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Efforts To Prevent Children From Becoming Victims Of Sexual Violence Crimes Through An Integrated Justice System

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Abstrak

Anak korban kekerasan seksual harus dilindungi, tidak dibenarkan menjadi korban kembali. Tujuan penelitian ini untuk menganalisis upaya pencegahan anak menjadi korban kembali dalam tindak pidana kekerasan seksual melalui sistem peradilan pidana yang terintegrasi. Penelitian menggunakan penelitian hukum normatif-empiris, pendekatan peraturan perundang-undangan dan konseptual. Hasil penelitian, kebijakan hukum pidana melalui revisi KUHP diperlukan untuk mencegah terjadinya anak korban kekerasan seksual menjadi korban kembali dalam sistem peradilan pidana anak. Undang-Undang Sistem Peradilan Pidana Anak Nomor 11 Tahun 2012 menentukan mengambil keterangan saksi secara perekaman elektronik dalam Pasal 3 dan Pasal 58 huruf (a) yang hanya dapat dilakukan di luar sidang pengadilan atau jarak jauh dan digunakan sebagai dasar penyidikan. Anak korban hanya perlu memberikan keterangan satu kali pada tahap penyidikan dan direkam secara elektronik serta digunakan hingga ke persidangan. Pembuatan sumpah dan BAP digunakan sebagai alat bukti yang sah dalam proses pembuktian berdasarkan pencatatan pada tahap penyidikan yang dilakukan secara elektronik tersebut.

Kata Kunci: *Anak Korban Kembali, Kekerasan Seksual, Sistem Peradilan Pidana*

Abstract

Children victims of sexual violence must be protected, not allowed to be victims again. The aim of this study is to analyze efforts to prevent children from becoming victims of sexual violence through an integrated criminal justice system. The research uses normative-empirical law research, legislative-legislative approaches and conceptual. As a result of the research, a criminal law policy through the revision of the UNCITRAL is needed to prevent child victims of sexual violence from becoming victims again in the child's criminal justice system. The Child Criminal Justice System Act No. 11 of 2012 stipulates that the taking of witness testimony by electronic recording in Section 3 and Section 58 letter (a) can only be done outside a court or distance hearing and used as a basis for investigation. The victim's child only has to testify once at the stage of the investigation and is recorded electronically and used until the trial. The making of oaths and BAPs is used as a valid means of proof in the proof process based on the recording at the stage of the investigation carried out electronically.

Keyword: *Victim child Back, sexual violence, criminal justice system*

INTRODUCTION

Children as a living asset of the nation and state,(Sitompul, 2015) the gift of the Almighty,(Siti Rochayati, S.H, 2018) who are the shapers of society, representing the next generation who have aspirations for the development of the nation and their hopes for the future. A child is a person whose age is still under 18 years old, including children who are still in the womb as mentioned in Article 1 number 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.(Priyambudi et al., 2023) Then in Article 1 number 2 it is stated that regarding *Child protection is all activities to guarantee and protect children and their rights*(Pribadi et al., 2023) *In order to be able to live, grow, develop and participate, optimally in accordance with the dignity and dignity of humanity, and receive protection from crime and discrimination*(Pribadi et al., 2023) as also affirmed in the Preamble to the 1945 Constitution of the Republic of Indonesia (Pribadi et al., 2023)

The application of Article 28 B paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that *"every child has the right to survival, growth and development and the right to protection from violence and discrimination"*. The attribute that follows the application of this article is to follow up through government policies. It is important for children to be protected from the negative implications of a development that develops instantly, is globalized in the fields of communication, information, science and technology, as explained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

A child who is defined as an immature person (*minderjaring/person under age*) or

underage status (*Minderjarighaid/inferiority*), children under guardian supervision (*Minderjarige ondervoodij*), (Priyambudi et al., 2023) entitled to protection in order to prevent, rehabilitate and empower children who are treated in the form of wrongful acts (*abused*), exploitation and neglect, so that the survival of life can still be carried out which accompanies its growth and development optimally, reasonably and so on (Siti Rochayati, 2018; Siti Rochayati, 2018)

