

Legal Protection of Child Victims of Sexual Crimes from A Legal and Psychosocial Perspective

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Abstract

The protection of children needs serious attention because often, children become victims of sexual crimes. The number of sexual crimes against children shows that cases of sexual crimes against children are at an alarming level. Cases against children, especially minors, seem to have become a phenomenon. Case after case began to be revealed to the public, whether the perpetrators or victims were minors. The need for adequate legal protection for victims of sexual crimes is not only a national issue but also an international issue; therefore, this issue needs serious attention. Therefore, in this study, the author will discuss how legal protection is for child victims of sexual crimes from a legal and psychosocial perspective. The research method used in this study is a normative juridical research method.

Keywords: Legal Protection, Children, Victim, Sexual Crime, Psychosocial

1. INTRODUCTION

Children are unique individuals; they cannot be compared to adults, both in terms of physical, emotional, thought patterns, and behavior. Treatment of children requires specialization and stable emotions. A great responsibility rests on children because children are the hope for the future of the nation and the religion they rely on. The future of children has a strategic role and has special characteristics and traits that guarantee the continued existence of the nation and state in the future. Therefore, parents, families, communities, government, and the state must provide space for children's optimal growth and development and are obliged to protect them. Article 28 B paragraph (2) of the 1945 Constitution mandates that every child has the right to survival, growth, and development and the right to protection from violence and discrimination.

Children are weak individuals, so they are vulnerable to exploitation and becoming victims of sexual crimes. Some sexual crime cases that we still remember include the Jakarta International School (JIS) pedophilia case involving underage children. Not only in Jakarta a similar case also happened to 11 students in Medan, carried out by their teacher, who was a Singaporean citizen (John Obrak, 2019). In Tenggarong, East Kalimantan, a teacher committed sodomy on his students. Another case of sexual crime occurred in the case of pedophilia, accompanied by the murder and mutilation of 14 street children in Jakarta. The perpetrator was Babe Baikuni, known as Babe. (Nibras Nada Nailufar, 2017)

Child Protection cluster case data from K.P.A.I show that the Child Protection Commission recorded that from 2016 to 2020, there were various kinds of sexual crimes against children, such as online sexual crimes, children as victims of pornography on social media, rape, molestation, pedophilia, and so on. These cases will certainly be very difficult for law enforcement to uncover sexual crimes against children, and of course, these cases will also continue to increase every year.

Minister of Women's Empowerment and Child Protection (PPPA) I Gusti Ayu Bintang Darmawati said the number of child complaint cases related to pornography and online sexual crimes (victims and perpetrators) reached 1,940 children from 2017 to 2019. This data was obtained from data from the Indonesian Child Protection

Commission (KPAI). Meanwhile, according to the Chairman of the National Commission for Child Protection, Arist Merdeka Sirait, said that 52% of cases where Indonesian children experienced sexual crimes.

According to data from the Witness and Victim Protection Agency (LPSK) Edwin Partogi Pasaribu, Deputy Chair of the Witness and Victim Protection Agency, as of January 7, 2020, around 37 percent of perpetrators of sexual violence against children came from nuclear families. One of the ways in which sexual violence against children can be seen is the increase in protection requests submitted to LPSK. According to LPSK data, 80 percent of the perpetrators were people known to the victim - and 37 percent of them were the victim's immediate family. Meanwhile, around 20 percent of the perpetrators were unknown people. Perpetrators of sexual violence are biological/step/adoptive fathers, biological/step grandfathers, siblings, uncles/cousins, teachers, neighbors, playmates, boyfriends, religious leaders, and unknown people. However, the State's efforts to protect children are still being tested, such as granting clemency to convicts in cases of sexual violence against Jakarta International School students, the acquittal of perpetrators of child rape experienced by Joni and Jeni (pseudonyms) at the Cibinong District Court in March 2019 which was annulled by the Supreme Court, until delays in the legal process for alleged prosecutor's employees in Batam and Pontianak. This situation raises questions about the State's commitment to protecting children.

Sexual crimes against children have a traumatic impact, and the healing process is very long. Psychological trauma in children who are victims of sexual crimes is difficult to erase from the child's memory, especially if the perpetrator is still present and lives not far from the child's environment. Under these conditions, parents become very worried and anxious about their safety, especially when they are far from their children, such as when playing outside with friends—his friend or while living at home without his mother or family.

Sexual crime is a form of violation of morality that is not only a national legal problem in a country but has become a legal problem in all countries in the world or a global problem.

Furthermore, sexual crimes against children, as explained by Knudsen, are crimes of sexual violence against children, including any range of sexual acts such as hugging, kissing, exhibitionism, genital touching, oral sex, and sexual intercourse committed against children. Children are considered incapable of expressing voluntary consent, so any sexual act between an adult and a child is considered a form of sexual abuse or violence, even if there is no physical coercion or threat or when the child does not refuse. Family members can carry out sexual violence against children. (effrey S. Nevid, 2005)

Regulation of the Minister of State for Women's Empowerment and Child Protection of the Republic of Indonesia Number 02 of 2011 concerning Guidelines for Handling Child Victims of Violence also formulates the definition of crime and sexual violence against children as forced sexual intercourse against a child.

From the opinions above, the author describes that sexual crimes against children are all acts of sexual relations and/or that lead to sexual relations committed by adults, teenagers, or children, against children with or without coercion. Any sexual act committed against children is a sexual crime.

Price revealed that the negative impacts resulting from sexual crimes against children vary, and there is no single pattern that can be applied to all cases. In general, the negative impacts of acts of sexual violence against children can be categorized into 3 categories, namely physical impacts, which can be seen directly with the eyes; psychological impacts, which are usually shown by attitude, and finally, other negative impacts are emotional and behavioral problems in the future.

The factors that trigger sexual crimes are internal factors, which include insecurity, poor social skills, poor concentration and anxiety, and impulsiveness. The second factor, namely family-based factors, also trigger sexual crimes by children, which include parents who use substance abuse, parental criminality, mothers who are teenagers or young, marital discord, domestic violence, neglect and abuse, parents who do not inappropriate, and lack of parental supervision or parental involvement. (Dennison & Leclerc, 2011)

The protection of children needs serious attention because children often become victims of sexual crimes. The number of sexual crimes against children shows that cases of sexual crimes against children have reached an

alarming level. Cases against children, especially minors, seem to have become a phenomenon. Case after case began to become public, whether the perpetrators or victims were minors.

