

## IMPLEMENTATION OF LEGAL PROTECTION AGAINST CHILD RAPE VICTIMS IN THE FAMILY ENVIRONMENT (STUDY AT UPTD PPA SIDOARJO DISTRICT)

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### ABSTRACT

*Sexual violence against children in Indonesia continues to increase every year. Perpetrators of violence come from various backgrounds, including those closest to the victim. Sexual violence can occur in various places, including in homes that should be the safest place for children. This study aims to analyze the implementation of legal protection for child rape victims in the family environment. This research is empirical legal research, namely legal research based on facts in the field or direct observation. This research uses qualitative descriptive methods and uses data collection through observation, interviews and documentation at the Technical Implementation Unit of the Women and Children Protection Area (UPTD PPA) Sidoarjo Regency. The government has issued implementing regulations for the Child Protection Law through Government Regulation No. 78 of 2021 concerning Special Protection for Children, which includes special protection for child victims of sexual crimes. Special protection for children is carried out in the Regional Technical Implementation Unit referring to established service standards. The results of this study concluded that the government imposed a penalty for perpetrators of child rape in the family environment with an additional penalty of 1/3 (one-third) of the criminal threats that should be received and UPTD PPA Sidoarjo Regency has implemented legal protection in accordance with applicable regulations Starting from mentoring, psychological assistance and others. However, there are still several problems that hinder the implementation of child protection such as low public awareness, insufficient reporting rates, unpreparedness of witnesses, and other factors that can hinder the judicial process.*

**Keywords:** *Child, Rape in the family environment, Legal protection.*

## INTRODUCTION

The presence of a child is a gift and trust entrusted by God to be looked after, protected, educated, respected for their rights, and met with their needs by their parents. As creatures who are not yet able to be independent, children need protection and guidance from their parents. Children also have human rights as part of a complete human being. Therefore, parents have a responsibility to ensure that their children's rights can be fulfilled. Pursuing Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.

R.A. Kosnan revealed that children are young humans who are still in the development stage of their soul and life so they are easily influenced by the environment around them.<sup>1</sup> Therefore, it is very important for children to receive serious attention as vulnerable and weak social creatures. However, unfortunately, rights violations and acts of violence against children are often found. Children do not have the opportunity to express their opinions and find it difficult to fight for their rights, so they are often in a disadvantageous position.<sup>2</sup>

Members of the United Nations (UN) formed universal rules on children's rights known as the Convention On The Rights Of The Child (1989) or the Convention on the Rights of the Child. On January 26 1990, Indonesia signed the convention and joined. Currently, Indonesia is facing a serious problem in cases of increasing sexual violence against children every year.<sup>3</sup>

Perpetrators of violence can come from various backgrounds, even those closest to the victim. Sexual violence can occur anywhere, including at schools, places of worship, playgrounds, and even inside the home which should be a safe space for

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<sup>1</sup> R.A. Koesnan, *Susunan Pidana dalam Negara Sosialis Indonesia*, Sumur, Bandung, 2005, hal. 113.

<sup>2</sup> Arif Gosita, *Masalah perlindungan Anak*, Sinar Grafika, Jakarta, 1992, hal. 28.

<sup>3</sup> CNN Indonesia, "KemenPPPA: RI Darurat Kekerasan Seksual Anak, 9.588 Kasus Selama 2022" <https://www.cnnindonesia.com/nasional/20230127173509-20-905780/kemenpppa-ri-darurat-kekerasan-seksual-anak-9588-kasus-selama-2022>, diakses 27 Desember 2022.

children. For example, cases of child rape that occur within the family show that each party must make maximum efforts to protect children from sexual violence.

The Online Information System for the Protection of Women and Children, hereinafter abbreviated as SIMFONI PPA, belonging to the Ministry of Women's Empowerment and Child Protection, has recorded various cases of violence against women and children in Indonesia. Data recorded from January 1 to December 31 2022 shows that East Java Province has the highest number of violence cases in Indonesia, with a total of 2367 cases. In the recorded cases of violence, sexual violence was the highest with a total of 972 cases. One of the areas in East Java Province, namely Sidoarjo Regency, is the area with the third highest number of violence cases with a total of 167 cases. There are details that the first highest number of cases of violence was in the city of Jember with 201 cases, followed by the city of Surabaya with 180 cases, and third place in the city of Sidoarjo with 167 cases.

In Article 20 of the Child Protection Law, it shows the importance of collaboration and the active role of all parties including the State, Government, Regional Government, Community, Family, and Parents or Guardians in protecting children, because this is not just the responsibility of one party. . Child protection includes protection in the field of religion, protection in the field of health, protection in the field of education, protection in the social field and special protection.