Therefore, it is appropriate for children to receive protection from parents, family, society and the state. (Patarudin A et al., 2022) Sexual violence is not only interpreted narrowly, namely only in the form of physical actions, (Sitompul, 2015) but it also includes many other aspects of behavior, for example, psychological, especially done in a rude, oppressive and even coercive way. (Patarudin A et al., 2022) Sexual violence is categorized as a crime in various forms such as rape and molestation and realizes that in the old Criminal Code only recognized the crime of morality (*Misdrijven tegen de zeden*) so that with the presence of the renewal of the Criminal Code (KUHP) in 2026, (Carlos Roy Fajarta, 2023) It further emphasizes the position of all existing child protection laws by placing a minimum threat of punishment. (et al, 2015) Sexual violence in the form of rape is also called a pseudosexual act because of the desire to dominate, conquer and degrade that encourages sexual desire as the main trigger (Temmangnganro, 2018).

Acts of sexual harassment have existed since ancient times and are one of the most serious crimes in the world (Safaruddin Harahap, 2016) which has an impact on the destruction of the social order of the state of Indonesia. (Temmangnganro, 2018) From various perspectives, sexual harassment is an act that violates the cultural and social values of humanity. (Handoko & Widowaty, 2022) Therefore, religious leaders, intellectuals and community leaders stated that sexual harassment is an inhumane crime against women and children and must be abolished. (Santoso, 2023; Kurniawati, 2014)

The perpetrators of sexual abuse and abuse are not only from the lower middle class, let alone those who are not educated at all, but the perpetrators can also come from the upper middle class. (Santoso, 2023) The environment also plays an important active role in shaping children's behavior, so children need guidance and protection from parents, teachers, and people around them to accompany their development in order to avoid any crime and from anyone (Temmangnganro, 2018) (Siti Rochayati, S.H, 2018) which is connected to Law Number 39 of 1999 concerning Human Rights. (HAM, 1999) (Khairunnisa, 2018)

The state as the highest and largest entity in protecting the honor of its citizens, from birth to death (Kusriyah, 2017) and state institutions (governments) with all their legal

instruments are appointed for this.(Laurensius Arliman S, 2020) Although child protection laws have been enforced, the incidence of sexual violence continues to increase and the efforts of perpetrators continue to be carried out without fear.(Djamil, 2015) The high number of cases of sexual violence against children shows that the government does not pay maximum attention.(Handoko & Widowaty, 2022) The values contained in the legal apparatus give rise to the legitimacy of human rights, both as individual beings and social beings who have been guided from the beginning to uphold human values in order to achieve prosperity(Priyambudi et al., 2023)

The idea of children's rights emerged after the end of World War I as a response to the suffering of women and children as a result of the role initiated by one of them, Eglantine Jeb among the many activists who produced the Ten Statements on the Rights of the Child in 1923, which was adopted by the International Federation of Children's Funds. After World War II, the UN General Assembly adopted the Declaration of Human Rights on December 10, 1948, among which was adopted by the United Nations, namely the Convention on the Rights of the Child of November 20, 1989.(Hamin et al., 2022) (Rahmi, 2018) (Noorani, 2020)

As a form of best interest for the child, Article 3 of the Convention on the Rights of the Child states that all actions and decisions concerning a child must be carried out on the basis of the best interests of the child,(Noorani, 2020) which means that any institution (public, private, judicial, or legislative and so on) carrying out all forms of actions related to children must be in the best interests of the child. This is due to children who are not physically and spiritually mature(Yustiningsih, 2020)

The Convention on the Rights of the Child was then ratified by Indonesia on August 25, 1990 through Presidential Decree Number 36 of 1990(Decree of the President of the Republic of Indonesia No. 36 of 1990 Concerning The Ratification Of The Convention On The Rights Of The Child, 1990) which was followed by the issuance of Child Protection Law Number 23 of 2002 which is based on the obligation to protect children through the principle of non-discrimination, the principle of the best interests of the child, the principle of the right to life, survival and development, and the principle of respecting the opinions of children.(Conference, 2016)

The social aspect of child victims, although it has been contained in laws and regulations, legal problems related to child victims of sexual crimes are increasingly concerning, both perpetrators from outside the family and from within the family. A sad fact when it happens in the family environment. For example, a case in Surabaya where the perpetrators were fathers, brothers and uncles against a 13-year-old girl.

