

RESEARCH ARTICLE

SUBJECTIVE WELL BEING WITH ANTISOCIAL BEHAVIOR IN ADOLESCENTS CASE OF BABALAN VILLAGE WEDUNG DEMAK (A CRIMINOLOGICAL PERSPECTIVE)

Umi Mujiarti¹✉

¹ Council of Law, Human Rights and Politics of the Regional Board of Aisyiyah,
Kebumen, Central Java, Indonesia

✉ umipraya@gmail.com

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ABSTRACT

The purpose of this research is to find the right forms of advocacy against Child Victims of Sexual Crime and Efforts to Overcome Sexual Crime in a Child Protection Perspective. The method in this research is the Participant Research Method (the Method of the Participant Observer), which is to fully involve oneself in Advocacy and Efforts to Overcome Sexual Crimes against Children. This research with through an empirical juridical approach by conducting research approaches regarding matters that are juridical (law) and with a fact of facts that occur regarding matters of an empirical nature. The results in this study are forms Advocacy and Efforts to Overcome Sexual Crime in a Child Protection Perspective, in accordance with the Law on Child Protection, namely advocacy in the form of litigation (legal assistance / through judicial channels) and non-litigation (assistance outside the court route), efforts to combat sexual crimes by means of preventive (prevention), repressive (action); persuasive (by persuading or directing the community to comply with the prevailing values and norms) this is done by means of socialization and direction, coercive is control that is harsh or

firm in nature (for example the imposition of a sentence by a judge) and rehabilitative (social rehabilitation).

Keywords: *Sexual Crime, Child Protection, Advocacy, Legal Protection*

INTRODUCTION

Children are creatures of play. With all their tenderness, cuteness, and cuteness, they are still vulnerable to distraction and harm. He was not born into this world in vain. God has provided her with a set of rights, thoughts, and conscience for her future. Children are God's mandate for us. We have a responsibility to protect and help so that later the provisions God has given him can be used to his destination.

Legal protection for children is all efforts to protect the various freedoms and human rights of children (fundamental rights and freedoms of children) and various interests related to the welfare of children. Legal protection for children is functioned to protect children so that they can carry out their rights and obligations properly.

The mandate for implementing child protection in the 1945 Constitution, is stated in (Amendment II, 18 August 2000), Article 28B paragraph 2 which reads: "Every child has the right to live, grow and develop and has the right to protection from violence and discrimination", Article 28 C (2) also states that "Every child has the right to develop himself through the fulfillment of his basic needs". Article 34 (Amendment IV, 10 August 2002) which reads: (1) The poor and neglected children are cared for by the state; and (2) The state develops a social security system for all the people and empowers the weak and underprivileged people according to human dignity ([Aprilianda, 2017](#); [Arief, 2005](#)).

These two verses provide assurance that the implementation of child protection is an obligatory thing to achieve the conditions of society as aspired to in the Preamble of the 1945 Constitution.

One of the characteristics of the state is "*a degree of civilization*", namely the level of civilization of the State which is manifested in national development, while national development for Indonesia is a reflection of the will to continuously improve the welfare and prosperity of the Indonesian people in a just and equitable manner, as well as develop community life and state administration. which is advanced and democratic based on Pancasila, as a form of practicing all the principles of Pancasila in harmony and as a whole ([Kusumaatmadja, 2000: 13](#)).

In the field of criminal politics, one form of the development of a state civilization is taken by anticipating and overcoming all potential / forms of violence and crime. A crucial issue that is urgent to get a comprehensive handling is sexual crimes against children. Based on facts and events in the existing society,

it shows that there is a need for a more comprehensive and integrated effort to combat sexual crimes against children. Until now, efforts to protect child victims of sexual crimes have focused more on how to respond and provide services when children become victims. Efforts to prevent and fulfill the rights of victims (education rights, social rights, economy, security) have not received significant attention ([Hakim, 2012](#); [Harahap, 2016](#); [Hidayati, 2014](#)).

Article 28 B of the 1945 Constitution “Every child has the right to live, grow and develop and have the right to protection from violence and discrimination. Even though our constitution guarantees the protection of children from violence, violence against children, especially sexual violence / crime is still rife. According to KEMEN PPPA, NAHAR, since January - 31 July 2020 there were 4,116 cases of violence against children in Indonesia, the most data experienced were children with sexual violence.

One of the steps of the Indonesian government in providing protection for victims of sexual crimes is to ratify the International Convention on the Rights of the Child, namely the Ratification of the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990, Concerning Ratification of the Convention On The Rights Of The Child).