The need to provide adequate legal protection to victims of sexual crimes is not only a national issue but also an international one; therefore, this problem needs serious attention. Therefore, in this research, the author will discuss about what is the legal protection for child victims of sexual crimes from a legal and psychosocial perspective.

The formulation of the research problem is: 1) how is the implementation of legal protection for child victims of sexual crimes in Indonesian positive law? 2) What are the legal protection efforts for child victims of sexual crimes from a psychosocial perspective? 3) What is the concept of legal protection for child victims of sexual crimes from the perspective of the Indonesian legal system?

2. METHODS

The research method used in this research is the juridical research method normative assisted by empirical data obtained through interviews at a number of agencies which were deemed able to support the research carried out.

3. RESULT AND DISCUSSION

3.1 Implementation of Legal Protection for Child Victims of Sexual Crimes in Indonesian Positive Law

In children, there is a dignity that adults also share in general, so children must also receive special protection so that in the future, they can grow and develop well because children are the next generation of young people and play a role in ensuring the continued existence of a nation and country. So that every child will be able to assume responsibility as the nation's successor, children need to have the widest possible opportunities to grow and develop optimally, both mentally, physically, and socially. Hence, efforts need to be made to protect children and fulfill children's rights without discrimination and violence.

Efforts to protect children must begin as early as possible so that in the future, they can participate optimally in the development of the nation and state. In Article 2, paragraphs (3) and (4) of Law Number 4 of 1979 concerning Child Welfare, it is stipulated that "children have the right to care and protection both while in the womb and after birth. Child entitled to environmental protections that may endanger or inhibit normal growth and development." These two verses provide the basic idea that child protection aims to strive for correct and fair treatment to achieve child welfare.

Indonesia has a law that regulates issues regarding children, namely Law Number 23 of 2002 concerning Child Protection, which is the basic reference in law enforcement regarding the imposition of sanctions or punishments on perpetrators of criminal acts against children. During this time, the idea has developed that once the perpetrator of a crime has been tried and the perpetrator has subsequently served his sentence, then legal protection for the victim is deemed to have been fully provided. As a result, when the victim then demands compensation, this is considered an excessive action. In fact, it is not enough for the perpetrator to be not only criminally responsible but also civilly responsible so as to increase the deterrent effect further while also being personally responsible for the victim.

The phenomenon of victims of sexual crimes that occurred to children in Indonesia began to come into the spotlight from various circles when many private television stations broadcast graphically on criminal programs the actions of victims of sexual crimes that occurred to children. The large number of cases of child sexual crime victims that occur in Indonesia is considered an indicator of poor child protection. Children who are not yet able to live independently certainly really need adults as a place of refuge. The low quality of child protection in Indonesia has drawn much criticism from various elements of society. The question that is often asked is to what extent the government has attempted to provide (legal) protection for children so that children can obtain guarantees for survival and livelihood as part of human rights. In fact, based on Article 20 of Law Number 23 of 2002 concerning Child Protection, those who are obliged and responsible for implementing child protection are the state, government, community, family, and parents.

Child protection is all efforts made to create conditions so that every child can carry out their rights and obligations for the sake of the child's natural, physical, mental, and social development and growth. Child protection is an embodiment of justice in a society. Thus, child protection is sought in various areas of life for the sake of the continuity of child protection activities and to prevent abuses that lead to undesirable negative consequences in the implementation of child protection. (Gultom & Sumayyah, 2014)

According to the Big Indonesian Dictionary, motivation is the urge that arises in a person, consciously or unconsciously, to act with a certain goal. Motivation is often also defined as efforts that cause a person or certain group to be moved to act because they want to achieve the desired goal or get satisfaction from their actions (Pembinaan, 1995). Crimes involving children as victims in Indonesia are very diverse, including teachers molesting their students, a grandfather molesting his grandson, a sibling stealing his younger sibling's honor, a father raping his biological child or stepdaughter, and many more. Therefore, children need to be protected by law. The factors that cause children to become victims of criminal acts and perpetrators of criminal acts so that they need to be protected are:

3.1.1 Children still need parental guidance

Parents are the closest social environment for raising and maturing children, and together with parents, children receive the first and foremost education. Parents greatly influence a child's good or bad development.

The condition of children who are still unstable requires parental guidance to find their identity, preventing children from negative behavior. An abnormal family (broken home) can be the cause of juvenile delinquency. According to Mrs. Moeljatno (Tolib Setiady, 2010), broken homes, as has become a general opinion, cause most children to commit delinquencies, especially due to divorce or separation of parents, which greatly affects the child's development. Therefore, the role of parents in guiding their children is very important because children still do not know what is good and bad, so parents need to guide children so that they can develop well and stay away from negative behavior.

3.1.2 The child is physically weak

In essence, children cannot protect themselves from various actions that cause mental, physical, and social harm in various areas of life and livelihood. Children must be assisted by other people in protecting themselves, considering their situation and conditions. One of the principles used in child protection is that children are the main capital for the survival of humans, families, and nations. For this reason, their rights must be protected (Tolib Setiady, 2010). Arif Gosita said that children must be protected so that they do not become victims of anyone's actions (individuals or groups, private or government organizations), either directly or indirectly (Tolib Setiady, 2010). Children cannot protect their rights by themselves, and many parties influence their lives. The state and society have an interest in working to protect the rights of children.

3.1.3 The child has a condition that is still unstable

The mentality of children who are still in the stage of searching for identity is sometimes easily influenced by the situation and conditions of the environment around them, so if the environment where the child is in is bad, then the child can be influential in actions that may violate the law and children may also become victims of criminal acts. This, of course, can be detrimental to himself and society. Not a few of these actions ultimately got them into trouble with law enforcement officials.

3.1.4 Children cannot yet choose what is good and what is bad

Intelligence is a person's intelligence. According to Wundt and Eisler, Intelligence is a person's ability to weigh and make decisions (Nashriana, 2011). Children basically have less sharp insight, they easily become victims of criminal acts, and they are easily drawn in by bad invitations to carry out evil behavior. Therefore, the family, society, and state must protect them.