Data from the National Commission for Child Protection (Komnas PA), in recent years the rate of violence against children has been very high and on average half of them are in the form of sexual violence, for example in 2020 as many as 52% of the 4,638 cases of violence against children were sexual violence. In 2021, 58% of the 6,726 cases of violence against children were sexual violence. As for from January to April 2022, there were 339 reports of violent cases.(Ekaputra & Sunarmi, 2023)

In Makassar itself, data on all services and networks of the Makassar City Integrated Service Center for the Protection of Women and Children (P2TP2A), cases of sexual violence against children handled have increased, in 2015 as many as 1,025 cases, in 2016 as many as 1,172 cases. The period from January to March 2017 was 64 cases. The latest data for 2024 is 141 even though this is still the middle of the year.(Rinjani et al., 2021)

Meanwhile, data from The Makassar City Government's Women's Empowerment and Child Protection Office (DP3A) said that as of October 2023, there had been 372 cases of violence against children, dominated by sexual violence, with 132 children as victims (Politik et al., 2023)

Based on these data, the government has designated sexual crimes against children as extraordinary crimes. Through Perppu Number 1 of 2016 dated May 25, 2016 concerning the second amendment to Law Number 23 of 2002 and Number 35 of 2014 concerning child protection which was later stipulated into Law, namely Law Number 17 of 2016.(Mohammad Ekaputra, Sunarmi, 2023) Law Number 17 of 2016 fundamentally aggravates imprisonment and fines if the perpetrator's actions cause more than one victim, resulting in serious injury, mental disorders, infectious diseases, disruption or loss of reproductive function and/or the victim dies.(Edy Ikhsan, Edi Yunara, Edi Warman, 2022) Additional crimes are in the form of announcing the identity of the perpetrator and actions in the form of chemical castration, installation of electronic detection devices and rehabilitation.(Mohammad Ekaputra, Sunarmi, 2023)

The enactment of the three laws clearly fails to provide adequate protection for children.(Siti Rochayati, S.H, 2018) The provisions regarding sexual violence against children in this law aim to achieve a deterrent effect and encourage real efforts to restore physical and psychological health, including criminal threats by adding sanctions and fines or obtaining restitution charged to the perpetrator based on a court decision that *inkracht* with the aim of compensating for losses *immaterial* from the victim's child or the victim's child's family(Alam, 2022 ;Rahmad, 2023)

Cases are increasing and followed by the rights of child victims who are neglected,(Pribadi et al., 2023) deep trauma after the incident(Pangesti & Saputri, 2023), as

well as embarrassment and rishi when children or parents report the incident and provide complete, detailed and specific witness statements about the events experienced to the police.(Mawardi & Nursiti, 2020) The child must recall all the events that have hurt him physically and psychologically.(Temmannganro, 2018) These feelings will be brought to trial. The child must repeat the same procedure again, revealing the actions and behaviors of the perpetrator, so that the more overlapping the injuries of the child as the victim when reexplaining the heartbreaking incident.(Mawardi & Nursiti, 2020)

Sexual violence can cause traumatic experiences, including depression, rape trauma syndrome (*rape trauma syndrome/RTS*), dissociation (detachment from reality), eating disorders, *Hypoactive Sexual Desire Disorder* (a medical condition that indicates low sexual desire), *Dyspareunia* (pain felt during or after sexual intercourse), *vaginismus* (vaginal muscles squeezing or convulsing on their own).(BAYU GUCITA ALAM, 2022)

From the judicial aspect, the system in Indonesia consists of several subsystems and must be integrated and coherent to ensure the protection of minor victims(Waskito, 2018) so that the child as a victim can recover immediately from his trauma.(Pangesti & Saputri, 2023) The provisions of the Criminal Procedure Code (KUHAP) are still more limited to the protection of non-victim perpetrators. This is the basis of the weakness of criminal law enforcement in general because it ignores the rights of crime victims in the process of handling criminal cases and the consequences that must be borne by crime victims.(Yuliartini, 2015)

In the Criminal Procedure Code alone, you can see very few articles that talk about victims. The conversation alone did not focus on the position of the victim of the crime. The use of designations for victims alone can vary. In fact, overall, the victim is the party who suffers the most in a criminal event. But even the perpetrators who get the most protection.