Although there are legal instruments in providing protection for children in Indonesia, sexual crimes against children are still on the rise. Implementation of the International Convention on the Rights of the Child Ratification, namely the Formation of the Child Protection Law, namely Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. The Second Amendment to the Child Protection Law into Law No. 17 of 2016.

Broadly speaking, the Convention on the Rights of the Child can be categorized as follows, first the affirmation of children's rights, secondly the protection of children by the state, and the third role of various parties (government, society and the private sector) in ensuring respect for children's rights.

Some previous research emphasized and highlighted that one of legal provisions regarding children's rights in the Convention on the Rights of the Child is concerning Protection Rights, namely protection of children from discrimination, acts of violence and neglect for children who do not have a family, and for children who are refugees. Protection rights from discrimination, including (1) protection of children with disabilities to obtain education, special care and training, and (2) rights of children from minority groups and indigenous people in the life of the state community. Protection from exploitation, including (1) protection from personal life disturbances, (2) protection from involvement in work that threatens the health, education and development of children, (3) protection from drug and drug abuse, protection from attempts at abuse, sexuality, prostitution, and pornography, (4) protection of efforts to sell, smuggle and kidnap children ([Noor, Suhadi, & Rizqia, 2019](#); [Rizky, Fitriani, Sudiby,](#)

Husnasari, & Maulana, 2019; Wahyuningsih, 2016; Lubis 2017; Huraira, et al, 2015; Erdianti & Al-Fatih, 2019; Djanggih, 2018; Arifin, Rodiyah, & Putri, 2020).

As a step to provide comprehensive protection for children's rights, a form of legitimacy is being pursued through the drafting of the Child Protection Law. At the moment the Child Protection Law has been signed by the government and the DPR and is just waiting to be promulgated. Some of the materials stipulated in the Child Protection Law include (1) the issue of fulfilling children's rights and obligations, (2) the responsibility of the state, government, community, family, and parents towards children, (3) child guardianship, (4) custody, (5) adoption of children, (6) protection of children in the health, religion, education and social sectors, and (7) provisions of child penalties. The Child Protection Law also regulates the problem of children who are in conflict with the law, children from minority groups, children from victims of economic and sexual exploitation, children who are trafficked (Restia & Arifin, 2020; Adfina, 2017; Mulyadi, 2018; Pertiwi, 2020).

Efforts to prevent sexual crimes against children are as important as efforts to treat and cure. Prevention means all efforts to prevent violations of children's rights which include freedom, freedom from sexual violence, civil rights, political rights, economic rights, social and cultural rights (Sumirat, 2017; Noor, Suhadi, & Rizqia, 2019). Strengthening the public and government apparatus' insight into children's rights in the civil, political, economic, social and cultural fields will determine the quality of child protection. When sexual violence/crimes are interpreted as an expression of outrage, then all efforts to prevent sexual violence/crimes against children can be interpreted as steps to build civilization (Mufrohimi, 2019; Rahman, 2019; Marlina, 2019).

Given the importance of children's existence for the sustainability of social life, nation and state, the government is required to be more focused, comprehensive, synergistic, and serious in making efforts to protect children. With a more comprehensive and integrated protection effort, it is hoped that children's rights will be better protected, without having to be tainted by various forms of violence, mistreatment and exploitation. Growth and development, the future, and the welfare of children will be more secure.

The objectives of this research are to carry out advocacy for child victims of sexual violence, to protect children's rights in daily social life interactions through more comprehensive and synergistic protection efforts, so that children's growth and development and future can be more secure. The realization of a strong nation in the future will be largely determined by how much we do to protect children today.

METHOD

The method in this research is the Participant Research Method (the Method of the Participant Observer), namely the researcher directly involves himself fully in Advocacy for Child Victims of Sexual Crime and Efforts to Overcome Sexual Crime. The legal research used in this research process is juridical normative empirical, which is carried out through a literature study that examines (especially) secondary data in the form of laws and regulations, court decisions, agreements, contracts, or other legal documents, as well as research results, assessment results, interviews, focus group discussions, experiences as practitioners/companions of child victims of sexual crimes and other references.

ADVOCACY FOR CHILDREN: HOW WE PROTECT THE SEXUAL VIOLENCE VICTIMS?

Advocacy in the form of litigation (legal assistance/through judicial channels) and non-litigation (assistance outside the court route), efforts to overcome sexual crimes by means of preventive (prevention), repressive (action); persuasive (by persuading or directing the community to comply with the prevailing values and norms) this is done by means of socialization and direction, coercive is control that is harsh or firm in nature (for example the imposition of a sentence by a judge) and rehabilitative (social rehabilitation).