As a follow-up step, various parties in provincial, district or city areas have responded to this by establishing violence handling service units. These units have various names, one of which is the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) Sidoarjo Regency. UPTD PPA is under the authority and is responsible to the Head of the Service which carries out government affairs in the field of women's empowerment and child protection at the provincial and district or city levels (DP3AKB). The existence of UPTD PPA has an important role in providing a place for women and children victims of violence to complain and fight for their protection rights. Based on the problems above, the author wants to analyze the implementation of legal protection for child rape victims in the

family environment through the Sidoarjo Regency UPTD PPA, whether it is running effectively and is being implemented well or not.

## **RESEARCH METHODS**

This research is empirical legal research, namely legal research based on facts in the field or direct observation. The problem approach uses socio-legal research methods involving textual studies, critical analysis of legislation and policies, then explaining the meaning and implications for specific legal subjects. Collection of legal materials and/or data through observation, interviews and documentation at the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) Sidoarjo Regency.

## **RESULT AND DISCUSSION**

### **Crime of Rape Against Children**

According to Ismantoro, there are three points of view to determine whether someone is an adult or a child. First, a psychological perspective, where maturity is seen from maturity in thinking, acting, and being responsible for their actions and decisions. Second, a biological perspective where maturity is related to a person's physical and sexual development stages, such as puberty which marks the transition from childhood to biological adulthood. Third, a legal perspective, where maturity is often measured based on a person's age. According to the Minimum Age Convention number 138 (1973), children are individuals under 15 years of age. However, according to the Convention On The Rights Of The Child (1989) children are defined as individuals under 18 years of age. Apart from that, UNICEF in its definition states that children are people aged between 0 and 18 years.

There are differences in the definition of children between civil law and criminal law in Indonesia. According to Article 330 of the Civil Code (Civil Code), a person is considered immature if they are not yet 21 years old and have never been married. Meanwhile, according to Article 45 of the Criminal Code (KUHP), what is meant by minors are those who are less than 16 years old. According to the child protection law,

a child is defined as an individual who has not reached the age of 18 (eighteen) years, including children who are still in the womb.

In article 1 point 12 of the Child Protection Law. Children's rights cover various aspects of children's lives, including the right to life, the right to identity, the right to education, the right to protection from violence and exploitation, the right to health, the right to participate in social and cultural life, as well as the right to special protection for children. children with certain situations. The entirety of children's rights can be seen in the Child Protection Law starting from Article 4 to Article 18. In an effort to implement children's rights, each party must play an active role in providing protection, meeting needs and developing children in accordance with their role and function. parents and government.

The implementation of child protection in Indonesia is based on national and international legislation. At the national level, using the Child Protection Law. In international legislation, the reference is the Convention on the Rights of the Child which was ratified by the UN in 1989 and ratified by Indonesia in 1990. In Article 2 of the Child Protection Law, there is a provision that the principles of child protection are based on Pancasila and the Constitution. NRI 1945 as well as the basic principles of the Convention on the Rights of the Child. This shows Indonesia's commitment to comply with internationally recognized child protection standards. These principles are non-discrimination, the best interests of the child, the principle of the right to life, and respect for the child's opinion.<sup>4</sup>

There are two main elements, namely violence and unwanted sexual relations. This action has a detrimental impact on the victim, where the physical strength possessed by the male perpetrator is used to carry out harassment, oppression and violations of women's human rights.<sup>5</sup> According to Arief Gosita, these elements are:<sup>6</sup> The rape victim must be a woman, with no age limit; Rape victims generally experience violence and threats of violence, which shows the victim's lack of consent to the

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<sup>4</sup> Juju Samsudin Saputra, *Perlindungan Anak Terhadap Tindak Perkosaan*, Deepublish, Sleman, 2014, hal. 79.

<sup>5</sup> *ibid*, hal 46.

<sup>6</sup> Abdul Wahid dan Muhammad Irfan, *Op.cit.*, hal.45

perpetrator's actions; The act of rape involves sexual relations outside of marriage with the perpetrator, which is achieved through the use of violence or threats of violence against a particular woman.

Violence according to the Child Protection Law is defined as actions that cause physical, psychological, sexual suffering and/or neglect to children. Including threats to commit unlawful acts, coercion or deprivation of liberty. According to M. Irsyad Thamrin and M. Farid, forms of sexual violence against children include rape, sodomy, oral sex, sexual gestures, verbal sexual abuse (speech with sexual connotations), sexual harassment and clitoral circumcision.<sup>7</sup> Child rape means the act of inserting a penis into the vagina or anus of someone who is not yet 18 years old. Forced sexual intercourse can involve physical or psychological threats. Whatever the form of threat, whether it is realized into action or not, sexual threats are included as criminal acts that can be punished under criminal law in Indonesia.