This is because, when the perpetrator has been sentenced to criminal sanctions by the court, the victim remains in a state of neglect and is not cared for at all, while justice and respect for human rights do not only apply to the perpetrator of the crime but also to the victim. Crime victims are not only people who feel their losses directly due to the crime but also others. Not to mention that the crime is growing and increasingly varied.(Yuliartini, 2015) If the crime is threatened with criminal offenses, only corporal punishment and/or fines will be imposed on the perpetrator of the crime while the compensation and rehabilitation provisions in the Witness and Victim Protection Law have not been adequately enforced to protect the victim.(Aisah, 2015)

In this situation, the child victim of sexual violence will become a victim again which

occurs in the investigation stage until the trial, which in the end makes the victims and their families reluctant to report the incident that happened to the victim or his family due to the victim's psychological considerations. Such a situation is certainly a record and is the responsibility of the state so that the victim's child and his family are not reluctant to report the incident they or their family have experienced while still feeling comfortable, safe, not feeling victim anymore and the perpetrator's actions get maximum retaliation from the threat of applicable punishment.

So this weakness is what is to be researched, so the purpose of this study is to know and analyze the preventing children from becoming victims of sexual violence again through a fair justice system. The research methods used are normative-empirical legal research, a legal approach, a sociological approach by seeing law as reality (*das sein*) so that it can be known how the law works in society. The data used is primary data in the form of direct interviews to the source and secondary data which includes primary, secondary and tertiary legal materials. The analysis was carried out after the data was collected with qualitative descriptive analysis techniques (Muhaimin, 2020) That is an analysis technique by providing an overview or description of the data that has been collected in the form of sentence descriptions until finally leading to a conclusion.

RESEARCH METHODS

This study uses a normative method that examines laws, regulations, doctrines, and opinions of experts related to the integrated justice system in preventing children from becoming victims of sexual violence again. Secondary data covering primary, secondary, and tertiary legal materials will be collected through literature studies. Data analysis will be carried out in an analytical descriptive way to interpret and evaluate the effectiveness of existing policies and formulate the concept of a more integrated justice system. This approach is expected to provide a comprehensive overview of legal policies and practices that can be applied to protect children from the risk of becoming victims again, as well as provide recommendations for improving the criminal justice system that focuses on child protection.

RESULT AND DISCUSSION

Although since the beginning of the 1945 Constitution of the Republic of Indonesia has emphasized the sentence "Indonesia is a country of law" as Article 1 paragraph (3) followed by Article 27 paragraph (1) "all citizens have the same position in the law and government and are obliged to uphold the law and government without exception". The

affirmation of the article acknowledges that something important in the state of law is the habit of giving awards and commitments to exalt human rights which provides guarantees to all citizens that their position is the same in the law as it is called *equality before the law*.(Main, 2013)

The crime of sexual violence against children is one of the most troubling crimes and requires serious handling from various parties, including the criminal justice system. The threats faced by child victims of sexual violence do not only stop at the time of the incident, but can continue for a long period of time if not handled properly. Therefore, preventing children from becoming victims of sexual violence again is very important to be carried out through an integrated approach in the criminal justice system. *First*, in preventing children from becoming victims of sexual violence again, the criminal justice system must pay attention to the aspects of victim protection and recovery. Protection of victims must be carried out from the beginning of the legal process until the case is completed. The criminal justice system must also pay special attention to the victim's recovery process, both physically and psychologically, so that the victim's child can recover from the trauma they experienced.

Second, the integration of the criminal justice system with child protection institutions and other social institutions is also very important in preventing children from becoming victims of sexual violence again. Good cooperation between these various institutions will ensure that victims get optimal protection and recovery. In addition, child protection institutions and social institutions can also provide assistance and support to victims and their families during the legal process. With an integrated approach in the criminal justice system, it is hoped that it can reduce the risk of children becoming victims of sexual violence again. Protection, recovery, and inter-agency cooperation are the main keys to this prevention effort. All parties, whether governments, child protection agencies, and the community, need to work together synergistically to create a safe environment and protect children from crimes that damage their future in a preventive and repressive manner.

