

LEGAL PROTECTION AGAINST CHILDREN AS A VICTIM OF RAPES

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Abstract

The problem to be described in this research is how is the ideal legal protection model in providing protection for children as victims of rape in the future. In obtaining data on this research, it was carried out through a literature search with a normative juridical approach that examined the ideal legal protection model in providing protection for children as victims of rape. In finding answers to the problems mentioned above, the researchers found that the ideal legal protection model in providing protection for children as victims of rape in the future at the investigation level is to provide information without pressure, the right to get an interpreter, the right to be free

from entangling questions. , the right to obtain information regarding the development of the case, the right to security support and the right to obtain legal advice, the right to receive guarantees for the protection of personal and family safety

Keywords: *Child; Legal Protection; Rape Victim*

INTRODUCTION

Children as part of the next generation of the nation's ideals, have a strategic role in ensuring the existence of the nation and state in the future. In order for them to be able to fulfill their responsibilities at any time, they need to get the widest possible space to grow and develop optimally, both mentally, socially, spiritually.¹ So they need to get their rights, they need to be protected and prospered.²

Currently, there is a trend regarding how children are treated and how they are neglected when they are victims of violence or mistreatment. The phenomenon shows that cases of sexual violence against children are one of the cases that have increased significantly, one of which is Rape against children.³ Although several legal instruments have regulated how children should be protected from sexual crimes.

To realize the welfare of children, the United Nations General Assembly on November 20, 1958 unanimously ratified “*Declaration of the Right of the Child*”.⁴ *Preamble Declaration of the Right of the Child (Preamble to the Declaration of the Rights of the Child) in paragraph 3 stipulates: “where as the child by reason if his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”*. From this paragraph it is understood that due to physical and mental reasons that are immature and mature, children need legal protection before and after they are born. Whereas *Principle 4 Declaration of the Right of the Child* menetapkan “*The child shall enjoy the benefits of social security*”. In this case, humanity is obliged to provide the best for children.⁵

The international instrument that regulates the rights and interests of children is the United Nations Convention on the Rights of the Child (*United Nations*

¹ Abu Huraerah, *Abu Huraerah, Kekerasan Terhadap Anak*.

² Abdul Kadir and Anik Handayaningsih, “Kekerasan Anak dalam Keluarga.”

³ Natalia Devi Oktarina and Liyanovitasari, “Pengaruh Media Cerita Bergambar Tentang Pengenalan Seks Dini Meningkatkan Pengetahuan Anak Usia Dini.”

⁴ Joko Widodo and Kholifatul Ummah, “Keserasian Kovenan HAM Internasional dengan Kovenan HAM Nasional Indonesia.”

⁵ Muhammad Zaki, “Perlindungan Anak Dalam Perspektif Islam.”

Convention on the Rights of the Child) is an international convention that regulates the civil, political, economic, social and cultural rights of children.⁶ Viewed from the side that is obliged to implement the Convention on the Rights of the Child, namely the state that is responsible for fulfilling the rights of children, namely adults in general. Bearing in mind that, as stated in the Declaration of the Rights of the Child, “children, because of their physical and mental immaturity, require special safeguards and care, including appropriate legal protection, before and after birth”.⁷

Then children's rights are also regulated in the Beijing Rules, namely the United States standard minimum regulations for the Administration of Child Justice.⁸ The general principle in the Beijing Rules is fundamentally that member states should seek, in accordance with their respective public interests, for the welfare of their children and families. Member States should endeavor to develop conditions

which will ensure for the child a meaningful life in the community, which during those periods in life when he or she is most susceptible to deviant behavior, will foster the process of personal development and education that is free from crime and offences.

In Indonesia, the child law is very much needed because it is a preventive and repressive protection for children. The law on children has spread in various fields of law or legislation, for example in Article 68 and Article 69 of Law No. 13 of 2003 concerning Manpower, Law No. 4 of 1979 concerning Child Welfare. UU no. 35 of 2014 concerning Child Protection, Article 52 paragraph (2) of Law No.39 of 1999 concerning Human Rights, Law no. 11 of 2012 concerning the Juvenile Criminal Justice System, the Criminal Code (KUHP) only includes 3 articles, namely Articles 45,46, and 47, while the Criminal Procedure Code (KUHAP) only mentions very little about children, namely Article 153 paragraph (3), 153 (5), 171 sub a. Article 153 (3) of the Criminal Procedure Code.

