. As an individual child believes in parents and that belief is understood and understood. However, the child's trust and parental authority become things that threaten the child. B. Sexual Trauma (Traumatic Sexualization) Russel found that women who experienced sexual violence tended to refuse sexual intercourse, and as a consequence became victims of domestic sexual violence. Finkel or noted that the victim preferred same-sex partners because they considered men to be untrustworthy. C. Powerlessness Fear permeates the victim's life. Nightmares, phobias and anxiety are experienced by victims accompanied by pain. Feelings of helplessness result in individuals feeling weak. Victims feel themselves incapable and less effective at work. Some victims also felt pain in their bodies. On the other side, certain victims possess an abnormally high level of ferocity and determination within themselves. D. Stigma (Stigmatization) Victims of sexual violence feel guilty, ashamed, have a bad self-image. Guilt and shame are formed due to powerlessness and feeling that they do not have the power to control themselves. Victims often feel different from other people, and some victims are angry with their bodies as a result of the abuse they have experienced. Other victims use drugs and alcohol to punish their bodies, numb their senses, or try to avoid the memory of the incident.<sup>9</sup>

Legal protection in the recovery of children from sexual abuse is very important to ensure that children who have experienced sexual abuse get their rights and get the support and care they need to recover from this traumatic experience. Sexual violence against children is one of the most damaging forms of violence and can have long-term impacts on their physical, mental and psychological health.

Victims are affected by various forms of criminal activity. In general, effects are anything that results from the existence of "something". Waralah Rd Cristo defines influence as the result of something done either positively or negatively, or as a strong influence that has negative or positive consequences. Because of the consequences of these crimes, the safety and stability of the community was jeopardized, and both material and immaterial losses were incurred, both of which were

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<sup>7</sup>Hawari, D. (2010). Dampak buruk pornografi dan dampak bahaya teknologi informasi dan komunikasi terhadap kesehatan jiwa. Fakultas Kedokteran, Universitas Indonesia.

<sup>8</sup> Probosiwi, R., & Bahransyaf, D. (2015). Pedofilia Dan Kekerasan Seksual: Masalah Dan Perlindungan Terhadap Anak. *Sosio Informa : Kajian Permasalahan Sosial Dan Usaha Kesejahteraan Sosial*, 1 (1).

<sup>9</sup> Kurniawati, M. (2013). *Studi kualitatif kekerasan seksual pada anak di Kabupaten Pidie tahun 2013* (Disertasi Doktor, Universitas Sumatera Utara).

fundamentally harmful to society and the state. Additionally, the impact of sexual violence against children resulted in long-term trauma. Hence, processing and treating this trauma must receive a significant amount of attention from all involved parties in order to develop a social system and a legal system with norms and processes that promote healthy behavior in society.

Legal protection for victims of child sexual violence encompasses a number of different areas, including the recognition and protection of their rights, psychological and medical care, as well as healing and rehabilitation. The following are some examples of the types of legal protection that are available to victims of sexual assault committed against children:

1. Protection against violence and sexual harassment

Child victims of sexual assault need to be protected against additional sexual violence and abuse. This protection must include both protection from the perpetrators of the violence as well as efforts that promote the protection of children from sexual violence and abuse.

2. protection of children's rights

Children who have been the victims of sexual violence have rights that are protected by the law. These rights include the right to necessary medical and psychological support and care, the right to participate in the legal process, the right to be treated with respect and the right to not be discriminatory.

3. Privacy and Confidentiality

Children who have been the victims of sexual assault have a right to the privacy and secrecy of their experiences. This includes protection against the disclosure of their personal information without their agreement, as well as protection against the harassment and intimidation that may arise as a result of the disclosure of sexual harassment.

4. Medical and psychological treatment

Children who are victims of sexual violence require adequate medical and psychological treatment to assist them in recovering from the horrific experience that they have been through. The provision of proper medical care, psychiatric counseling, and social support should be included in this support.

5. recovery and rehabilitation

The healing and rehabilitation process for child victims of sexual trauma need support from others. This involves assisting them in returning to school or engaging in activities that bring them joy, assisting them in regaining their self-confidence, and assisting them in regaining good social interactions.

It is essential that child victims of sexual abuse have access to the rights and help they require in order to heal from the effects of such a horrific event, which is why this legal protection is so crucial. This legal protection can also assist in preventing sexual assault against minors and ensuring that those who commit such acts are dealt with in accordance with the law.

#### 4. CONCLUSION

One of the numerous offenses that lower a person's sense of worth and dignity is the commission of sexual violence, which is a practice that is both extremely harmful and insulting to human rights. It is a sort of discrimination that needs to be eradicated so that there is less opportunity for it to take place. Law No. 12 of the Year 2022 makes this point quite obvious as well. Physical violence, psychological violence, sexual violence, and social violence are the four categories into which different kinds of violence against children can be categorized. According to End Child

Prostitution Institution Asia Tourism (ECPAT) International, the definition of sexual violence against children is a relationship or interaction between a child and a parent or adult, such as a foreigner, sibling, or parent, in which the child is used as an object of gratification. This definition applies to situations in which a child is sexually exploited by a parent or another adult. Legal protection in the recovery of children from sexual abuse is very important to ensure that children who have experienced sexual abuse get their rights and get the support and care they need to recover from this traumatic experience. This can ensure that children who have experienced sexual abuse get the support and care they need to recover from this traumatic experience. One of the most destructive forms of violence against children is sexual violence, which can have long-term effects on their physical, mental, and psychological well-being. It is essential that child victims of sexual abuse have access to the rights and help they require in order to heal from the effects of such a horrific event, which is why this legal protection is so crucial. This legal protection can also assist in preventing sexual violence against minors and ensuring that those who commit acts of sexual violence are dealt with in accordance with the law.

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