Child Protection Law Number 35 of 2014 has emphasized the responsibility of the state, family and society to protect children. This is because children are not yet physically and socially mature so they are vulnerable to crime, exploitation, neglect, human trafficking, and discrimination. That is why the United Nations Children's Committee classifies children in need into groups in its reporting guidelines for participating countries. The special protection in question is: 1) children in emergency situations, namely child refugees and children in situations of armed conflict; 2) Children who have

problems with the law; 3) Children who experience situations of exploitation, including economic exploitation, abuse of drugs and substances, sexual exploitation, sale and trafficking of children and those who experience other forms of exploitation; 4) Children from minority groups and indigenous peoples.

Protection can be interpreted as: 1) legal protection not to become a victim of criminal acts, meaning in terms of protecting human rights or a person's legal interests; 2) protection to get guarantees or legal compensation for the suffering or losses of people who have been victims of criminal acts so that it is called similar to victim compensation which can be in the form of restoration of good name (rehabilitation), restoration of inner balance such as forgiveness, provision of compensation such as restitution, compensation, guarantee or compensation for social welfare and so on.

As a reinforcement of children's rights according to the children's convention, 4 (four) principles of the children's convention are proposed, namely 1) non-discrimination; 2) best for children (*best interest of the child*); 3) the right to life, continuity and development (*the right to life, survival and development*); 4) respect for children's opinions (*respect for the views of the child*). Equal protection for both children as perpetrators, especially as victims of sexual violence, is said to be children who are in conflict with the law, children who are victims of crimes and children who are witnesses to crimes. (<https://bphn.go.id/data/documents/12uu011.pdf>, 2012)

The process of seeking justice goes through the judicial process comprehensively (*integrated criminal justice system*). Victims are people who suffer from physical and mental suffering as a result of the actions of others who seek self-fulfillment or others who are contrary to their interests and human rights who suffer or are interpreted as someone who has suffered losses as a result of a crime and or whose sense of justice is directly disturbed which is the impact of his experience as a target of crime.

So far, the protection of victims of sexual violence has not been maximized due to every effort from each criminal justice subsystem, both the Police, the Prosecutor's Office, and the Court, so they will uncover the actions of the suspect or defendant by examining witnesses and victim witnesses to witness statements. Witness statements are what are listened to, not only the victim's witness statements and witnesses from the investigator who incriminate the perpetrator but there are also mitigating witnesses presented by the perpetrator). (Mawardi & Nursiti, 2020) about the events that happened to him are always remembered and this usually makes it difficult to recover from his psychological suffering. Responding to victims throughout the criminal justice process, law enforcement officials, namely the Police, Prosecutors and Judges, have been treating victims of sexual violence

crimes as objects that must be listened to, cared for, and respected legally for.

This shows that indirectly this process makes the victim become a victim again for the second time for the case he experienced. Victims are sometimes blamed and not given the comprehensive protection they need. This has led to more and more cases that are not reported, even if they have been reported, will be withdrawn so that they do not reach the court. Of course, this adds to the burden of a long line of sexual violence cases that are covered up and never revealed. The sad thing, of course, is that the perpetrators are free from the snares of the law and have the opportunity to find prey to become their new victims.

The Criminal Procedure Code *lex specialis* The Law on the Juvenile Criminal Justice System Number 11 of 2012 (<https://bphn.go.id/data/documents/12uu011.pdf>, 2012) replacing Law Number 3 of 1997 concerning the Children's Court (RI, 2002) is trying hard to put restorative justice through diversion as a form of penal mediation. Diversion is a form of the government's efforts to protect children who commit criminal acts as much as possible to resolve cases without going through the trial process, which is considered to be able to minimize trauma and behavior and its future which is expected to still be repaired. The fact is that the Law on the Juvenile Criminal Justice System Number 11 of 2012 has not touched children as victims of criminal acts.

This law is no longer associated with the development and advancement of information technology, because it is no longer relevant. This law is only about the rights and obligations of children who commit criminal acts, as well as children who are victims and witnesses in trials that are still conventional. These provisions are contained in Article 58 paragraphs (1), (2) and (3) of Law Number 11 of 2012 concerning the Children's Justice System. The current juvenile criminal justice system is: (<https://bphn.go.id/data/documents/12uu011.pdf>, 2012)

In paragraph (1)

"When examining the victim's child and/or the witness's child, the Judge can order the child to be taken out of the courtroom.

In paragraph (2)

"At the time of the examination of the victim's child and/or the witness's child as referred to in paragraph (1), the parents/guardians, advocates or other legal aid providers, and the Community Advisor are still present.