3.1.5 Children are not yet mature

Stephen Hurwitz revealed that age is an important factor in causing crime (Nashriana, 2011). This includes crimes that result in child victims of crimes committed by a child because children are the easiest people to become victims of crime.

3.1.6 Girls are more often victims

Paul W. Tappan expressed his opinion that juvenile delinquency can be committed by both boys and girls, even though, in practice, the number of boys who commit delinquency is far greater than that of girls within a certain age limit.

The existence of gender differences also results in differences, not only in terms of the quantity of delinquency but also in terms of its quality. We often see or read in the mass media that many crimes are committed by boys, such as theft, robbery, assault, murder, rape, and so on. Meanwhile, many violations are committed by girls, such as violating public order, violating decency, for example committing sexual intercourse outside marriage as a result of promiscuity.

3.1.7 Children need education and school

Schools are media or intermediaries for developing children's souls, or in other words, schools are also responsible for children's education, both scientific education and behavioral (character) education. The number or increase in child delinquency indirectly shows the lack of success of the education system in schools. Thus, an educational process that is less favorable for a child's mental development will affect students at school either directly or indirectly, so that it can give rise to delinquency (delinquency).

3.1.8 Children have relationships

We must be aware of how much influence the environment has on children, especially in the cultural context of that environment. In a social situation that becomes very loose, children then assert their existence which is considered marginalized or threatened. They then look for and join a new family with a new subculture delinquent in its nature.

3.1.9 Children are still able to be influenced by mass media

Mass media is also understood to have a great influence on children's development. Children's desires or desires to commit mischief sometimes arise due to the influence of reading, pictures and films.

3.2 Legal Protection for Child Victims of Sexual Violence in Indonesian Positive Law

(1) The 1945 Constitution of the Republic of Indonesia

Article 28 B paragraph (1) states that every person has the right to form a family and continue their offspring through legal marriage. Article 28 B paragraph (2) states that every child has the right to survival, growth and development and the right to protection from violence and discrimination. And in Article 34 paragraph (2) it is stated that the poor and neglected children are cared for by the state

(2) Criminal Procedure Code

In connection with the victim's right to submit a claim for compensation through combining cases as regulated in Articles 98 to 101 of the Criminal Procedure Code, interested parties need to pay attention to several things, namely as follows: (Soeparmono, 2003)

1. The losses incurred must be caused by the criminal act itself;
2. Losses caused by criminal acts or other people who suffer losses (victims) as a direct result of such criminal acts;
3. The claim for compensation for damages resulting from the criminal act is addressed to the "perpetrator of the criminal act" (defendant)

4. And, the claim for compensation submitted to the defendant was combined or examined and decided at the same time as the examination and decision of the criminal case in which the defendant was charged and in the form of one decision.

(3) Law Number 39 of 1999 concerning Human Rights

Several provisions in statutory regulations which regulates the importance of protecting children's human rights. This can be seen in Law Number 39 of 1999 concerning Human Rights, where children's human rights are explicitly emphasized in 15 articles which regulate children's rights in accordance with Articles 52 to Article 66 of Law Number 39 of 1999 concerning Human Rights. Man.

(4) Law Number 23 of 2002 concerning Child Protection

If a child has become a victim of a criminal act, then efforts are made according to Law Number 23 of 2002 concerning Child Protection in article 64 paragraph (2), which basically contains all efforts provided by the government to protect children who are victims of criminal acts, including:

- 1) Rehabilitation efforts carried out within an institution or outside the institution, these efforts are carried out to restore mental, physical and other conditions after experiencing very deep trauma as a result of a criminal incident they have experienced;
- 2) Efforts to protect the victim's identity from the public, this effort is made to ensure the identity of the child who is the victim or the victim's family is not known to other people with the aim of ensuring that the victim's good name and the victim's family are not tarnished;
- 3) Efforts to provide safety guarantees to victim witnesses, namely children and expert witnesses, both physically, mentally and socially from threats from certain parties, this is an effort to ensure that the case process runs efficiently;
- 4) Giving Accessibility to obtain information regarding the progress of the case, this is done so that the victim and family know the progress of the case process.

(5) Law Number 23 of 2004 concerning the Elimination of Domestic Violence

Family is the first social environment known to humans. In the family, humans learn to start interacting with other people. For this reason, people generally spend a lot of time in the family environment. Many cases of domestic violence occur within families. This exceeds the official data released by both government and private institutions. According to Article 1 point 3 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, what is meant by victim is a person who experiences violence and/or threats of violence within the household. Victims according to this law are socially weak victims, namely those who have a weak social position which causes them to become victims. Victims of domestic violence will experience very diverse suffering/losses, such as material, physical and psychological, so the protection given to victims must also vary.

(6) Law Number 13 of 2006 concerning Protection of Witnesses and Victims

Based on the provisions of Article 5 paragraph (2) of Law Number 13 of 2006, not every witness or victim who provides information (testimony) in a criminal justice process automatically receives protection as stated in this law. Especially for victims of serious human rights violations, based on Article 6 of Law Number 13 of 2006 they not only have the right to protection as stated in Article 5 but also have the right to receive medical assistance and psycho-social rehabilitation assistance, namely assistance provided by psychologists to victims who suffer from trauma or other mental problems to restore other mental conditions to restore the victim's mental condition (explanation Article 6 letter b).

In cases of serious human rights violations, it is possible for victims to claim the right to compensation and the right to restitution or compensation for losses which are the responsibility of the perpetrator of the crime (Article 7 paragraph [1]). Other protections that are also provided to witnesses or victims in a criminal justice process include:

1. Giving testimony without being directly present at the court where the case is being examined, of course after obtaining permission from the judge (Article 9 paragraph [1]);

2. Witnesses, victims and reporters cannot be legally prosecuted either criminally or civilly for reports, testimony that they will, are currently giving or have given.

(7) Law Number 3 of 1997 concerning Children's Courts

Law Number 3 of 1997 concerning Children's Courts is a special law (*lex special*) from the general law (*lex generalis*) contained in the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) (Nashriana, 2011). In the provisions of Law Number 3 of 1997, it is known that there is an age limit for being able to be tried in a juvenile court. According to the provisions of Article 1 paragraph (1), Article 4 and Article 5 paragraph (1) of Law Number 3 of 1997, children who have reached the age of 8 years, but have not yet reached the age of 18 years and have never been married can be brought before a juvenile court.