Efforts to Combat Sexual Crimes in the Perspective of Child Protection in accordance with the Law on Child Protection, namely preventive measures are needed so that sexual crimes against children do not occur. Without denying the importance of the efforts that have been done/taken at this time, it is predicted that the prevention of violence or sexual crimes against children will not bring maximum results if the factors that are the background or cover the occurrence of violence or sexual crimes against children are not eliminated/addressed. first.

Arif Gosita argues that in the effort to prevent crime, the word prevention can mean, among other things, to make positive changes. There are several reasons why it is necessary to pay greater attention to prevention before crime and other irregularities are committed, as follows:

1. Preventive measures are better than repressive and corrective measures. Prevention efforts do not always require a complex and bureaucratic organization that can lead to bureaucracy that is detrimental to the abuse of power / authority. Prevention efforts are more economical than repressive and rehabilitation efforts. Serving a larger number of people does not require as much energy as a repressive or rehabilitative effort. Prevention efforts can also be carried out individually and do not always require expertise, such as in repressive or rehabilitation efforts.

2. Prevention efforts need not have negative consequences such as stigmatization, isolation, suffering in various forms, violations of human rights, hostility and hatred.
3. Prevention efforts can strengthen unity and harmony and increase a sense of responsibility towards fellow community members. Thus, prevention efforts can help people develop a better state and society. Because of securing and seeking stability in society, which is necessary for the implementation of national development to achieve a just and prosperous society. Efforts to prevent crime and other irregularities can be an attempt to create a person's mental, physical, and social well-being (Gosita, 1993: 7-8).

Efforts to eliminate violence against children using criminal law are not the only way to tackle violence. Efforts through criminal law are only one of the ultimate efforts (*ultimum remedium*), when the building of a nonviolent-oriented social, economic, ethical, and religious system is still breached by acts of violence.

Violence and crimes against children are phenomena that always appear and bring victims in everyday social life. However, if we look closely, up to now, the discussion and regulations on child protection have focused more on children who are dealing with the law in the context of children as perpetrators of criminal acts.

Children as victims of crime have not received adequate space for discussion and protection regulations. In such situations, the establishment of child protection regulations in the context of prevention, handling, and recovery due to violence which can provide a systematic basis for work and coordination between stakeholders is urgently needed. The integration of performance among stakeholders will determine the level of success of child protection efforts.

It is not enough for child protection efforts to rely solely on repressive measures by taking action against the perpetrators, or rehabilitative efforts for the perpetrators and children who are victims. Violence and crime as forms of social pathology do require proper diagnosis and treatment. Just as in the world of health, prevention is as important as healing and healing; can be applied in child protection efforts.

The limitations of the capacity of the criminal law in tackling crimes have been expressed by many legal experts, which from the opinions of these experts can be identified because of the limited capacity of the criminal law in tackling crimes as follows:

- a) the causes for such a complex crime are beyond the scope of criminal law.
- b) Criminal law is only a sub-system (a small part) of the means of social control which is impossible to solve the problem of crime as a very complex human and social problem (as a socio-psychological, socio-political, socio-economic, socio-cultural problem, and so on).

- c) The use of criminal law in tackling crime is only a "*curatoren am symptom*". Therefore, criminal law is only a symptomatic treatment and not a causative treatment.
- d) Criminal sanctions are remedies that contain contradictory / paradoxical characteristics and contain negative elements and side effects.
- e) The criminal system is fragmentary and individual/personal, not structural/functional.
- f) Limitations of the types of criminal sanctions in the rigid and imperative system of criminal sanctions formulation
- g) The functioning of criminal law requires supporting facilities that are more varied and more demanding.

The essence of crime is to call for order (*tot de orde reopen*). Crime has two main objectives, namely: to influence behavior and resolve conflicts (Hulsman in Marlina, 2009: 158). The use of penal measures (criminal sanctions) in regulating society (through legislation) is part of a policy step. Given the limitations and weaknesses of criminal law, from a policy point of view, the use or intervention of penalties should be more careful, careful, thrifty, selective, and limitative. In other words, penal means do not always have to be used in every legislative product (Arief, 2005: 74-75).

The Integral/systemic approaches in the prevention of crime that are currently often put forward in UN congresses include:

1. Crime prevention and criminal justice should not be seen as isolated problems and handled by simplistic and fragmentary methods but should be seen as more complex problems and handled with broad and comprehensive policies/actions.
2. Prevention of crime must be based on the elimination of the causes and conditions as such must constitute a fundamental strategy in the effort to prevent crime (the basic crime prevention strategy).
3. The main causes of crime in many countries are social inequality, racial and national discrimination, low living standards, unemployment, and illiteracy (ignorance) among large sections of the population.
4. Prevention of crime and criminal justice should be considered in relation to economic development, political systems, socio-cultural values and changes in society, as well as in relation to the new world / international economic order (Arief, 2005: 178).