Children are still children who are inherently independent who need love and protection of their rights from adults. Children are the next generation of the

⁶ Andreta Dengah, Natalia Lana Lengkong, and Thor Bangsaradja Sinaga, “Pemenuhan Hak Pendidikan Anak Di Perbatasan Negara Menurut Hak Asasi Manusia Di Indonesia.”

⁷ Dudung Mulyadi, “Perlindungan Hukum Bagi Anak Korban Perkosaan Dalam Peradilan Anak.”

⁸ Beby Suryani Fithri, “Asas Ultimum Remedium Terhadap Anak Yang Berkonflik Dengan Hukum Dalam Rangka Perlindungan Anak.”

nation and the successors of development, namely the generation that is prepared as the subject of implementing development and controlling the future of a country, Indonesia is no exception.⁹ The state has a responsibility to provide protection for children. Because it is everyone's duty to protect the interests of a child. Protection of children must be started as early as possible so that in the future they can participate in the development of the nation and state. Protection of Indonesian children means protecting human resources and building Indonesian people as a whole towards a just and prosperous society, materially spiritual based on Pancasila and the 1945 Constitution.¹⁰

However, nowadays there are many crimes where the victims are children. Crimes committed against these children, which are happening a lot nowadays, are sexual crimes.¹¹ Child sexual abuse is a form of child abuse in which an older adult or adolescent uses a child for sexual stimulation. Forms of child sexual abuse include soliciting or pressuring a child to

engage in sexual activity, providing indecent exposure of the genitals to a child, displaying child pornography, having sexual relations with children, physical contact with a child's genitals (except in non-sexual contexts). certain sexual behaviors such as medical examinations), viewing a child's genitals without physical contact (except in non-sexual contexts such as a medical examination), or using a child to produce child pornography.

Sexual crimes against children are still high every year, sexual crimes against children and even the number of sexual crimes are always above one hundred.¹² One form of sexual crime against children is rape. Rape is a criminal act or crime in the form of sexual intercourse which is carried out not based on mutual will.¹³ Because it is not based on mutual will, sexual relations are preceded by threats and physical violence or are carried out against victims who are helpless, under-age, or who have mental retardation or in other conditions that make them unable to refuse what happened or cannot be held responsible or what has happened. happened to him.

⁹Siska Juita, "Peran Serta Masyarakat Dalam Upaya Pencegahan Kekerasan Terhadap Anak Dari Perspektif Hukum Pidana."

¹⁰ Nashriana, *Perlindungan Hukum Pidana Bagi Anak Di Indonesia*.

¹¹ Diana Yusyanti, "Perlindungan Hukum Terhadap Anak Korban Dari Pelaku Tindak Pidana Kekerasan Seksual."

¹² Nurwahyudi, "Perlindungan Hukum Terhadap Anak Dalam Tindak Pidana Pemerkosaan."

¹³ *Ibid.*

From the various existing cases, many perpetrators of raping children are actually carried out by people who know and are quite close to the child in question, there are even perpetrators who have family relations with the child himself, neighbor relations or have known the child before. This often makes children silence the rapes they experience, because the family that should be a safe place for children and provide protection for children actually becomes a place for sexual crimes in this case rape against the child itself. Therefore, there is a need for legal protection for children who are victims of rape so that the perpetrators or those involved in it can be punished in accordance with the existing laws and regulations.

Prior to the amendment to Law Number 23 of 2002 concerning Child Protection, in 2006 Law Number 31 of 2014 concerning Protection of Witnesses and Victims was also enacted, to pay attention to victims of a crime, including victims of child rape. However, the crime of rape against children still occurs in Indonesia. The crime of rape against children is a social problem that is troubling the community so that it needs to be prevented and overcome. Therefore, it needs serious attention from all circles, especially crimi-

nologists and law enforcement. So far, in the settlement of a criminal case, the law often puts too much emphasis on the rights of the suspect/defendant, while the rights of the victim are ignored, as stated by Andi Hamzah: "In discussing criminal procedural law, especially those relating to human rights, there is a tendency to explore matters relating to the rights of suspects without also paying attention to the rights of the victims."¹⁴