It can be concluded that the implementation of the Juvenile Criminal Court based on the Juvenile Court Law aims at "Fostering" and "Protecting" children. The purpose of this guidance and protection is connected with the duties and authority of the juvenile court as regulated in Article 3 of the Juvenile Court Law, so the aims of the Indonesian juvenile justice system are: examining cases of naughty children, deciding cases of naughty children and resolving cases of naughty children in the context of guidance and protection of children.

(8) Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

The Juvenile Criminal Justice System Law regulates the existence of diversion. The provisions of Article 1 number 7 state that diversion is the transfer of the resolution of children's cases from the criminal justice process to a process outside the criminal court, then in Article 6 of the SPPA Law, diversion aims to achieve peace between the victim and the child, resolve children's cases outside the judicial process, prevent children from deprivation of liberty, encouraging people to participate and instilling a sense of responsibility in children.

Article 89 of the Juvenile Criminal Justice System Law states that child victims and/or child witnesses are entitled to all protection and rights regulated in statutory provisions.

(9) Law Number 4 of 1979 concerning Child Welfare

The provisions of Articles 2 to 9 (Chapter II of Law Number 4 of 1979) regulate children's rights to welfare, namely:

1. The right to welfare, care, upbringing and guidance;
2. The right to services;
3. The right to preservation and protection;
4. The right to environmental protection;
5. The right to first aid;
6. The right to receive care;
7. The right to obtain assistance;
8. The right to be provided with services and care;
9. The right to obtain special services;
10. The right to receive assistance and services.

3.3 Legal Protection Efforts for Child Victims of Sexual Crimes from a Psychosocial Perspective

Child protection must not be carried out excessively and must pay attention to the impact on the environment and the child himself, so that the protection efforts carried out do not have negative consequences. Child protection is carried out rationally, responsibly and beneficially, reflecting an effective and effective effort. Efforts to protect children must not result in the death of initiative, creativity, and other things that cause dependence on other people and uncontrolled behavior so that children do not have the ability and willingness to exercise their rights and carry out their obligations. (Maidin Gultom, 2014)

One form of legal protection for child victims of sexual crimes is psychosocial assistance. Psychosocial assistance is a combination of psychological treatment and social treatment. This combination combines psychological treatment that relies on interpersonal understanding of the victim with socio-cultural issues that surround the victim's life.

Psychosocial is a term used to describe the relationship between a person's social conditions and their mental/emotional health. From what he said, the term psychosocial involves psychological and social aspects. For example, the relationship between the fears a person has (psychological) and how he interacts with other people in his social environment. A mentally healthy person will react in a positive way in many situations. Unlike people who are mentally unstable, they will react negatively to everything that happens in life. Psychosocial assistance aims to: (Maidin Gultom, 2014)

- (1) Make victims able to understand the problems they are experiencing in a more multidimensional way.
- (2) Helping victims make the best decisions for themselves in dealing with current problems.
- (3) Helping victims prevent and deal with future problems.
- (4) Help victims find and use their potential.

The legal basis for psychosocial assistance is determined in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, in Article 69A which determines that: Special Protection for Child victims of sexual crimes as intended in Article 59 paragraph (2) letter j is carried out through efforts:

- a. education about reproductive health, religious values, and moral values;
- b. social rehabilitation;
- c. psychosocial assistance during treatment until recovery; And
- d. providing protection and assistance at every level of examination starting from investigation, prosecution, to examination in court.

Based on the results of observations and interviews conducted by researchers at the Recovering Psychology Institute regarding the recovery of psychosocial trauma in women victims of sexual violence, several findings were produced regarding the recovery process for psychosocial trauma in victims of sexual violence. From the results of interview and observation data, researchers found that there were several stages that clients had to go through before they could receive treatment from a psychologist. The stages that must be passed generally consist of 3 stages, namely registration at once, assessment initially, agreeing on a counseling schedule, and finally, counseling. These three stages constitute the standard service flow for providing services at the Recovering Psychology Institute. This is in accordance with what is delivered by Yomima, one of the staff who usually has the task of receiving clients and arranging counseling schedules at the Pulih Psychology Institute:

There are two options for registering with us online or in person. First, if you go offline, for example, clients will usually come directly here without any prior agreement or schedule, so those who come directly here to register will then be contacted again regarding the schedule for their counseling. If you are going online, we will usually be contacted via WA or telephone; usually, the client will ask first, can I consult? Only later will the Institute ask for his identity and the complaint he wants consulted. After that, a schedule will be made because usually, our team will first discuss with the psychologist who will handle the case according to our respective psychologist specialists.

The Pulih Psychology Institute has two options for clients who want to register, namely online and offline registration. For offline registration, the flow is the same as online registration; the difference is that if offline, the client comes directly to the Institute to register without going through WA or telephone.

After making a schedule, we will inform the client, and then after making a schedule for the client to come here, usually we will ask them to fill in the guest book first. After that, we ask them to fill out an initial biodata sheet and fill out an informed consent sheet or some kind of agreement regarding confidentiality. After client

completing the content, we will provide a psychological assessment or initial examination, after which a psychologist will handle it.

After the client fills in the biodata sheet and informed consent or agreement letter, the institute staff provides an initial assessment, which will be submitted to the psychologist. The aim is to make it easier for psychologists to follow up on client problems.

Then, after that, there will be an administration process, and usually, we will also ask whether there will be a follow-up session; if, for example, some of our clients are not satisfied with one session, we can usually add another session, and a schedule will be made again like the initial process.

After the counseling process is complete, the client will be directed to carry out the administrative process and confirm whether the client wants to take part in the next stage of counseling or has had enough.

