



**IMPLEMENTATION OF ARTICLE 70 OF LAW ON SEXUAL
VIOLENCE CRIMINAL ACTS NUMBER 12 OF 2022 ON THE
PROTECTION OF THE RIGHTS OF CHILD VICTIMS OF SEXUAL
VIOLENCE IN DP2KBP3A**

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ABSTRACT

Sexual violence according to End Child Prostitution in Asia Tourism International is an interaction between a child and adults such as strangers, grandparents, parents, and siblings. Where the condition of the child is used as an object of lust for the perpetrator. The rise of sexual violence cases in Indonesia has concerned the community and the local government. Seeing the high rate of sexual violence is a slap in the face for the government, which should think of the best solution to protect children as the nation's next generation. Therefore, the ratification of the Sexual Violence Law Number 12 of 2022 is used as a preventive solution from the government to protect the rights of victims of sexual violence. The research method used by the current author is empirical and also a qualitative approach. And also the data collection technique is carried out by interview techniques and also a form of questionnaire. In implementing the protection of children's rights, the Women and Children Protection Team provides mental rehabilitation services, social rehabilitation for victims. In the last three years, sexual violence in Kediri has decreased in 2023 to 13%. In addition, they also seek protection preventively or repressively. The research was conducted at (Office of Population Control Family Planning Women's Empowerment and Child Protection). Located at Jalan Panglima Sudirman 141 Kampung Dalem Village no 45 Kota.

Keywords: Sexual Violence. Prevention. Children

1. Introduction

Nowadays, sexual violence against children and women has become a major topic of discussion by local communities. The high rate of sexual violence deserves full attention from the government, society, and law enforcement. These things quite enough become the opposite tonormative values provisionin Indonesia as a country of law. Crime can be able to happen to anyone, anywhere and anytime. The perpetrators of sexual violence can be from the closest family or close friends. As recently the perpetrators came from their own family. This situation is getting worse by the ideology that

¹ **Submission:** 20 November 2024 | **Review-1:** 17 January 2025 | **Publish:** 20 January 2025

held by the Javanese people which is called “jaga praja” or maintaining the ideology of the family strictly, “*exposing the family's shame means exposing one's own shame.*” Harkristuti Harkrisnowo is of the opinion that the cause of the high “dark number” is that many cases are not reported² becomes an opportunity for the perpetrator to act more arbitrarily towards the victim. Therefore, a preventive solution is needed for victims of sexual violence, especially children. One of the government's preventive efforts is the formation of the Sexual Crimes Law.

Definition of violence is an act that cause physical, psychological, or act of abandonment accompanied by coercive threats to commit acts, coercion, or deprivation of independence in away against the law. While child sexual violence is the interaction between children and adults including strangers, parents, siblings who cruelly treat children as objects to satisfy their lust. This is triggered by the presence of elements of the perpetrator to the child such as bribery, intimidation, deception, compulsion, until the pressure on children. This was expressed by End Child Prostitution in Asia Tourism (ECPAT) Indonesia. The Ministry of Women's Empowerment and Child Protection has reported that child sexual violence reached 4,280 cases.³

On this case, children are human who are less than 18 years old as well asnot married yet and unborn child. If matter that intended for its own sake (Law No. 39 of 1999 Article 1 paragraph 5 concerning Human Rights). Sexual violence causes very serious side effects on victims. One of the effects is a sense of shame and fear in the victim due to intimidation by the perpetrator. Everyone has the right to live in peace and quiet, but that freedom has been hindered by fear due to sexual violence experienced by the victim. In addition to fear, there are other impacts caused by sexual violence, namely post-

² C. De Rover, *To Serve and To Protect* (Jakarta: Radja Grafindo Persada, 2000).