In Article 59 paragraph (2) of the Child Protection Law, it is explained which categories of children in certain situations receive special protection, one of which is in Article 59 paragraph (2) letter j, special protection is given to child victims of sexual crimes. In Article 69A, special protection for child victims of sexual crimes is provided through efforts to:

- a. Provide knowledge about reproductive health, religious values, and moral values;
- b. Social rehabilitation;
- c. Accompanying psychosocially throughout the treatment process until recovery;
- d. Protect and accompany every stage of the legal process, from investigation, prosecution, to trial.

Furthermore, Article 71C states that further details regarding special protection for children are regulated through Government Regulations. In this context, the government has issued Government Regulation Number 78 of 2021 concerning Special

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<sup>7</sup> Ismantoro Dwi Yuwono, *Op.cit.*, hal. 7.

Protection for Children, which provides further guidance on special protection for children in various situations.

Child rape in the family often causes lasting trauma. Factors that influence rape in the family environment include the victim's helplessness and their dependent position on the family. Apart from that, the perpetrator uses manipulation, pressure, and threats, even threatening to kill the victim, which causes the victim to feel afraid and not have the strength to fight back.<sup>8</sup> Sehingga kekerasan seksual di lingkup keluarga sulit terungkap dalam ruang publik (*hidden crime*). So sexual violence in the family sphere is difficult to reveal in the public sphere (hidden crime). Protection for victims of criminal acts of rape is very important because of the impact experienced by the victim after experiencing rape. Apart from experiencing physical suffering, victims also experience psychological suffering. Sexual violence committed by parents, guardians or caregivers is subject to increased punishment, this provision is contained in Article 58 paragraph (2) of Law no. 39 of 1999 concerning Human Right.

Meanwhile, referring to the Child Protection Law, violence in forcing sexual intercourse with a child committed by parents is considered a serious crime which is threatened with a heavier sentence with an additional 1/3 (one third) of the criminal threat. As stated in article 81 paragraph (3), if a criminal act as mentioned in paragraph (1) is committed by a parent, guardian, child caretaker, educator or educational staff, then the penalty will be increased by 1/3 (one third) from criminal threats as intended in paragraph (1). In order to address the surge in cases of sexual violence against children, the government has taken several additional steps through Law no. 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law no. 1 of 2016 concerning the Second Amendment to Law no. 23 of 2002 concerning Child Protection.

These steps include adding basic criminal sanctions in the form of the death penalty and life imprisonment, announcing the identity of the perpetrator of sexual violence, and implementing other measures such as chemical castration, installing

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<sup>8</sup> Hana Aulia Putri, " Perlindungan Hukum terhadap Hak Anak Korban Pemerkosaan dalam Lingkungan Keluarga", *LEXRenaissan*, Vol. 6, No. 1, ( Januari, 2021), hal. 16.

electronic detection devices, and rehabilitation. These steps were taken with the aim of providing a deterrent effect to perpetrators of sexual violence, hopefully preventing sexual violence from occurring, as well as protecting children from this threat. Through this regulation, the Government is working hard to ensure that children receive adequate protection and their rights are well maintained.

### **Implementation of Legal Protection for Child Rape Victims in the Family Environment at the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) Sidoarjo Regency**

To meet the service needs for women and children in the context of protection from violence, the regional government established the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA). Sidoarjo Regency has a UPTD PPA whose address is Jalan Pahlawan I No. 2 Sidoarjo.

The Sidoarjo Regency PPA UPTD has six functions and roles in handling cases of violence against women and children as follows:

- a. As a place for public complaints regarding cases of violence;
- b. Managing and handling cases of violence, including conducting investigations and coordinating actions with other related institutions;
- c. Mediating between victims and perpetrators or families of victims and perpetrators;
- d. Carrying out case outreach or picking up the ball, namely taking action to find and help victims who are difficult to reach;
- e. Providing shelter or safe houses for women and children victims of violence who need temporary protection;
- f. Providing assistance to victims, including providing legal, psychological and social rehabilitation assistance.