After the counseling schedule is completely agreed upon between the psychologist and the client, then the counseling process or service provision is carried out. The counseling process consists of several stages. Namely, the first stage is the process of approaching the client or frequently calling to attend. In this phase, the psychologist will try to provide a feeling of comfort to the client so that the client can be more relaxed and comfortable in providing information related to the problem experienced. Apart from building good relationships or bonds with clients, psychologists also provide information regarding the principles of counseling and codes of ethics held by psychologists or counselors so that they hope to increase the psychologist's credibility in the eyes of clients. This is in accordance with what was conveyed by Mrs. Dr. Yuarini Pratiwi, M.Psi., as a psychologist at the Pulih Psychology Institute.

In counseling, the first important thing to do is provide comfort to the client. So, in counseling, there is a code of ethics for psychologists, one of which is that when we provide services, we need to focus on the client's comfort; what is his condition like? Is it possible or not? So, for example, we psychologists have an idea, oh, the client needs this and this to recover, but again, we psychologists can plan, but how comfortable the client is.

Thus, to build a good relationship with a client, a psychologist must be able to make the client comfortable before conducting counseling to make it easier for the psychologist to explore and analyze the client's problems.

Psychologists really prioritize client comfort because in determining a treatment that suits the client, a psychologist must first know all of the client's problems. A client will easily convey all his problems to a psychologist if he feels comfortable. So, a psychologist needs to build a good relationship with a client by making him comfortable telling stories.

Then, in the second stage, the psychologist begins to do an assessment or carry out further information gathering. This can be done by using free association, open questions, or closed questions, depending on the type of information the psychologist wants to explore and his ability to carry out the exploration. At this stage, psychologists can begin to understand the client's problems and determine what follow-up actions will be taken.

Through data from the assessment results obtained by psychologists, psychologists can determine what techniques and follow-up actions are suitable for treating clients. At the Pulih Psychology Institute, there are several psychologists, and each psychologist uses different counseling techniques that are tailored to the client's problems. Cases of sexual violence themselves are usually handled with individual counseling.

From the results of the researcher's interviews with two psychologists at the Pulih Psychology Institute, there are several stages and techniques that psychologists use to help victims recover according to the victim's needs. Mrs. Yuarini, a psychologist at the Pulih Psychology Institute, uses the more often technique client-centered in handling cases of victims of sexual violence because, according to him, the person who really knows about this problem is the victim, as is the case expressed by him:

When counseling clients who are victims of sexual violence, I usually use it technology-centered because, again, the client's story is from his point of view, trying to see his problem from his previous point of view. If I see it from the concept method and think with his different concept of thinking, it would really crash. I can think rationally because I am not in that position, whereas his client finds it difficult to think rationally and to be

objective. After all, his emotions are still going up and down like that. Thus, I choose to make it client-centered because that is one of the techniques that I think is the most humane and does not bring down his experience.

According to Rogers in McLeod, Client-Centered Counseling is a counseling technique where the most important role is the client himself; clients are left to find their solutions to the problems they are facing (John, 2006). This gives the understanding that the client is seen as a partner and the counselor only as a driver and creator of situations that allow the client to develop on his own, as stated by Sukardi, who usually calls it client-centered counseling (client-centered counseling). As for non-directive counseling, his book entitled Introduction to Guidance and Counseling states that client-centered counseling is a technique in counseling guidance where the center is the client and not the counselor. Therefore, in this counseling process, activities are largely placed on the client himself. (Sukardi, 2008)

So, client-centered is one technique in counseling guidance that places more emphasis on the activity of the client and the client's responsibility. Most of the counseling process is placed on the client himself to solve the problem, and the counselor only plays a role as a partner in helping the client reflect on his attitudes and feelings and seek and find the best way or solution to solving the problem. In handling cases of victims of sexual violence, psychologists at the Pulih Psychology Institute use more often technique positive reinforcement for children. In contrast, adults often use cognitive and affective techniques because they are considered capable of managing their feelings.

Use of CBT (Cognitive Behavioral Therapy) and positive techniques informants this is done so that clients can change the way they think about their social environment so that they are more courageous in mingling. This is in line with the aim of CBT, namely, to reduce psychological distress and maladaptive behavior by changing the way individuals think and interpret themselves, their lives, and their future. CBT is based on the assumption that behavior and feelings (affection) are the product of cognitive processes. Changes in thoughts will impact changes in feelings and behavior. CBT summarizes the main elements of behavioral theories and cognitive theories. (Sukardi, 2008)

As for the level of use of technique CBT, namely building a good relationship with the client, builds the client's trust that he will be understood and recovered. This can then be done by trying to calm the client's thoughts and feelings with simple methods such as inhaling and exhaling until the thoughts and feelings are more relieved. After the client feels calmer, then he tries to talk about the problems he is experiencing. After that, an assessment is carried out regarding the client's behavior, self-control, motivation, and social environment. Then, try to provide positive meanings aimed at changing the client's mindset about the social environment and changing the client's behavior in the social environment so that they are more courageous in mingling.

According to Kendal, cognitive behavioral therapy is a short and structured form of therapy based on the premise that thoughts, feelings, and behavior are interconnected. Influence each other through a reciprocal process. For example, negative thoughts or interpretations rational to an event often trigger the emergence of negative feelings and moods. Scary thoughts will directly increase feelings of anxiety and avoidance behavior due to anxiety. Thoughts of anger often trigger feelings of uncontrollable anger, which then triggers aggressive actions. Therefore, changing feelings of anxiety and fear directly is often difficult, so CBT solves this indirectly by changing thoughts and behavior related to the client's anxiety. (Safaria, 2021)

The aim of CBT (Cognitive Behavioral Therapy) is to reduce psychological distress and maladaptive behavior by changing the way individuals think and interpret themselves, their lives, and their futures. CBT is based on the assumption that behavior and feelings (affection) are the product of cognitive processes. Changes in thoughts will impact changes in feelings and behavior. CBT summarizes the main elements of behavioral theories and cognitive theories. (Safaria, 2021)

According to Habsy, the characteristics of cognitive behavioral counseling do not only emphasize changing the client's understanding from a cognitive perspective but also providing counseling for behavior in a better direction, which is considered an appropriate counseling approach to be implemented in Indonesia. This is in line with the main basis of counseling, which is an effort to help people become what they can be and how they should be and be (Habsy, 2017).