³ Nordiansyah Eko, “4.280 Kasus Kekerasan Seksual Terjadi Di Indonesia Sepanjang 2023,” 2023, [https://www.metrotvnews.com/read/k8oCL0dL-4-280-kasus-kekerasan-seksual-terjadi-di-indonesia-sepanjang-2023#:~:text=4.280 Kasus Kekerasan Seksual Terjadi di Indonesia Sepanjang 2023,-Media Indonesia •&text=Jakarta%3A Kementerian Pemberdayaan Perempuan dan](https://www.metrotvnews.com/read/k8oCL0dL-4-280-kasus-kekerasan-seksual-terjadi-di-indonesia-sepanjang-2023#:~:text=4.280%20Kasus%20Kekerasan%20Seksual%20Terjadi%20di%20Indonesia%20Sepanjang%202023,-Media%20Indonesia%20Kementerian%20Pemberdayaan%20Perempuan%20dan)

traumatic stress disorder. PTSD (*Post Traumatic Stress Disorder*). PTSD is a syndrome of anxiety, autonomic lability, emotional instability, at a time recurrence of traumatic event that befell the victim⁴. It's a shame that many cases of sexual violence go unreported. The reason there is denial incident sexual violence against victims. Victims can't be easy give trust to other people so choose to not to inform incident that happened to them.

Given the increasing number of cases, the government should take firm action against perpetrators of sexual violence. Children are easy targets for criminals. What children need is protection, proper education, and a good life during their growth and development. In 1990, Indonesia ratified the United Nation-Convention on the Rights of the Child. The CRC is an agreement between several countries. Previously, the CRC was one in between sources of law in the formation of legislation about child⁵. It means, all Indonesian children have the right to receive protection from the state. Because every child have right to live, grow, to develop, achieve, at a time to obtain protection from violence or discrimination.

The environment has a big influence on the growth and development of children, where a person can create character while growing up in the environment where they live. Therefore, it is very important needed guidance, construction, all at once protection from parents, teachers, at a time other adults to help their development process. The view of society towards sexuality is still very taboo. This results in society being less aware of the seriousness of sexual crimes that occur. This is reinforced by the fact which there is of a number of the areas in Indonesia.

An example of sexual violence in Indonesia, there is an uncle who raped his niece so that his niece became pregnant. Another case occurred in Kras, Kediri. In addition, there is a teacher with the initials BA who is 47 years old

⁴ Yurika Fauzia Wardhani and Weny Lestari, "Post Traumatic Stress Disorder in Victims of Sexual Harassment and Rape," nd

⁵ Nonot Suryono, "Implementation of Law No. 3 of 1997 Regarding Children in Legal Conflict (AKH) in the Case of Minutes of Rejection of Legal Aid," nd, 1.

who had the heart to molest 3 of his neighbors. Considering the condition of children who are still considered weak by society, making children more vulnerable to being targeted by criminals. Therefore, with the progress and policies of the local government in seeking legal protection that favors victims with the principle of non-discrimination.

Data in the field shows that children still haven't received full of legal protection, proven from the media how children get pressure from sexual crimes. School is one of the safe places for children to process during their growth, but ironically that in this case there was a student who was raped by his own ustadz, besides that there was also a teacher who had the heart to rape 5 elementary children at Pondok Ranji, Pondok Aren. Thus, sexual violence is a case that really needs attention and has entered the emergency category. Justice is needed for children victims of sexual violence to be able to take care and guarantee the safety of children.

The government provides strive for legal protection for child in Criminal Code (KUHP), Law Number 23 of 2002 as amended by Law Number 35 of 2014 concerning Child Protection, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Regulation of the Minister of Women's Empowerment and Child Protection of the Republic of Indonesia Number 15 of 2010 concerning General Guidelines for Handling Children in Conflict with the Law⁶.

In 2022, the government passed a new regulation regarding the protection of victims of sexual violence called the Law on the Crime of Sexual Violence. In this Law, the provision of legal protection for victims of violence but focuses more on efforts to restore the rights of child victims of sexual violence. As in Article 70 paragraph 1 of the Law on the Crime of Sexual Violence which explains that:

⁶ Anastasia Hana Sitompul, "Legal Study on Sexual Violence Against Children in Indonesia" Vol.IV (2015): page 47.