Therefore, attention and protection of the interests of victims of the crime of rape either through the criminal justice process or through certain social care facilities is an absolute part that needs to be considered in criminal law policies and social policies, both by the executive, legislative and judicial institutions as well as by the judiciary. existing social institutions. Based on the aim of realizing equitable distribution of justice and general welfare, the rights of victims of rape crimes to be protected are basically an integral part of human rights in the field of social security. Based on the description above, the problem in this research is how the ideal legal protection model in provid-

¹⁴ Andi Hamzah, *Perlindungan Hak-Hak Asasi Manusia Dalam Kitab Undang-Undang Hukum Acara Pidana*.

ing protection to children as victims of rape in the future.

ANALYSIS AND DISCUSSION

The phenomenon of acts of violence against children in Indonesia has begun to attract strong attention from various groups when many private television stations broadcast it vulgarly on criminal programs, such as: cases of rape committed by the victim's family or people close to the victim, cases of sodomy, child trafficking. to be exploited into commercial sex workers to murder. The number of cases of child violence that occurred in Indonesia is considered as an indicator of the poor quality of child protection.

The need for adequate legal protection for victims of crime is not only a national issue, but also an international issue. Therefore, this issue needs serious attention. The importance of serious legal protection can be seen from the establishment of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power by the United Nations, as a result of The Sevent United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which took place in Milan, Italy, September 1985.

The crime of rape is one of the crimes that disturbs the community, efforts to suppress the crime of rape are a shared responsibility and must be carried out by all parties, both the government and the community. The implementation of legal protection for children as victims of rape must be carried out at every level of the law enforcement process, starting from the investigation to the trial in court. The implementation of legal protection at the investigation level is something important, because at the investigation level this is the beginning of the law enforcement process. Not only at the investigation level, up to the court level is also an effort to have a burden in law enforcement efforts. The role of judges in giving correct and fair decisions is expected to be able to suppress the increasing number of rape crimes against children.

There are several factors that influence or encourage someone to commit the crime of raping a child. These factors include:¹⁵ *First, because the child still does not understand about sexuality, so that the child's ignorance is used by the perpetrator to trick the child into having intercourse with him; Second, because of the*

¹⁵ Siswanto Sunarso, *Viktimologi Dalam Sistem Peradilan Pidana*.

legal awareness factor, the perpetrator actually knows what he or she has done is something wrong and against the law and is something that is prohibited by law. However, because the legal awareness of the perpetrators is low, they continue to do the act. Third, because of the association. The social environment also has a large enough influence in influencing someone to commit a crime of raping a child.

Legal protection for child victims of sexual crimes, which in this case includes sexual crimes including rape, is regulated in several laws and regulations. The following are the laws and regulations governing the protection of child victims of sexual crimes:

1. No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection

In Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection Article 59A states that special protection for child victims of sexual crimes as referred to in Article 59 paragraph (2) letter j is carried out through efforts:

- a. Education about reproductive

health, religious values, and moral values

- b. Social rehabilitation
- c. Psychosocial assistance from treatment to recovery
- d. Providing protection and assistance at every level of examination, from investigation, prosecution, to examination in court.

In the Child Protection Act, every child who is a victim of a sexual crime must be protected. There are several articles that discuss the protection of child victims of sexual crimes. In Article 59 A, namely special protection for children as referred to in Article 59 paragraph (1) is carried out through efforts:

- a. Prompt treatment, including treatment and/or rehabilitation physically, psychologically, and socially, as well as prevention of disease and other health problems.
- b. Psychosocial assistance from treatment to recovery.
- c. Providing social assistance for children who come from underprivileged families.

- d. Providing protection and assistance in every judicial process.