They are handling clients using the technique of positive reinforcement carried out in stages of building good relationships and client trust. In the next step, Miss Indah tries to give hypnotherapy to calm the client's subconscious mind. After the client feels calmer then, he can talk about his problem. Then, the psychologist carries out an initial assessment regarding behavior, thought patterns, self-control, and motivation. After that, the client is given positive meanings regarding the potential he can still develop in order to have a better life expectancy.

Positive reinforcement technique is a process of strengthening operant behavior (reinforcement) positive or negative) which can cause the behavior to repeat or disappear as desired (Nelson-Jones, 2011). Positive reinforcement is reinforcement based on the principle that the response frequency increases because it is followed by a supportive stimulus (rewarding). Forms of positive reinforcement can be in the form of gifts, behavior, or rewards. (Martin & Pear, 2015)

The direct effect of positive reinforcement is an increase in response frequency because the reinforcing consequences are immediately given. Meanwhile, the indirect effect of the reinforcement principle is to strengthen a response because it will be followed by a reinforce, even though the reinforce is not given at the same time. (Martin & Pear, 2015)

Based on the author's analysis, it can be concluded that clients are handled with different techniques according to their problems. One of the techniques used by psychologists at the Puli Psychology Institute in treating victims of sexual violence is the client technique-centered CBT (Cognitive Behavior Therapy) and positive reinforcement. The interview results also show the importance of building good relationships with clients because that way, clients will feel comfortable and trust the psychologist; this will make it easier for the psychologist to explore client problems.

From the results of the interview, the researcher analyzed the theories and characteristics of trauma described above with the trauma experienced by the client, showing things that were in line. Characteristics of trauma according to Kusmawati Hatta: (Fitriani, 2018)

- (a) A trauma sufferer will have disturbing memories of the events that caused him to experience the trauma. They show reactions of anger, fear, anxiety, and even cry when telling stories because they try to recall the unpleasant incident.
- (b) The thought patterns experienced by someone who suffers from trauma tend to have negative feelings. They assume that if they have experienced this (sexual violence), then they are no longer their future again, feeling that they no longer deserve to be respected and loved.
- (c) Feeling hopeless about anything related to the traumatic event or incident. They feel hopeless about their future because they think that if they have experienced this (sexual violence), then they will no longer have a future, will not be accepted in society, and no man will want to be with them. For this reason, victims of sexual violence tend to withdraw from their environment because they are afraid of being isolated in society.
- (d) Emotional changes: Someone who suffers from trauma will have very rapid emotional changes and a tendency to stormy feelings. They tend to have very complex emotional changes, especially when they recount the incident in counseling sessions.

Erik H. Erikson's theory regarding psycho-socialism is also in line with the results of research in the field. Erik H. Erikson believes that social influences shape a person's life stages from birth, and personality develops at several levels (Hambali & Jaenudin, 2013). This is in line with the results of research from several clients; for example, client L, in his childhood stage of life, L often received negative assumptions from his grandmother, who said that if a woman were big like L, it would be difficult to find a partner in the future. This is what gives L a negative meaning, and he considers himself worthless and unworthy of love. Therefore, social influences in the environment greatly influence the formation of a person's character and way of thinking.

In his theory, Erikson also believes that ego development always changes based on new experiences and information that we get in interacting with other people. Erikson believed that the ability to motivate attitudes and actions can help positive development (Hambali & Jaenudin, 2013). This is in line with what researchers

found in the field, namely for clients treated in institutions where, after being given positive meanings by the psychologist, the client's thoughts slowly begin to change to become more positive.

3.4 The Concept of Legal Protection for Child Victims of Sexual Crimes from the Perspective of the Indonesian Legal System

Jonaedi Master in the Dictionary of Popular Legal Terms defines a crime that is classified as serious as more than just a violation, where the act is so antisocial that the state then punishes the perpetrator consciously (Efendi et al., 2018). Sexual violence is a form of crime that often occurs in society. With many influences, over time, the types of sexual violence that occur in society have become very diverse. The issue of the variety of sexual violence that currently occurs is a concern for many people because, currently, anyone can become a victim of sexual violence. In many cases, sexual violence is also sexualized violence, namely a type of violence that is constructed against a certain gender or often, in this case, affects women. (Aditya, 2016)

Apart from women, children and people with disabilities are also often victims of sexual violence because they are considered weaker. However, currently, men also have the potential to become victims of sexual violence (Aditya, 2016). The National Commission on Violence Against Women's 2021 Annual Records (CATAHU) shows that home and personal relationships are not yet a safe place for women because sexual violence is consistently still the second most frequently reported after cases of physical violence that occur in the realm of domestic violence. On the other hand, in the public domain, the CATAHU National Commission Woman of the Year 2021 report that sexual violence still occupies first place with a percentage of 55% (962 cases of 1,731 reported cases of violence against women) consisting of sexual abuse (166 cases), rape (229 cases), sexual harassment (181 cases), sexual intercourse in 5 cases, and the remainder were attempted rape and sexual violence others. (KOMNAS PEREMPUAN, 2021)

However, these figures do not yet report the actual number because many victims of sexual violence do not want to report their cases because of the traumatic conditions experienced by the victims, such as feeling humiliated, humiliated, undignified, afraid of being blamed by others, feeling dirty, embarrassed, confused, afraid, angry, anxious, depressed, shocked, and afraid of carrying a bad reputation for the rest of her life and facing the fear of unwanted pregnancy (Aditya, 2016). The low reporting of sexual violence cases, which results in low legal protection for victims of sexual violence, is caused by the handling of sexual violence cases, which experience various obstacles in the legal structure, legal substance, and legal culture. Law enforcement officers, which can be understood as a legal structure, for example, often use assumptions and blame the victim when dealing with victims by asking why the victim was on a public road at night, asking why the victim did not scream when experiencing sexual violence or why the victim did not immediately report the case to nearest police (Khusnaeny, 2016).