In paragraph (3)

"In the event that the victim's child and/or the witness's child is unable to present to give evidence in front of the court hearing, the judge may order the victim's child and/or

the witness's child who is heard to testify:

- a. Outside of court hearings through electronic recording conducted by Community Advisors in the local jurisdiction attended by Investigators or Public Prosecutors and Advocates or other legal aid providers; or
- b. Through a remote direct examination with audiovisual communication tools accompanied by parents/guardians, Community Advisors or other companions.

The interpretation of the provisions in Article 58 determines that the way a child who is a victim and/or a child becomes a witness is able to convey his or her statement at the trial. However, when giving testimony, it will be carried out again at the trial to prove the defendant's actions against the victim's child and the victim's child meets face to face with the defendant as a person who has committed a crime against him whose moment will be the same as bringing up an incident or event that basically does not want to be remembered.

Article 58 of the Criminal Code as the procedural law for children as witness victims only gives the option that if the victim's child is unable to attend, then the victim's child still has an obligation to continue to resolve his problem with the trial process. The perpetrator's child even had the opportunity not to undergo the trial process. This has an impact on more and more victims and their parents who are reluctant to report the incidents they or their children experienced for the sake of their children's psychological health.

Even though the effort to minimize the fall of children as victims for the second time is by mutual *Support* between subsystems in the criminal justice system. The criminal justice system as a judicial network that works comprehensively together with parts with the same goal in the short to long term.(Patarudin A et al., 2022) The criminal justice system contains a systematic movement from its supporting subsystems, namely the Police, Prosecutor's Office, Courts, and Correctional Institutions which apply comprehensively and must make total efforts to transmutate the form of *Input* become *Output* In accordance with the purpose of the criminal justice system, namely tackling crime or controlling the occurrence of crime so that it is within the limits of tolerance that the community is able to accept.(Rahmi, 2018)

Public order that can be disturbed and provide a sense of threat in society, then the way to solve it is through the criminal justice system which in Indonesia is conceptualized by the connection of a situation with its functional and institutional character or there is coordination between one subsystem and another according to its functions and authorities regulated in the criminal procedure law for the sake of implementation of law

enforcement. Proper and coordinated disclosure of perpetrator crimes involving child victims as witnesses starting from the police subsystem to the court subsystem is very important to be carried out, considering the great need to reduce the incidence of sexual violence against children.

Based on Law Number 8 of 1982 concerning the Criminal Procedure Law, the criminal justice process in Indonesia is regulated regarding the procedures of the judicial process from each subsystem of the police, prosecutor's office and courts in order to realize fair law enforcement. The stage of proving the case by the Public Prosecutor (JPU) to the trial plays a very important role in finding the material truth. The evidence is proved by valid evidence and in accordance with the provisions of Article 184 paragraph (1) of the Criminal Code, namely "*1) witness statements; 2) expert testimony; 3) letters; 4) instructions; 5) the defendant's statement.*"

As the first process, witness testimony or testimony in accordance with the provisions of Article 1 number 27 of the Criminal Procedure Code that witness testimony is one of the evidence in a criminal case which is the testimony of the witness about a criminal event that he hears himself, sees himself and experiences himself by explaining the known reason. The witness statement of a witness in the trial is ordered from the person who is the victim in accordance with the legal arrangement of Article 160 paragraph (1) letter b of the Criminal Procedure Code that "*The first person to hear his statement is the victim who is a witness.*"

A child who hears on his own, sees by himself, and/or experiences a criminal event on his or her own may also be a witness as stipulated in the provisions of Article 1 number 29 of the Criminal Procedure Code that "*A child's statement is information provided by a child about a matter that is necessary to shed light on a criminal case for the purpose of investigation in the matter and in the manner regulated in this Law.*" The Law on the Juvenile Criminal Justice System Number 11 of 2012 also regulates children who are witnesses in Article 1 number 1 that "*A child who is a witness to a criminal act, hereinafter referred to as a witness child, is a child who is not yet 18 (eighteen) years old who can provide information for the purpose of investigation, prosecution, and examination at a court hearing about a criminal case heard, seen, and/or experienced by himself.*"

It is further stated that in Article 1 number 4 of the Law on the Juvenile Criminal Justice System Number 11 of 2012 it is stated that "*Children who are victims of criminal acts, hereinafter referred to as victim children are children who are not yet 18 years old, who experience physical, mental, and/or economic suffering caused by criminal acts.*"

Sexual violence is a criminal event that the child experiences as a victim, so based on the provisions of Article 184 paragraph (1) letter, the victim's child must be a witness as a series of evidence at trial. According to the previous explanation, this risk is sometimes not wanted to be taken by the victim's child or his parents. Because by retelling the incident in the police to the court, it will reopen the event that he wants to forget.