In Article 64, namely special protection for children who are in conflict with the law in the context of children as victims, there are several important things to pay attention to, as referred to in Article 59 paragraph (2) letter b, this is done through:

- a. Humane treatment by taking into account the needs according to age.
- b. Separated from adults
- c. Providing legal aid and other assistance effectively
- d. Enforcement of recreational activities
- e. Freedom from torture, punishment, or other cruel, inhuman and degrading treatment and dignity
- f. Providing assistance to parents/guardians and people trusted by children

In Article 71 D of Law no. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection :

- a. Every child who becomes a victim as referred to in Article 59 paragraph (2) letter b, letter d, letter f, letter h, letter i, and letter j has the right to apply to the court in the form of the right to restitution which is the responsibility of the perpetrator of the crime.
- b. Further provisions regarding the implementation of restitution as referred to in paragraph (1) shall be regulated by a Government Regulation.

With reference to several cases of rape crimes against children that have occurred, there are several forms of protection for victims of crimes that are commonly given, including "Giving Restitution and Compensation". Elucidation of Article 35 of Law Number 26 of 2000 concerning Human Rights Courts provides the definition of compensation, namely compensation provided by the state because the perpetrator is unable to provide full compensation for which he is responsible, while restitution, namely: compensation given to the victim or his

family by the perpetrator or a third party.

Restrictions can be in the form of:

- a. Return of property;
- b. Payment of compensation for loss or suffering; or
- c. Reimbursement for certain actions.

Definition of Restitution and Compensation are terms which in their use are often interchangeable. However, according to Stephen Schafer, the difference between the two terms is that compensation is more civil in nature. Compensation arises from the victim's request, and is paid by the community or is a form of community or state responsibility (the responsible of the society), while restitution is more criminal in nature, which arises from a criminal court decision and is paid by the convict or is a form of responsibility of the convict. the offender).

Furthermore, Schafer stated that there are five systems of providing restitution and compensation to victims of crime, namely as follows:¹⁶

- a. a. Compensation (damages) of a civil nature, is given through a civil process. This system separates claims for

victim compensation from criminal proceedings.

- b. b. Compensation of a civil nature is provided through a criminal process.

- c. c. Restitution which is civil and mixed with criminal nature is given through a criminal process. Although restitution here is civil in nature, there is no doubt about its criminal (punitive) nature. One form of restitution under this system is "compensatory fines. This fine is an "obligation of monetary value" imposed on the convict as a form of providing compensation to the victim in addition to the punishment that should have been given.

- d. d. Compensation that is civil in nature, is given through a criminal process and is supported by sources of state income. Here compensation does not have any criminal aspect, even though it is given in a criminal process. This is an acknowledgment

¹⁶ Didik M, Gultom, and Elastris, *Urgensi perlindungan korban kejahatan : antara norma dan realita*.

that the state has failed to carry out its duty to protect victims and has failed to prevent crime.

Legal protection is given to child victims of the crime of rape, namely by implementing the rights of victims as stipulated in Law Number 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. Child protection as referred to in Article 1 point 2 of the Law is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and protection, and receive protection from violence and discrimination.

Article 5 paragraph (1) of Law Number 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning the Protection of Witnesses and Victims, it is known that the rights of witnesses and victims at the investigation level even at the court level include:

- a. obtain protection for the safety of his personal, family, and property, as well as being free from threats related to the testimony that he will, is currently,

or has given;

- b. participate in the process of selecting and determining the form of security protection and support;
- c. provide information without pressure;
- d. get a translator;
- e. free from entangled questions;
- f. obtain information regarding the development of the case;
- g. obtain information regarding court decisions;
- h. obtain information in the event that the convict is released;
- i. Confidentiality of identity;
- j. get a new identity;
- k. obtain temporary residence;
- l. get a new place of residence;
- m. obtain reimbursement of transportation costs as needed;
- n. obtain legal advice;
- o. obtain temporary living expenses assistance until the protection period ends; and/or
- p. get assistance

The existence of protection of the rights of victims starting from the level of investigation, basically has a positive impact on the criminal justice process and

creates a sense of justice for citizens, especially victims of crime. In providing protection for children as victims, it must pay attention to the principles of child protection, namely:¹⁷

- a. Children cannot fend for themselves. One of the principles used in child protection is that children are the main capital for the survival of humans, nations and families.
- b. The best interests of the child. In this case, the best interests of the child must be seen as the highest priority.
- c. Life cycle threat. Child protection refers to the understanding that child protection must start early and continuously

There are several cases and forms of legal protection for children as victims of rape in Indonesia, which the authors get include:

- a. Rehabilitation efforts, both within the institution and outside the institution
- b. Efforts to protect from identity reporting through mass media and to avoid labeling

- b. Providing safety guarantees for witnesses and victims and expert witnesses, both physically, mentally and socially, and
- c. Providing accessibility to obtain information regarding the development of the case.