The obstacle in legal substance regarding the protection of victims of sexual violence is that there are still many types of sexual violence that are not yet included in existing laws and regulations and are still regulated in several separate laws. These legal regulations include those regulated in the Criminal Code, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, which will hereinafter be called the PKDRT Law, Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, which will hereinafter be called the PTPPO Law, Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, which will hereinafter be called the Law on Protection of Witnesses and Victims and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which will hereinafter be called the Child Protection Law. Even though these laws and regulations concern the rights of victims, these rights are only specifically intended for victims of criminal acts referred to in the law above. (Haryanti Puspita Sari, 2020)

Legislation which can be understood as criminal law policy does not yet specifically regulate comprehensive recovery of victims, rehabilitation of perpetrators, special criminal procedural law for sexual violence and integrated treatment (Khusnaeny, 2016). Efforts to overcome criminal acts of sexual violence through laws which also contain the threat of criminal penalties, are part of law enforcement efforts, especially criminal law and are also an integral part of efforts to protect society (social welfare) one of which is protection for crime victims. (Arief, 2011)

The initiative to form and ratify a Draft Law for the elimination of sexual violence which included protection for victims of criminal acts of sexual violence emerged in 2015. This idea produced results, namely the drafting of the Draft Law on the Elimination of Sexual Violence (RUU PKS).¹⁰ As an effort to protect victims of criminal acts of sexual violence, the PKS Bill contains 9 types of criminal acts of sexual violence which are not yet regulated in the Criminal Code or other laws and regulations outside the Criminal Code which regulate sexual violence.

Nine types of criminal acts of sexual violence previously included in Article 11 paragraph (2) of the TPKS Bill, consisting of sexual harassment, sexual exploitation, forced contraception, forced abortion, rape, forced marriage, forced prostitution, sexual slavery and/or sexual torture. With the detailed definition of criminal acts of sexual violence in the PKS Bill, the handling of criminal acts, which is part of victim protection, can accommodate victims of criminal acts of sexual violence because it also contains the protection and recovery of victims specifically for victims of criminal acts of sexual violence, so according to researchers the regulations regarding Protection for victims of sexual violence should be updated so that it becomes a new criminal law policy in the future in an effort to protect victims of criminal acts of sexual violence.

3.6 Criminal Law Formulation Policy for Protection of Victims of Crimes of Sexual Violence

Muladi defines that victims are people who, individually or collectively, have suffered losses, including physical or mental losses, emotional, economic, or substantial interference with their fundamental rights, through actions or conditions that violate the law in each country, including abuse of power (Mansur & Gultom, 2007) and Arif Gosita defines victims as those who suffer physically and spiritually as a result of the actions of other people who seek to fulfill their own or other people's interests which conflict with the human rights of the injured party (Arif Gosita, 2009). Thus, victims of criminal acts of sexual violence are people who suffer physically and spiritually because they receive the consequences of sexual violence.

Based on positive law in Indonesia, the victim can demand losses or compensation from the convicted party as part of legal protection for victims of sexual violence. Compensation is providing something to the party who suffers or in this case the victim of a criminal act of sexual violence who suffers losses, taking into account the damage suffered by the victim by the perpetrator (Susila, 2019). Especially for victims of criminal acts of sexual violence, protection for victims must include abstract (indirect) and concrete (direct) forms of protection. Abstract protection is basically a form of protection that can only be enjoyed or felt emotionally (psychically), such as a sense of satisfaction (satisfaction). Concrete protection is basically a form of protection that can be enjoyed in real terms, such as gifts in the form of material or non-material. (Susila, 2019)

Reforming the national criminal law is an effort that directly concerns the honor and dignity of the Indonesian nation and state and is a basic means for achieving national goals (Anwar, 2008). In essence, it is an effort to review and reshape the law in accordance with the general socio-philosophical, socio-political and cultural values of Indonesian society. Criminal law reform includes reform of formal criminal law, criminal law material and criminal enforcement law. All of this is within a framework for realizing one national law that serves national interests based on Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD NRI).

Efforts to reform criminal law are very necessary with the main aim of creating a codification of national criminal law to replace the codification of criminal law which is a legacy of the Dutch colonial era. Criminal law reform covers the main issues related to the three main problems in criminal law, namely the issue of criminal acts, the issue of criminal error or responsibility, and the issue of crime and punishment. (Barda Nawawi Arief, 2016)

In general, criminal law reform is part of a policy. It is said to be a policy effort because criminal law reform is intended as an update to a legal substance in the series to make law enforcement more effective. Barda Nawawi Arief, stated that efforts have been made to reform criminal law as part of criminal law policy (penal policy) and processing is still ongoing (Arief, 2005). Each of these policies also contains value considerations which, because criminal law reform must also be oriented towards a value approach.

The Indonesian nation is currently carrying out reforms in the field of criminal law, one of which is the death penalty. Supporters and opponents of the death penalty try to maintain their opinions. This will of course have an

influence on the formation of a new Indonesian Criminal Code, as a result, though its own nation, which has long been aspired to.

Criminal law reform is not identical to reform of the Criminal Code. Criminal law reform is more comprehensive than simply replacing the Criminal Code. Renewing the Criminal Code only means updating criminal law material. If viewed from a criminal law perspective, reform of the Criminal Code can be carried out in two ways, namely partial renewal, namely by replacing part by part of the criminal law codification and renewal in a universal, total or comprehensive way, namely renewal by completely replacing the codification of criminal law.

Background The concept of reforming the Criminal Code itself (the material criminal law system) is a main idea which can be broadly called the "idea of balance". This balance idea includes, among other things:

- 1) Mono dualistic balance between individual/individual interests and public/society interests;
- 2) The balance of public/individual interests is also included in the idea of protection/victim interests and the idea of criminal individualization;
- 3) Balance between subjective (inner/inner attitudes) and objective (actions/outward) factors;
- 4) Balance between material and formal criteria;
- 5) Balance between legal certainty, flexibility and justice;
- 6) Balance of national values and international values. (Barda Nawawi Arief, 2010)

Apart from the main ideas mentioned above, the death penalty is still maintained in statutory regulations, as well as in draft statutory regulations, especially here the draft of the Criminal Code is also based on the idea of avoiding reactions from society which are arbitrary and vengeful in nature. , emotional, uncontrollable or extra-legal execution in nature.

The Law on the Elimination of Sexual Violence or hereinafter referred to as the PKS Law is a legal product that is a breakthrough in efforts to eliminate all forms of sexual violence, especially considering the condition that there are still many forms of crime and sexual violence, especially against women in Indonesia who are still not protected and regulated by statutory regulations (Wardadi et al., 2019) Ideas for idea (Mahabbati & Sari, 2019).