Has a vision to realize just and equitable development in the context of upholding human rights (HAM) for women and children in Sidoarjo Regency. To achieve this vision, UPTD PPA Sidoarjo Regency has the following mission:

- a. Educate and protect women and children in human rights;

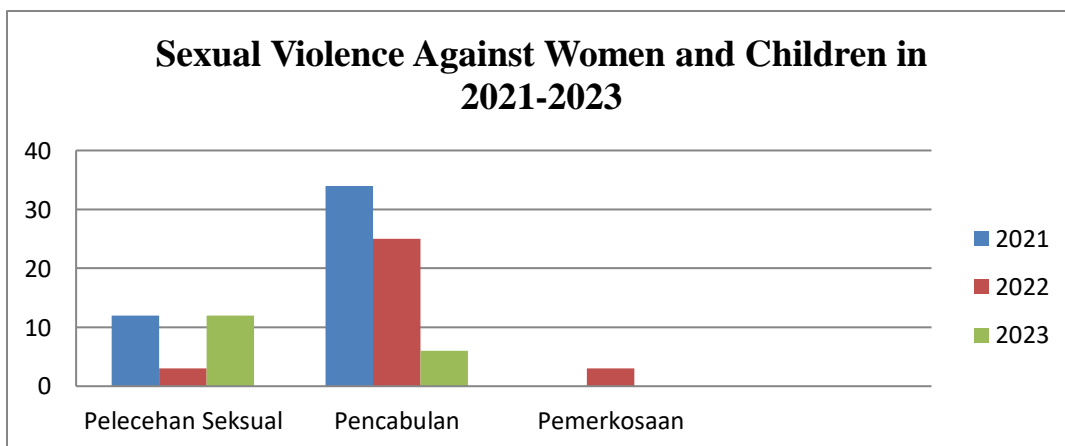


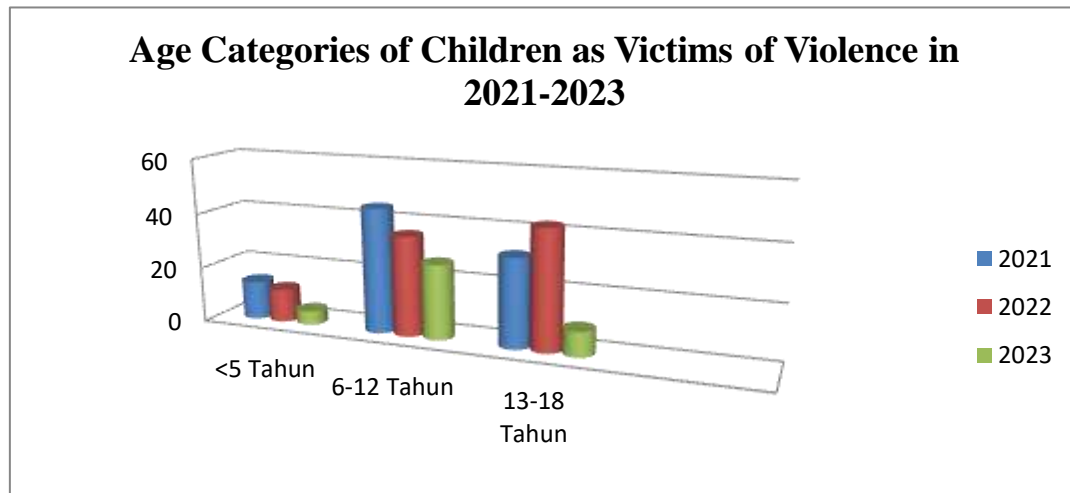
- b. Providing assistance to women and children who are victims of violence;
- c. Providing information to promote the protection of women and children;
- d. Making UPTD PPA a base for women and children.

The policy for establishing UPTD PPA has been established through the Regulation of the Minister of Women's Empowerment and Child Protection of the Republic of Indonesia No. 4 of 2018 concerning Guidelines for the Establishment of Regional Technical Implementation Units for the Protection of Women and Children. Article 14 contains a chart of the organizational structure of the district/city UPTD PPA consisting of:

- a. Head of UPTD PPA
- b. Administration subdivision
- c. Executor
- d. Functional position groups

Cases of violence against women and children handled by UPTD PPA Sidoarjo Regency from 2021 to April 2023 include: Domestic violence, violence against children, violence at work, violence in dating, economic violence, sexual harassment, sexual abuse, rape, trafficking, abuse, fighting over child custody, bullying, electronic-based sexual violence, etc.





Compared to adult victims, the data is dominated by minor victims. Judging from the 2022 data, the cases that dominate are domestic violence (KDRT) with 79 victims, and cases of sexual abuse with 25 victims. The cases of child victims of rape in the family environment that the author examined in this research were categorized as sexual abuse data.

Every child should receive protection and treatment according to applicable regulations while in the care of their parents. However, it is unfortunate that many children still experience sexual violence. Especially in cases of rape, sexual violence often occurs within the family environment, with the stepfather often being reported as the perpetrator of the crime.