"The victim's rights to recovery as referred to in Article 67 paragraph 1 letter c include:

- a. Medical rehabilitation
- b. Mental and social rehabilitation
- c. Social empowerment
- d. Restitution and/or compensation
- e. Social reintegration."

On this context, assistance is needed to help the victim in matter criminal law where to be steps to solve legal problems or how to recover the victim. One of the institutions that carries out the function of assisting children's rights is the Population Control, Family Planning, Women's Empowerment and Child Protection Service in Kediri Regency. Specifically, this paper presents data on the provisions of the rights of children as victims of sexual violence as in Article 70 of the TPKS Law No. 12 of 2022.

Based on the explanation above, the formulation of the problem in this study is how is the implementation of the rights of child victims of sexual violence based on Article 70 of Law Number 12 of 2022 concerning Sexual Violence in DP2KBP3A Kediri? And what legal protection efforts have been made by DP2KBP3A Kediri in assisting the process of assisting child victims of sexual violence?

2. Research Method

This research is a legal research, namely legal research that focuses on studying the application of rules or norms in applicable positive law. The normative legal approach method is used by studying various formal legal rules such as laws, regulations, and literature containing theoretical concepts which are then linked to the problems in this research. This research is a type of library research. This research uses a statutory approach, namely an approach carried out by studying all laws and regulations related to the legal problems to be studied. The sources of legal material data used in this research

are primary legal materials and secondary legal materials. The legal materials that have been obtained will be analyzed using a qualitative approach, namely a procedure that produces analytical descriptive data from what is obtained in writing to be researched and studied so that it can be used to understand the aspects that are the object of research.

3. Results and Discussion

3.1. Implementation of Article 70 of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence against the Protection of Children's Rights as Victims of Sexual Violence at DP2KBP3A Kediri Regency

Kediri has successfully received the award of child-friendly city/district from the Ministry of Women's Empowerment. The KLA policy is to realize changes in children's rights in the development process, so that in every process The preparation of development planning still considers the issue of children's rights. After holding the title of Child-Friendly City, it is possible that cases of sexual violence will not occur in Kediri. In reality, sexual violence still affects children in several areas in Kediri. As recorded in DP2KBP3A data, in 2020 it reached 33 cases, in 2021 it reached the highest number of 40 cases, then in 2022 it was at 36 cases, there was a decrease in the number of sexual violence in 2023, namely to 16 cases. These figures are only those reported, there are still many who do not have the courage to report because of many factors. The average victim of sexual violence is a child aged 13 to 18 years. In Kediri district, the reported cases of sexual violence are rape cases, there is no occurrence *consent* during sexual intercourse, KGBO, sexual exploitation of children, cases of pregnancy outside marriage.

In sexual violence, there are many factors that trigger this action, namely:

- 3.1.1. Gadgets. Gadgets are the trigger for high cases of sexual violence because easy internet access causes people to be able to access prohibited websites such as pornographic content. In addition, lack of parental supervision at a time people around, Finally society can easily access pornography.
- 3.1.2. Free association. In free association, there are no boundaries between male and female association. Low levels of societal control can be a reason for sexual violence. The closeness between the opposite sex can result in the loss of control of one party. In criminology factors, rape is caused by the fault of the perpetrator who cannot control his sexual desire.⁷.
- 3.1.3. Relationship between parents at a time child. On a family, parents have an important role and are the closest people to the child. currently faced with the era of globalization, where information can be obtained easily and also parents must be diligent in supervising their children who play gadgets. This will prevent negative things from affecting the child. Children are still vulnerable to bad influences from people, so parents must be educated their children and to maintain their good relationship between them and their children.
- 3.1.4. Lack of understanding of parental education regarding reproductive organs. In the process of implementing children's sexual education carried out by Educational

⁷ Ida Bagus Subrahmaniam Saitya, "Factors Causing Criminal Acts of Sexual Violence Against Children" XIV (2019): Page 5.