The Law on the Elimination of Sexual Violence is based on the increasing number of victims and the development of forms of sexual violence in Indonesia, while the legal system in force has not been systematically and comprehensively able to prevent, protect, recover and empower victims and increase public understanding and awareness to eliminate sexual violence. One example is the Criminal Code which does not yet accommodate types of sexual violence and there is no legal mechanism that takes into account the perspective of experience and protection for victims (Mahabbati & Sari, 2019). However, the Law on the Elimination of Sexual Violence has had its pros and cons. The polemic regarding the Draft Law on the Elimination of Sexual Violence is caused by the way of looking at the regulations contained in it, namely the gender perspective and the perspective of religious morality.

Those who support the immediate ratification of the Draft Law on the Elimination of Sexual Violence tend to use a gender perspective, while those who oppose the Draft Law on the Elimination of Sexual Violence tend to use a religious morality perspective (Afifurrochman Sya'rani, 2019). Regardless of the pros and cons of ratifying the PKS Law mentioned above, it is hoped that the PKS Law will reform criminal law in the future in providing legal protection for victims of criminal acts of sexual violence. The PKS Bill, which is an effort to reform the law, has the following objectives: (Wardadi et al., 2019)

- (1) Preventing incidents of sexual violence.
- (2) Develop and implement handling, protection and recovery mechanisms that involve the community and side with the victim, so that the victim can overcome the violence they have experienced and become a survivor.
- (3) Providing justice for victims of sexual crimes, through punishment and firm action against perpetrators of sexual violence.
- (4) Ensure the implementation of State obligations, the role of the family, community participation and corporate responsibility in creating an environment free of sexual violence.

The PKS Law provides a more detailed definition of sexual violence, which has not been regulated in previous laws and regulations. An explanation of the types of sexual violence is contained in Articles 12 to 20 of the PKS Law, where previously Article 11 of the PKS Bill detailed 9 forms of sexual violence, namely sexual harassment, sexual exploitation, forced contraception, forced abortion, rape, forced marriage, forced prostitution, sexual slavery and sexual torture.

The victims in the PKS Law have the right to receive treatment, protection and recovery as stated in Article 22 paragraph (1) and the state is responsible for fulfilling these rights in accordance with the conditions and needs of the victims. Victims' rights to recovery in the PKS Bill include physical, psychological, economic, socio-cultural recovery and compensation for losses.

This recovery begins when a case of sexual violence is discovered or reported, which is carried out based on a request submitted directly by the victim or victim's family to the companion and/or integrated service center, then the companion or integrated service center identifies the victim's needs or is carried out based on information about cases of violence knowledge about sexual matters from village officials, religious leaders, traditional leaders or other parties. Recovery for victims of sexual violence is carried out before the judicial process, during the judicial process and after the judicial process takes place.

Apart from victims' rights, the rights of victims' families, witnesses' rights and experts' rights are also regulated more comprehensively in this PKS Bill. Law is a system consisting of legal substance, legal structure and legal culture which interact with each other. Currently, the legal regulations contained in the Criminal Code are not sufficient to regulate sexual violence.

The limited elements and definitions of sexual violence mean that justice for victims is difficult to fulfill, and in some cases victims are even criminalized and must receive punishment. While the Law on the Elimination of Sexual Violence in an integrated and comprehensive manner contains regulations to protect victims of criminal acts of sexual violence, through the ratification of the PKS Bill into Law, there will be reform of criminal law in an effort to protect the law against victims of criminal acts of sexual violence in the future.

4. CONCLUSION

Based on the analysis that has been carried out, the following conclusions can be drawn:

1. The Indonesian government has promulgated several regulations in an effort to protect children who are victims of sexual crimes. However, it is felt that all existing laws have not been able to accommodate sexual crimes that occur in society. It is felt that protection for child victims is still not optimal in recovery and rehabilitation efforts for victims. Therefore, in the Amendment to the Witness and Victim Protection Law, the government emphasizes the importance of psychosocial rehabilitation for victims as a recovery effort. It is considered necessary to provide psychosocial rehabilitation to child victims because, through this rehabilitation, it is hoped that the child will be able to return to society, carry out his functions, and be able to escape the trauma of the sexual crimes that happened to him. Sexual crime is a criminal act that destroys the balance in society. Therefore, as a prevention and control effort, synergy between family, community, and government is needed.
2. Law as a system consists of legal substance, legal structure, and legal culture, which interact with each other. Currently, the legal rules contained in all laws and regulations related to the protection of children as victims of sexual crimes do not adequately regulate sexual violence. The limited elements and definitions of sexual violence make it difficult to achieve justice for victims, and in some cases, victims are even criminalized and must receive punishment. Therefore, the government is trying to accommodate all deficiencies in the law on the Elimination of Sexual Violence, which, in an integrated and comprehensive manner, contains regulations for dealing with sexual violence so that it can be eliminated. They start from prevention, treatment, and protection to the recovery of victims. The legal structure also illustrates the inadequacy of handling cases of sexual violence and protecting victims. The police, prosecutor's office, and courts have not fully provided special treatment in handling cases of sexual violence. For example, there are still inadequate facilities for examining victims in separate rooms, and there are still law enforcement officials whose perspective does not

take the victim's perspective in understanding the substance of the law to understand the victim's needs in order to be ready to provide information. Meanwhile, the law on the Elimination of Sexual Violence has formulated the responsibilities and obligations that must be carried out in dealing with sexual violence and has even regulated criminal sanctions and administrative sanctions for parties who are negligent and do not fulfill their obligations in dealing with sexual violence. Even from a legal culture, society does not yet have a victim's perspective. There is still a stigma in society that sexual violence occurs as a result of the victim's behavior. Even the families and parents of victims of sexual violence think that the sexual violence experienced by their children is a disgrace, so the victims have to endure their suffering alone and have no one to support them. Therefore, the law on the Elimination of Sexual Violence is a regulation that has a victim perspective. In the series of overcoming and eliminating sexual violence, all sectors, including society, have a role in eliminating sexual violence. From the results of the analysis, it is concluded that the law on the Elimination of Sexual Violence can accommodate the elimination of sexual violence as a form of legal reform to tackle sexual violence in Indonesia

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