According to Shelvy, UPTD PPA Counselor for Sidoarjo Regency, every crime has various factors that influence it, and we cannot specifically mention one particular factor. It all comes back to each individual and their situation. For example, in some cases, the family may appear to be fine overall, but the perpetrator has deficiencies in faith and religious knowledge. Even if there are no problems in the family, crime can still occur.<sup>9</sup>

After conducting observations and interviews, the author found several factors that cause rape in the family environment to occur:

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<sup>9</sup> Shelvy Susanti, *Wawancara*, Sidoarjo, 14 April 2023.

- a. Individual factors such as venting the libido in a negative form through sexual violence, environmental conditions and the position the victim is in, for example the perpetrator after seeing pornographic content develops sexual desires and wants to vent it in various ways, one of which is rape. Apart from that, the situation at home requires the family to sleep together every day in the same bed;
- b. Taking advantage of the relationship between the perpetrator and the victim, means that the perpetrator takes advantage of the deeper information he has about the victim, such as his habits, weaknesses or emotional condition. With this information, the perpetrator can exert greater power and control over the victim, and also threaten the victim into remaining silent and afraid to report the incident. The impact is that victims feel anxious about the consequences and negative reactions from their family or those closest to them if they tell about this;
- c. Bad experiences in the past. The perpetrator was a victim in the past and then becomes the perpetrator of the crime himself now. The perpetrator may have experienced similar trauma that affected him. There is a satisfaction factor within the perpetrator that encourages him to carry out this action.

Rape victims are double victims. Rape victims experience complex and extensive impacts after experiencing acts of sexual violence. They not only experience physical and emotional suffering when rape occurs, but also face widespread mental, physical and social impacts. The victim's decision to report the incident to the authorities is not an easy decision. They had to face very heavy trauma and feel ashamed, and had to recount the chronology in detail to the authorities.

According to Sidoarjo Regency UPTD PPA Counselor Shelvy, the impact of this incident was of course the psychological trauma experienced by the child. Especially if the incident occurs at an unprepared age and involves unusual behavior, this can

cause shock in the child. In fact, the victim is often very young when the incident occurs, no matter who the perpetrator is, it may occur in their own home.<sup>10</sup>

In this case, it is important to involve a psychologist who can provide trauma healing to the victim. The psychologist will carry out an assessment to understand what happened to the victim and what factors influenced the victim's behavior after the incident. In this assessment, both physical impacts that may occur, such as wounds or abrasions, and mental impacts such as trauma that may arise as a result of the incident will be analyzed. It is important to remember that trauma reactions can vary, namely mild trauma, moderate trauma and severe trauma. The main symptoms at mild, moderate and severe levels can be:

- a. Loss of interest and excitement;
- b. Reduced concentration and attention;
- c. Having a sense of guilt and uselessness;
- d. A gloomy view of the future and feeling pessimistic;
- e. Disturbed sleep;
- f. Decreased appetite;
- g. The worst case scenario is doing something that endangers yourself (suicide).

After observing observations and interviews, rape victims experienced serious physical and psychological consequences. The author divides the impact of rape into three types:

- a. Physical impact

The victim may suffer injuries as a result of forced sexual intercourse such as injuries, bruises, bruises. Other impacts include reproductive disorders, the possibility of contracting sexual diseases, unwanted pregnancy and so on.

- b. Mental impact

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<sup>10</sup> Shelvy Susanti, *Wawancara*, Sidoarjo, 14 April 2023.

The victim feels shocked or experiences mental shock so that the victim feels afraid, depressed, cries, gets angry, feels helpless, feels sad for a long time, is afraid of men, and so on.

c. Social impact

Victims feel inadequate, have difficulty building relationships with men, are afraid of the negative stigma that exists in society, have difficulty opening up and so on.

It is important for the surrounding environment, including the family, to provide positive support in the victim's healing process. Support to rebuild the victim's enthusiasm in living his life. This is because, even if the individual has sought professional help, if the environment is not supportive it can hinder the recovery process. With this support, it is hoped that victims can live their lives as before.