Furthermore, other rights that the author gets from various information are in the form of:

- a. The right to give information without pressure
- b. The right to an interpreter,
- c. The right to be free from entangling questions,
- d. The right to get information about the progress of the case
- e. Right to security support
- f. The right to legal counsel
- g. The right to guarantee protection for personal and family safety

Based on the results of research that has been carried out, that the rights of children as victims of rape have been given, although not yet maximized. according to the author's assumption that of the other rights, the seven rights mentioned above are basic rights or fundamental rights (not to be exercised). For other rights, such as

¹⁷ Maidin Gultom, *Perlindungan Hukum terhadap Anak : dalam sistem peradilan pidana anak di Indonesia*.

the right to obtain a new identity, to obtain a new place of residence, to obtain reimbursement of transportation costs according to their needs and to obtain temporary living expenses assistance until the protection period ends, it is almost never implemented or given by law enforcement or the state, in this case. still facing financial constraints and limited resources so that these rights are almost rarely granted to victims of a crime. Failure to do so or granting these rights will make the implementation of the protection of the rights of victims of a crime seem minimal. Of course this will worsen the image of legal protection in Indonesia, the initial spotlight was confirmed on the police institution in this case as the gateway to law enforcement in Indonesia.

In the context of protection for victims of crime, there are preventive and repressive measures taken, both in the community and the government (through law enforcement officers), such as providing protection/supervision from various threats that can endanger the lives of victims, providing medical assistance, as well as adequate legal assistance. , a fair examination and judicial process against perpetrators of crimes, is basically one of the

manifestations of the protection of human rights as well as a balancing instrument. This is where the philosophical basis behind the importance of crime victims (their families) getting protection.¹⁸

The importance of victims getting recovery as an effort to balance the condition of victims who are disturbed, was correctly stated by Muladi when he stated: victims of crime need to be protected because first, society is considered as a form of a system of institutionalized trust. This belief is integrated through the norms expressed in the institutional structure. The occurrence of a crime against the victim will mean the destruction of the belief system so that the regulation of criminal law and other laws concerning the victim will serve as a means of restoring the belief system. Second, there are arguments for social contract and social solidarity because it can be said to monopolize all social reactions to crime and prohibit private actions. Therefore, if there are victims of crime, the state will pay attention to the needs of victims by improving services

¹⁸ R. Wahyudi, "Perlindungan hukum terhadap anak yang menjadi korban tindak pidana persetubuhan ditinjau dari pasal 81 ayat (2) undang-undang republik indonesia nomor 35 tahun 2014 atas perubahan nomor 23 tahun 2002 tentang perlindungan anak (analisis putusan nomor : 1426/pid.sus / 2015 / pn. Tng)."

and regulating rights. Third, victim protection which is usually associated with one of the purposes of punishment, namely conflict resolution. By resolving conflicts caused by criminal acts, it will restore balance and bring a sense of peace in society.¹⁹

One form of protection by the state is the administration of justice. In addition to the completeness of legislation, LPSK, law enforcement, relevant government agencies, and other relevant parties, the judicial function plays an important role. The function of the court, apart from being a case breaker, is also receiving reports on the implementation of compensation, or restitution, announcing them and instructing agencies or parties to implement decisions and so on.

Victims of sexual violence, which in this case is rape, have rights that must be enforced, heartache, suffering, fear and various kinds of bad effects that befall them after the act get serious attention and protection from the law. Victims should not be ignored alone fighting for the fate that befall them, but must be bridged by

law enforcement in fighting for their fate.²⁰

Legal protection for victims in the criminal justice system is a right given by law to victims in an effort to provide a sense of security and legal certainty that can be accepted by victims. The right to such protection can be found in Article 5 paragraph (1) of Law Number 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning the Protection of Witnesses and Victims, namely:

- a. obtain protection for the safety of his personal, family, and property, as well as being free from threats related to the testimony that he will, is currently, or has given;
- b. participate in the process of selecting and determining the form of security protection and support;
- d. provide information without pressure;
- e. get a translator;
- f. free from entangled questions;
- g. obtain information regarding the development of the case;
- h. obtain information regarding

¹⁹ *Ibid*

²⁰ Abdul Wahid and Muhammad Irfan, *Perlindungan Terhadap Korban Kekerasan Seksual, Advokasi Atas Hak Asasi Perempuan*.