Institutions and Community Institutions, it is still considered less than optimal. This is due to the strong understanding of society regarding sexual matters as taboo to discuss. In fact, sexual education is very important for children to protect themselves and know their body organs.

- 3.1.5. Economy. Poverty is one in between situation where push sexual violence against children. Lack of knowledge obtained by the lower class makes them trivialize sexual violence. Facts on the ground note that many wives choose to become migrant workers to earn more money and leave their husbands and children. At that point, the father has the potential to become a perpetrator of sexual violence against his own child, considering the lack of their sexual education.

The explanation above is a brief overview of the factors of sexual violence in Kediri. In 2022, the government has created a new policy regarding the protection of victims of sexual violence. Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence was born. Article 70 new TPKS to describe fulfillment of victims's rights, namely:

- (1) "The Victim's Rights to Recovery as referred to in Article 67 paragraph 1 letter c include:
 - a. Medical rehabilitation;
 - b. Mental and social rehabilitation;
 - c. Social empowerment;
 - d. Restitution and/or compensation;
 - e. Social reintegration.
- (2) Remedies before and during the judicial process include:
 - a. Provision of health services for physical recovery;
 - b. Psychological strengthening;
 - c. Provision of information about victims' rights and the judicial process;
 - d. Providing information about recovery services for victims;
 - e. Legal assistance;
 - f. Providing accessibility and reasonable accommodation for victims with disabilities;

- g. Provision of assistance with transportation, food, temporary living costs, and decent and safe temporary housing;
 - h. Provision of Spiritual and spiritual guidance;
 - i. Provision of educational facilities for victims;
 - j. Provision of population documents and other supporting documents required by the victim;
 - k. The right to information in cases where a prisoner has completed serving his sentence; and
 - l. The right to removal of sexually charged content in cases of sexual violence by electronic means.
- (3) Recovery after the judicial process includes:
- a. Monitoring, examination, and physical and psychological health services for victims on a regular and continuous basis;
 - b. Strengthening community support for victim recovery;
 - c. Assistance in the use of restitution and/or compensation;
 - d. Provision of population documents and other supporting documents required by the victim;
 - e. Provision of social security services in the form of health insurance and other social assistance according to needs based on an integrated team assessment;
 - f. Economic empowerment; and
 - g. Provision of other needs based on the identification results of the UPTD PPA and/or Community-Based Service Provider Institutions.
- (4) Further provisions regarding the integrated team as referred to in paragraph (3) letter e are regulated by presidential regulation.”

Based on the research results from DP2KBP3A, the PPA team has restored the rights of victims in accordance with the provisions of Article 70 of the TPKS Law. In the process, PPA officers help victims through mental and social rehabilitation after the traumatic incident. The victim's mental condition will be full of anger and hatred for the perpetrator, and also themselves. Deep trauma and post-traumatic stress disorder are side effects experienced by victims of sexual violence. During legal assistance process, PPA works together with several law enforcement officers. After receiving information about victims of sexual violence, PPA immediately secured the victims. The PPA team focuses more on psychological problems in children who are victims of sexual violence.

Implementation of rights awants to be an adaptation an effort to adjust the rights as well as the freedom of children which is known as a fundamental right that is inherent and natural, linked oneself since birth, and is a component of human rights. Based on national law, the right to gain recognition and protection in the world.

3.2. Legal protection efforts that have been carried out by DP2KBP3A Kediri Regency in assisting the process of assisting child victims of sexual violence.

Wiyono has an opinion that protection includes a form of service where law enforcement is required to create physical and mental security⁸. In the process of fulfilling the rights of children which is carried out with a protection approach from various aspects, it turns out that it is still not satisfactory. Guidance at a time Law enforcement in Indonesia is basically not as easy as reading the law. Therefore, it is important to be supported by good facilities and infrastructure.