Each stage has a specific role and steps in providing protection to victims. The stages of handling victims of violence carried out by the UPTD PPA Sidoarjo Regency include several processes, namely:

a. Acceptance of Complaints

UPTD PPA receives complaints from victims of violence through various channels, such as direct reports, written complaints, or through related parties. Online complaints are made via the hotline or WhatsApp contact which is available to report cases. Later, victims will still be asked to come to be given the action they need. Then, for direct complaints, the victim comes directly to the Sidoarjo Regency PPA UPTD and registers and tells what they experienced and the PPA UPTD will then provide the action the victim needs, be it legal, medical, psychological, temporary shelter protection or referral.

b. Victim outreach stage

This stage is carried out with the aim of taking responsive action to complaint information that could endanger the safety of children who are victims of violence. At this stage, the UPTD PPA tries to take action to pick

up the victim and take him to a safe location, keeping him away from the perpetrator of the violent crime.

c. Case management stage

The case management stage involves extracting information regarding victims and monitoring the progress of case handling on a regular basis in collaboration with the police and other parties.

d. The stage of providing action for UPTD PPA cases in Sidoarjo Regency provides services including:

- 1) Providing legal consultation measures to victims, including mediation and legal assistance during the case handling process by the police until the trial process to ensure legal protection and the victims' rights are guaranteed;
- 2) Providing medical aspects, in the form of medical care for victims who suffer minor or serious injuries by collaborating with health services to provide the necessary care;
- 3) Providing psychological trauma healing measures both offline and online, with emotional support and counseling to help victims overcome the psychological impacts arising from the violence experienced;
- 4) Providing safe houses or shelters, to provide protection and security for victims from perpetrators of violence;
- 5) Provide referrals for victims to other parties or institutions that can provide further assistance according to the victim's needs.

The Indonesian government has established rules and regulations that regulate special protection for children as a form of protection for children from discrimination and acts of violence. This rule is stated in Government Regulation no. 78 of 2021 concerning Special Protection for Children.

Special protection in this government regulation refers to protective measures given to children in certain circumstances, with the aim of providing a sense of security from threats that could endanger themselves and their lives in the process of their growth and development. Contained in Article 3 paragraph (2) of the Government

Regulation on Special Protection for Children, special protection efforts are carried out through:

- a. Treatment measures that are carried out quickly, including treatment, physical, psychological and social rehabilitation, as well as efforts to prevent disease and other health disorders;
- b. Psychosocial assistance starting from the treatment stage to recovery;
- c. Providing social assistance to children from disadvantaged families;
- d. Providing protection and assistance in every judicial process.

Article 3 paragraph (3) also states that special protection for children is carried out in technical implementation units of ministries/agencies, regional technical implementation units which have been formed with reference to established service standards. Legal protection efforts for children who are victims of rape in the family environment are provided by the UPTD PPA of Sidoarjo Regency through:

- a. Providing assistance from the reporting stage to the trial process

According to Hakki, Legal Assistant to the UPTD PPA of Sidoarjo Regency, victims of sexual violence usually immediately come to make a complaint to the UPTD PPA. From the Sidoarjo Regency UPTD PPA, protection and assistance starts from the police reporting stage to the court hearing. The process begins with the victim making a report at the UPTD PPA and conveying what the victim wants.<sup>11</sup>

If the case is rape, we will accompany the victim to make a police report at the police station. Before making a report, we usually consult with investigators in the PPA (Protection of Women and Children) Unit at the Police. We will discuss the chronology of events. If there are indications of a criminal act, the PPA unit will provide recommendations to the SPKT (Integrated Police Service Center) to issue a report. After the report is issued, if possible, the post-mortem will be carried out on the same day. The police

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<sup>11</sup> Abdillah Hakki, *Wawancara*, Sidoarjo, 5 Mei 2023.

will provide a letter of recommendation for a post mortem. We will accompany them until the post-mortem is completed.

After the post-mortem, an investigation or BAP (Inspection Minutes) is carried out. The victim will be invited back to tell the chronology of the incident. If there are no witnesses, post-mortem evidence and testimony from expert psychologists can be used in the trial. From the psychologist's testimony, it can be seen how much trauma the child has experienced, and usually this case becomes stronger and cannot be faked.

After the BAP of the victim and witness, the case will be escalated to the stage of determining the suspect. If the perpetrator is a family member such as a biological parent or stepfather, usually when making a report, the Criminal Investigation Unit (kasat reskrim) gives an immediate arrest order and issues an arrest warrant. If the reported party has been detained, we will wait for the delegation stage from the prosecutor's office. After being delegated to the prosecutor's office, we will coordinate with the prosecutor to ask about the trial schedule and just wait for the trial to be held.

Before the trial, we usually strengthen the victim's mental state. If the victim is sick or unable to attend the hearing, we can ask the prosecutor for a postponement of the hearing. However, this postponement can usually only be made a maximum of 3 times, after which the victim must attend. If the victim does not appear, we as witnesses may be subject to criminal sanctions. During the trial, the victim is required to be present and be a victim witness. We continue to accompany the victim throughout the trial process. Victim assistance is passive because in criminal cases, we are represented by the Prosecutor as the prosecutor. We accompany the victim to strengthen his psychology, but we cannot actively speak because we do not have authority in the trial. Our role is only limited to providing assistance.