- court decisions;
- i. obtain information in the event that the convict is released;
 - j. Confidentiality of identity;
 - k. get a new identity;
 - l. obtain temporary residence;
 - m. get a new place of residence;
 - n. obtain reimbursement of transportation costs as needed;
 - o. obtain legal advice;
 - p. obtain temporary living expenses assistance until the protection period ends; and/or
 - q. get assistance.

The rights as referred to in article 5 paragraph (1) of Law no. 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning the Protection of Witnesses and Victims as outlined above are given to victims of criminal acts in certain cases through the decision of the Witness and Victim Protection Agency (LPSK). LPSK is an institution that is authorized by law to protect victims in the criminal justice system. Victims, in this case children, can get protection after obtaining permission from their parents/guardians as regulated in Article 29A of Law No. 31 of 2014.

In the settlement of rape cases in court, protection for victims is sought as a way to reduce the burden suffered by victims. In order not to add shame and other psychological burdens in court, the crime of rape as regulated in the Criminal Procedure Code (KUHAP) Article 153 paragraph (3), for cases of decency the judge can state that the trial is not open to the public (trial). closed). Of course, this can ease the burden on the victim and can indirectly help resolve a rape case through the help of the victim's testimony.²¹

Protection of victims in the criminal justice system is carried out starting from the stage of investigation starting and ending as determined by Law No. 31 of 2014. This protection is carried out through LPSK as an institution mandated by this Law. Article 12A of Law No. 31 of 2014 explains that LPSK is responsible for handling the provision of protection and assistance to Witnesses and Victims based on their duties and authorities as regulated in this Law. This protection gives rights to victims through LPSK as stated in Articles 7A and 7B of Law no. 31 of 2014 are as follows:

²¹ Lihat Republik Indonesia, Undang-Undang Nomor 8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana pasal 153 ayat (3)

- a. Victims through LPSK have the right to submit to the court in the form of:
 - 1) the right to compensation in cases of gross human rights violations;
 - 2) the right to restitution or compensation which is the responsibility of the perpetrator of the crime.
- b. Decisions regarding compensation and restitution are given by the court.
- c. Further provisions regarding the provision of compensation and restitution are regulated by a Government Regulation.

Furthermore, Article 6 of Law No. 13 of 2006 states that victims of serious human rights violations are given the right to receive medical assistance and psycho-social rehabilitation assistance. Indeed, rape is not explicitly categorized as a gross violation of human rights, but is formulated as a crime of morality as regulated in Book II Chapter XIV of the Criminal Code. However, in the explanation of Law no. 31 of 2014 it is explained that what is meant by psycho-social rehabilitation assistance is assistance given to psy-

chologists to victims who suffer from trauma or other mental problems to restore the victim's mental condition. Rape victims, especially children, cannot be denied that they must suffer from severe psychological trauma, which is why the state needs to facilitate rape victims in an effort to recover their mental condition and trauma.

Then regarding the protection of victims in terms of medical assistance, as the definition of rape given by Arif Gosita earlier, it shows that the position of women, especially a child, is placed as the object of a sexual violence. Rape victims are victims of violent practices by the perpetrators. The rapists have used threats and violence (coercion) to subdue the victim. Victims are made afraid or do not dare to fight, or are made powerless so that they want to follow the will of the perpetrator. Of course, it is possible for the victim to suffer physical injuries as a result of violence by the perpetrator, which then requires the protection of the victim to be treated medically. Both physical and psychological suffering due to rape experienced by the victim, we can see from the modus operandi of the perpetrator in carrying out his action.