After reporting the events he experienced, the victim's child was asked for information to collect initial evidence, even though at that time his psychological condition may not be good, but he must still tell all the events that should not have been experienced and not something pleasant to remember. Not to mention the added trauma and physical and psychological discomfort as well as shame that is not easy to heal. All the suffering and other problems that arise if not immediately protected and assisted can have fatal consequences for the future of the victim's child and deeper wounds.

Article 58 paragraph (3) of the Child Criminal Justice System Law Number 11 of 2012 basically regulates the procedural process for the victim's child and/or the witness's child without the need to present it at the trial, namely through the Judge's order that the victim's child and/or the witness's child be heard: 1) Outside the court hearing through electronic recording carried out by the Community Supervisor in the local jurisdiction with the attendance of the Investigator or Public Prosecutor and Advocate or other legal aid providers; or 2) Through a remote direct examination with *audiovisual* communication tools accompanied by parents/guardians, Community Advisors or other companions.

Even so, due to the provisions of Article 58 paragraph (3) in letters a and b, this is referred to as the third alternative provision, so throughout the trial of the crime of sexual violence against children, this has never been found or done. According to the testimony of psychologists and the author's observations, in the trial directly or through other electronic media, the presence of the victim's child to be heard is the main thing to provide comprehensive evidence of the defendant's actions. The protection of the victim's child at this stage is slightly ignored but still has a great effect on the child as a victim.

The current child protection law actually provides material protection in terms of criminality, compensation, restitution and rehabilitation, but the special protection provided by the law has not been implemented optimally and at the judicial stage, especially based on the reality regulated in the law. that the procedure regulated in the law is in 2010. Based on the evidence at the trial, they did not consider the psychological safety of the victim's child. Therefore, it is necessary for lawmakers to formulate changes to laws and regulations so that the protection of victims' children, especially psychological

protection, can be implemented. In this case, the current child protection law actually provides material protection in terms of punishment, compensation, restitution and rehabilitation, but the special protection provided by the law has not been implemented optimally and at the judicial stage, especially based on the reality regulated in the law. that the procedure regulated in the law is in 2010. Based on the evidence at the trial, they did not consider the psychological safety of the victim's child. Therefore, it is necessary for lawmakers to formulate changes to laws and regulations so that the protection of victims' children, especially psychological protection, can be implemented.

Criminal justice policy can be seen from legal policy and criminal policy. Legal policy is an effort to create regulations that are in accordance with the circumstances and conditions at a certain time or national policy through institutions that are authorized to set desired regulations that aim to express what belongs to society and achieve what is desired.(Ismail, 2010) Penal policy as a policy direction that determines the extent to which existing criminal provisions need to be amended or updated so that solutions can be taken on what we can do to prevent crime, including thinking about how the investigation, prosecution, trial and sentencing processes must be carried out.(Ismail, 2010)

In essence, the change in the provisions of the Criminal Code through the amendment of the Child Protection Law from Law Number 23 of 2003 to the third amendment, namely Law Number 17 of 2016, is caused by the condition of sexual crimes against children which is increasing from year to year and the increasingly cruel actions of perpetrators against children. In response to this situation, the legislature amended the criminal provisions, including increased prison sentences and fines and then added additional penalties in the form of identity reporting, ranging from chipping to chemical castration to prevent the crime of sexual relations with children. However, the efforts made by the government have not been able to reduce the level of crimes against children, especially sexual violence against children.

Article 58 paragraph (3) letters a and b of the Juvenile Justice System Law Number 11 of 2012 as procedural law in the juvenile criminal law recognizes electronic evidence as valid evidence, meaning that the testimony of minor victims and/or underage witnesses cannot be recorded electronically using audiovisual and remote devices. This provision requires the child victim to receive information outside of court witnessed by a community companion, investigator, prosecutor, lawyer, or other legal aid provider for those undergoing remote testing accompanied by a parent/guardian or a community counselor or other companion.