After the trial, if necessary, the follow-up and trauma recovery process is still the authority of the psychologist. If the child requires follow-up and is still experiencing trauma, the recovery process will continue. However, if



the child has not experienced excessive trauma, then this is enough until the trial process is complete.

b. Psychosocial Assistance

According to Sidoarjo Regency UPTD PPA Counselor Shelvy, psychologists can make home visits if the client is deemed unable to come to the office. This depends on the child's condition. Even though the court process has been completed, if psychologically the child has not fully recovered, assistance will still be provided. However, once the court decision is issued and the case has been closed, if the conditions are not serious, the process will be considered complete.<sup>12</sup>

c. Temporary shelter in the form of a shelter or safe house

According to the As Person in Charge of the Sidoarjo Regency UPTD PPA Shelter, for child victims of rape in the family environment, if the victim needs protection and a safe place, we have a shelter or safe house. A place to provide a safe environment for victims. When victims are still in a situation where it is impossible to return to their parents or family, we will help them stay in a safe house. The safe house stay rule is usually for 14 days, but can be extended according to the victim's needs.<sup>13</sup>

After the case is over, the victim usually has a choice whether they want to stay in the hut or join another family. If the victim wants to go to boarding school (take religious education at a boarding school), we will help find a suitable boarding house. If the victim wants to join a family outside the city, we will coordinate with the family to ensure they are willing to accept the victim. In any situation, victims will not be left without support and assistance.

d. Referral assistance to related parties

According to Hakki, the UPTD PPA Legal Assistant for Sidoarjo Regency, if the pregnant victim is still at school, we will help in coordinating

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<sup>12</sup> Shelvy Susanti, *Wawancara*, Sidoarjo, 14 April 2023.

<sup>13</sup> As'alut Thoyibah, *Wawancara*, Sidoarjo, 14 April 2023.

with the school. If possible, we will try to ensure that the victim can continue to attend school. However, if the situation makes it impossible to continue attending school, we will coordinate to find suitable alternatives, such as distance or online education. If the victim feels embarrassed and wants to change schools, we will assist in the transfer process. This often happens in cases like this. <sup>14</sup>

Apart from that, if the pregnant victim needs referral and care during the birth process, we will continue to assist in coordinating with the Community Health Center or village midwife who is responsible for monitoring the development of the fetus and providing the necessary health care.

e. Social assistance for underprivileged children

According to Sidoarjo Regency UPTD PPA Counselor Shelvy, if a rape victim is pregnant, we will facilitate her health needs. If the child cannot afford the cost of delivery, we will help with that. We work together with RSUD and Social Services to arrange for the child's Community Health Insurance (JKMM) membership, so that he or she has easy access, birth costs are also covered by the government.<sup>15</sup>

If the baby is rejected by the family, there is a child care or adoption agency called Toddler Care Social Protection and Services (PPSAB) belonging to the Social Service. This is done if the family does not want to care for the child. However, the procedures followed are legal procedures and are based on official letters and minutes in accordance with the provisions.

PPSAB is an orphanage owned by the government, specifically for toddlers. There, small children found by other people or children whose parents do not want them will be entrusted. However, if the child reaches a certain age, they will be transferred to another social service agency that focuses on teenagers.

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<sup>14</sup> Abdillah Hakki, *Wawancara*, Sidoarjo, 5 Mei 2023.

<sup>15</sup> Shelvy Susanti, *Wawancara*, Sidoarjo, 14 April 2023.

In implementing child protection, the fact is that there are often various obstacles that need to be known and studied. These obstacles can come from internal or external factors, as follows:

a. Casualty factor

When it comes to uncovering cases of sexual violence, you can face difficulties. Several factors that can cause these difficulties include a lack of support from the victim and the victim's unwillingness to report the incident.

According to the Person in Charge of the UPTD PPA Sidoarjo Shelter, more obstacles occur through complaints from online centers such as the Friends of Women and Children (SAPA) hotline 129. After reports from victims, cases are usually referred to the UPTD for follow-up, there are obstacles in communication and handling of cases that may affect the progress of the investigation. In several cases, when the victim was contacted again to be asked to provide the necessary information, the victim asked where the call came from and then the call was immediately ended without any continuation. The case may not be continued because the report came through the SAPA center. Furthermore, UPTD reported back to SAPA that the victim did not want to continue.<sup>16</sup>

Another obstacle is when the victim's statement can become key evidence in the investigation and trial process. However, in some cases, victims may face significant emotional and psychological challenges after experiencing a sexual crime, which may make it difficult for them to provide information publicly or even refuse help.