So in this case, the victim has the right to get legal protection as referred to in Article 6 of Law No. 31 of 2014 and LPSK is a responsible institution as regulated in this Law to protect victims. Not only protecting the victim as an effort to expedite the court process, but more so to protect the victim in an effort to restore his condition, the victim can continue his life in the community.

At this time, formally rights, protections and mechanisms have been regulated. But what is more important is the application and implementation. Bambang Waluyo in his book *Victimology (Protection of Victims and Witnesses)* said, to realize a proportional, professional and accountable, seriousness of the parties required as follows:²²

d. victim

- 1) It is undeniable that victims must know their rights and the procedures for obtaining the fulfillment of these rights. For this reason, an understanding of the applicable provisions is absolutely necessary. One of the efforts that can be done is

socialization by parties related to the victim protection process itself.

- 2) After knowing these rights, what is more important is the courage to apply. Without the will and courage, it will definitely be in vain even though these things have been arranged and there is a responsible institution.
- 3) Apart from the victim, it is necessary to empower the legal awareness and awareness of the family or their heirs. What is meant by family is "people who have blood relations in a straight line up, down and sideways up to the third degree, or who have marital relations or are dependents of witnesses and/or victims" (Article 1 point 3 PP Number 35 year 2020).

e. LPSK

According to article 1 point 6 of Government Regulation Number 35 of 2020, LPSK is an institution that has the duty and authori-

²² *Ibid*, Hlm. 23-24.

ty to provide protection and other rights to witnesses and/or victims as referred to in Law No. 31 of 2014.

f. Law enforcer

National Police Investigators, Public Prosecutors, Attorney General, Attorney General's Office, Judges, and courts play a very important role in fulfilling the rights and protection of victims and/or witnesses. The duties and responsibilities of law enforcement, apart from being based on the respective provisions of law enforcement agencies and the Criminal Procedure Code, are also guided by Law No. 31 of 2014 and Government Regulation No. 35 of 2020. The successful implementation of duties and responsibilities can be achieved through collaboration, especially with LPSK. A strong commitment to implementing all existing provisions is highly expected by the community.

g. Public.

The community in a broad sense, including NGOs, has no small role, among others, in encourag-

ing the fulfillment of the rights and protection of victims and/or witnesses. Through socialization can increase the understanding and legal awareness of victims. Likewise, the community has a role in supervising and overseeing the implementation of protection in an objective, transparent and accountable manner.

So, the ideal legal protection for children as victims of rape in the criminal justice system cannot be separated from the participation of the parties in the criminal justice system. Even though the rules of the game regarding the protection of victims have been set in such a way, it will only be wishful thinking when in practice the elements that can support the achievement of such protection do not support each other.

CONCLUSION

Based on the results of research and discussion, it can be concluded as follows:

- a. The implementation of legal protection for children as rape victims in general can be said to be in

accordance with applicable regulations. That the rights of children as victims of rape have been granted, although not yet maximized. There are still several forms of legal protection that have not been fully implemented, such as assistance by psychologists and social rehabilitation experts, providing legal advice to victims, providing compensation, and separating adults which are still ineffective due to limited human resources and facilities and infrastructure.

- b. The ideal legal protection model in providing protection for children as victims of rape in the future is: at the level of investigation, namely by giving what the victims are entitled to, including: the right to give information without pressure, the right to get an interpreter, the right to be free from questions. who ensnares, the right to obtain information regarding the development of the case, the right to security support and the right to obtain legal advice, the right to guarantee protection for the safety of his personal and family. Furthermore, the prosecutor conducts prosecution with demands for a fairly heavy

sentence to the perpetrator and guarantees the safety of the victim who will be the victim's witness in the trial. And the judge gives a court decision (punishment) that is as severe as possible to the perpetrator. As well as supervising the protection of victims in the form of psychological expert assistance until rape victims (children) feel better in dealing with traumatic feelings so that they can grow well and improve their standard of living in accordance with the mandate of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection.

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tang Perlindungan Saksi dan
Korban.

Peraturan Pemerintah No.35 Tahun 2020
Tentang Pemberian Kompensasi,
Restitusi dan Bantuan Kepada Saksi
dan Korban.

Konvensi Hak-Hak Anak yang disahkan
dengan Keputusan Presiden No.
36 Tahun 1990 tanggal 25 Agustus
1990.