Sexual violence including crimes that are clearly violations of human rights. However, handling of sexual violence cases often does not express its side to the victim. In addition, it lies in the level of understanding of the importance of victim recovery from the community and law enforcement is still relatively minimal. In fact, it is very much needed from law enforcement and the community in helping efforts to restore victims and legal protection from sexual violence.

Coordination with child protection agencies is needed to prevent imbalances in the child protection process. Philipus M. Hadjon has a theory of legal protection which classified into two sort of, namely preventive at a time repressive. Nurdjana in his book entitled “Criminal Law System and the Latent Danger of Corruption” explains preventive including an act prevent violation to prevailing norms. While repressive

⁸ Wiyono, *Human Rights Court In Indonesia* (Jakarta: Kencana Media Group, 2006).

protection is a series of efforts starting from investigation, prosecution, examination, and handing over of the public prosecutor to be brought to court⁹.

As conveyed by one of the PPA teams, sexual violence against children is like ice berg phenomenon. It means violence sexuality is something that is dangerous even though novisible on the surface. Based on the theory of Philip M. Hadjon regarding preventive and repressive legal settlement efforts by the PPA team at DP2KBP3A are as follows:

3.2.1. Preventive

- a. Providing KIE to the community. KIE stands for Communication Information Education. DP2KBP3A Kediri Regency runs the KIE program come into being means of communication with develop outlook, attitude at a time family behavior, society at a time population use manifestation of environmental safety from sexual violence.
- b. Creating a sexual violence complaint channel. The PPA team created a channel called SANAK (Sahabat Anak dan Keluarga) with the hope of helping the community to make it easier to report if they experience sexual violence. In addition, this program is used as a means of preventing sexual violence and child marriage.
- c. Providing sexual education. Sexual violence is still considered trivial by the surrounding community. Therefore, the PPA DP2KBP3A team is actively conducting socialization related to education on the dangers of sexual violence in the community. This sexual education should behanded over to parents child

⁹ HukumOnline Team, "Preventive and Repressive Efforts in Law Enforcement," 2023, <https://www.hukumonline.com/berita/a/upaya-preventif-dan-represif-dalam-penegakan-hukum-lt63e0813b74769/>.

starting now. Because children are vulnerable to bad influences from the outside world, they need to be equipped with sexual knowledge.

3.2.2. Repressive

Effort repressive that held The PPA team at DP2KBP3A Kediri Regency is with donate legal aid to child victims of sexual violence in Kediri Regency. Where proven by the PPA team working together with law enforcement officers, including police, prosecutors, lawyers, at a time judges in handling the advocacy process for resolving each case. In the process, the police contact the PPA team if there is a report of sexual violence in an area. After that, the PPA team immediately handles the victim. They ask about the victim's condition first, create an atmosphere as comfortable as possible to encourage the victim to tell the story of how the chronology occurred. However, in essence the PPA team remains focused on efforts to restore the victim's psychological condition first

4. Conclusion

Exercise of rights child victims of sexual violence at DP2KBP3A through the provision of consultation services with psychologists for child victims of sexual violence. PPA officers always try to accompany victims from the reporting process to legal assistance. Not only legal assistance, child victims of sexual violence also to obtain their rights with social rehabilitation. In the last 3 years, there has been a decrease in cases of sexual violence to 13% in 2023. This proves that PPA officers at DP2KBP3A have been successful in implementing article 70 of the 2022 TPKS Law.

PPA officers provide legal protection in assisting the process of assisting child victims sexual violence with preventive measures at a time repressive.

Preventive efforts carried out by PPA are providing KIE to the community, creating a channel for reporting sexual violence, and conducting socialization related to sex education. Meanwhile, repressive efforts are by providing legal aid for child victims of sexual violence in Kediri district. This is done by cooperating with law enforcement officers, including police, lawyer, at a time judges in handling the advocacy process for resolving cases.

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