According to Hakki, Legal Assistant to UPTD PPA Sidoarjo, obstacles arise when children as victims do not know for sure where the sexual violence incident occurred. Children only know the location in general without knowing the exact address.<sup>17</sup> Top of Form

b. Family factors

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<sup>16</sup> As'alut Thoyibah, *Wawancara*, Sidoarjo, 14 April 2023.

<sup>17</sup> Abdillah Hakki, *Wawancara*, Sidoarjo, 5 Mei 2023.

According to Hakki, Legal Assistant for UPTD PPA Sidoarjo Regency, in some cases the family reports the incident, but the victim himself may not want to report it because of threats and other reasons. There are also those who cannot report themselves because they are still not old enough. In this case, family or neighbors must accompany the victim because minors do not yet have the ability to report themselves. Sometimes situations are encountered where families are reluctant to report or do not have the courage to report the incident.<sup>18</sup>

c. Witness factor

According to Hakki, the UPTD PPA Legal Assistant for Sidoarjo Regency, explained that another obstacle was the unpreparedness of witnesses to testify in court, even though they were willing to be witnesses at the police station. This could be caused by differences in conditions between the police and the court. At the police station, witnesses do not meet the perpetrator directly, so they may feel safer and ready to give testimony. However, in court, they have to face the perpetrator or his legal representative directly, which can affect their fear or discomfort.<sup>19</sup>

d. Problems of cooperation and coordination

According to Hakki, Assistant to the Sidoarjo Regency UPTD PPA, other obstacles occurred from law enforcement. There was a situation where one of the friends had problems with the police, and the impact spread to other people. In some cases, when they want to make a report, the investigator seems less enthusiastic or uncooperative, and the presence of a companion in accompanying the victim, sometimes the companion actually looks annoying, even though the presence of the companion should help expedite the investigation process.

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

When these obstacles arise, it is hoped that there will be preventative efforts so that implementation efforts can run well. According to Hakki, the Legal Assistant for UPTD PPA Sidoarjo Regency, the efforts made by the parties are as follows:

- a. In the case of children, counselors help to create situations where children can feel comfortable telling stories. For example, if a child has difficulty identifying the location of the incident, the counselor can help find the actual location. There was an incident where they even had to take the victim to a hut in the Sedati area at night to determine the crime scene. This is important because in order to publish a report, it is necessary to know where the incident occurred and who was involved. Even though the task of investigation is actually the responsibility of the police, UPTD tries to help make investigations easier to make them more effective.
- b. In terms of families, many families do not dare to report crimes that occur within the family because they feel there is disgrace associated with the situation. Through education, advocacy and removing the stigma related to crime within the family, it is hoped that families will feel safer and be encouraged to report crimes that occur and get the support they need.
- c. In the case of witnesses, by providing adequate information and ensuring the readiness and awareness of witnesses regarding their role in court, it is hoped that witnesses will not only be willing to give testimony at the police station but also be ready and confident to give testimony in court.
- d. In terms of law enforcement, by building closeness and good relationships with the police to facilitate the reporting and assistance process. If the relationship with the police is not harmonious or there are tensions, it can be difficult to get the necessary support.

It is important to avoid arguments with the police when accompanying victims in the reporting process or investigation process (BAP). It's best to be passive and let the victim tell the story themselves. If there are questions or things that the victim does not understand, the companion can help explain

the meaning or objectives that the investigator wants to convey to the victim. It is important to maintain cooperative communication and avoid situations that could trigger arguments with the police.

## **CONCLUSION**

Sexual crimes, especially rape, are a serious problem in child protection. Protection for victims of criminal acts of rape cannot be separated from the consequences they experience. The Child Protection Law guarantees legal protection for child victims of rape, including the right to obtain protection, recovery and access to court. The government provides increased punishment for perpetrators of child rape in the family environment by adding 1/3 (one third) of the penalty to the criminal threat which should be accepted.

The Sidoarjo Regency Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) has implemented legal protection for child rape victims in the family environment in accordance with applicable regulations. Through UPTD PPA, legal protection measures are taken, including psychological services and legal assistance for victims. However, the implementation of legal protection policies for rape victims still faces challenges and needs to continue to be improved. Some of the problems that arise include a lack of public awareness, low reporting rates, difficulty in gathering sufficient evidence, and other factors that can hinder the justice process.

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