The receipt of electronic evidence in the juvenile justice system maximizes the protection of minor victims of sexual violence, who are undergoing criminal proceedings and then present as witnesses in reported cases that can be implemented. There will never be any more children who become victims. Therefore, information about the sexual violence incident experienced will only be provided once as part of the investigation. However, only if there is a companion/professional employee/psychologist present to supervise the information provided. Conducting electronic recording and preparing investigation reports to assess the psychological state of the victim's child, investigators conduct protocol reviews, lawyers/other legal aid providers, and correctional officers (if the perpetrators are children) to conduct investigations.

In connection with the existence of valid witness testimony, it is to take an oath, so this has been facilitated by the provisions of Article 116 paragraph (1) of the Criminal Procedure Code which states that "a witness is examined without being sworn unless there are sufficient grounds to suspect that he will not be able to attend the examination in court." Then Article 162 paragraph (1) and paragraph (2) of the Criminal Procedure Code adds that, Paragraph (1): *"If a witness after giving information in the investigation dies or is unable to attend the trial or is not summoned because he is far from his place of residence or because of his place of residence or for other reasons related to the interests of the state, then the information he has given is read out."* Paragraph (2): *"If the testimony has previously been given under oath, then the testimony is of the same value as the testimony of the witness under oath pronounced at the hearing."*

The government through the legislature can make changes to the Criminal Procedure Code policy regarding the way of investigation, prosecution, and investigation of minor victims in court. This provision is as stated in the Law on the Juvenile Justice System Number 11 of 2012, Article 58 paragraph (3) concerning the Juvenile Justice System: "If the minor victim and/or minor witness is unable to provide evidence in front of the court hearing, then: Applicable: The judge may order that the testimony of the victim's child and/or child witness be heard outside the court hearing using electronic recordings, In the presence of investigators and public prosecutors, which can be carried out by community counsel in the local jurisdiction is used as the basis for the investigation method against minor victims from the beginning of the legal process, the investigation stage includes the creation of electronic records, oaths and investigation reports that can be used as legal evidence during prosecution and discovery.

The legal arrangement of the Criminal Code follows the principle of legality and is firm or restrictive, so that if there is no firm regulation, the judge is only allowed to

interpret it until he finds a new legal discovery in procedural law. Distortion of the Criminal Procedure Code is also possible if it is expressly and specifically regulated in the law. Law enforcers, including judges, are law enforcers in the criminal justice system who implement a rule if there are provisions and if a strict rule applies even if it shifts from the general regulation, the special rule is subject to the general rule, and that is the meaning of the presence of *lex specialis* from solving a legal problem.

CONCLUSION

The conclusion is that children of victims of sexual violence who become victims of re-emergence through the criminal justice process for child victims are still happening. This issue is relevant because the criminal process against the victim's child is still carried out based on the Criminal Procedure Code Number 8 of 1981 and Article 11 of Article Paragraph (1), Paragraph (2), and Paragraph (3) of the Law on the Juvenile Justice System. The juvenile justice system only regulates the way minors are questioned and when testifying in court. Based on the Criminal Code, victims of underage sexual violence must go through legal procedures such as preliminary investigations and trials. At each stage of this process, the affected child may suffer psychological distress because he or she has to remember or recount an event that they do not want to remember anymore. This kind of repetitive discomfort can eventually lead to trauma. In a situation like this, the victim's child will again become a victim and prevent the recurrence of sexual violence victims in the criminal process is a form of legal protection for children from a psychological perspective. These protection efforts can be carried out by the government carrying out legal and policy reforms. Legal remedies at every stage of investigation, prosecution, and trial of minor victims, such as by making laws or changing the Criminal Procedure Code regarding the method of investigation. Provisions such as the Juvenile Justice System Law Number 11 of 2012, precisely in Article 58 paragraph (3) letter a concerning the Juvenile Justice System, can be used as the basis for investigating minor victims from the beginning of the judicial process, it is enough to record information only, namely from the investigation stage to the preparation of the Examination Report so that this recording can be used as valid evidence at the prosecution and proof stage. So the victim's child only gave a statement once, and that was only at the investigation stage.

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