If we want to describe or prevent crime, we must pay attention to and understand the victim of a crime. Crime is a result of interaction because of the interrelation of existing phenomena and those that influence each other. The role of the victim in social interaction affects the occurrence of crime. The suffering of victims is the result of interactions between criminals and victims, witnesses, law enforcement agencies and other communities. In efforts to tackle crime, we must

look for which phenomena are important and need to be taken into account in the occurrence of crime.

The effort to prevent crime is a joint effort and must be started as early as possible in every member of society and every social class. Every member of society has a responsibility in overcoming crime problems and their problems. In implementing effective crime prevention, it is necessary to take an inventory and understand the constraining factors and their support. This is important to create a certain climate and conditions so that those who are involved in prevention efforts do not become discouraged.

Those who are responsible for preventing crime, directly or indirectly, include:

1. rulers who directly or indirectly supervise crimes, those who determine policies that every citizen has the opportunity and ability to legally fulfill physical, mental, and social expectations.
2. Prospective perpetrators are expected to be able to refrain from committing a crime on their own will and interests or because of the behavior of others (greed, negligence, other people's suggestions / suggestions). For example, trying to obtain something legally. Do not use power in certain fields to get something for the benefit of yourself or others.
3. criminals who are expected not to repeat the same crime or other forms for the common interest. It is hoped that they can work together to develop themselves and are willing to be mentored by the agency in charge of providing guidance.
4. potential victims of crime who are expected to be able to control themselves not to involve themselves in a crime directly or indirectly for their own or other people's interests. It is also expected not to become a victim by being vigilant and not giving other people the opportunity to commit crimes against him.
5. victims of crimes who are expected to try not to become victims anymore, do not retaliate or give false testimonies.
6. Members of the public who witness a crime taking place are expected to participate in preventing the crime from occurring. The passive attitude of witnesses can be an incentive for criminals to carry out their intentions.
7. Private or government agencies or organizations that are intended to help prevent both before and after a crime occurs. These agencies or organizations have an important role because of their ability to influence other agencies and society positively or negatively to take part in being responsible for crime prevention efforts (social institutions, schools, police, courts, orphanages).
8. Family in a broad or narrow sense, which can be said to have the strongest relationship with the person concerned. Attention to the family in prevention should not be ignored because the positive and negative effects of family ties can affect a person who is a criminal. The development of positive family ties

can help a lot in efforts to prevent crime or become victims of crime (Gosita, 1993: 114 - 117).

CHILD PROTECTION FROM SEXUAL VIOLENCES: SOME CONTEMPORARY AND CONTROVERSIAL ISSUES

In fact, it is too narrow to define violence against children only in the form of physical, psychological, sexual, and economic violence which is committed in the sense of violence perpetrated by individuals. Basically, there are various forms of violence against children which can be broadly grouped as follows:

1. Individual or group violence: this violence is committed by an individual, several people, or a group of people who are physically, psychologically, sexually and or economically inflicted on the child.
2. Social violence: this violence occurs because of the injustice of values that are socially enforced in the child's environment. Example girls are not recommended for high level schools.
3. Structural violence: this violence occurs because of regulations or policies of the state, government, government or private institutions, especially those exercising public authority. Many structural policies are *criminogenous* and *victimogenous* to children. For example: Child victims of crime are examined as witnesses in an adult court room, not provided braille-letter National Examination questions for blind students, etc.

In the sixth UN congress in 1980 in Venezuela and the seventh UN congress in 1985 in Milan, in essence it was stated that development is criminogenic if it is not planned rationally, is imbalanced or unbalanced, ignores cultural and moral values, and does not include an integral (comprehensive) community protection strategy. JE Sahetapi said that one of the factors in the incidence of crime is the lack of goodness of the law, in addition to the inconsistent implementation of laws and attitudes or actions of law enforcers. Wolf Middendorf stated that the overall effectiveness of criminal justice depends on 3 interrelated factors, namely the existence of good legislation, quick and certain enforcement.

There are several principles of child protection related to neglect, power and exploitation, namely:

- a) Protection
- b) Joint ventures
- c) Common interest
- d) Educational elements

Wrong treatment is a form of problem faced by children, which occurs in the family, community, school, and playground. Especially for incidents in the family environment, this case is not widely revealed because there is still an opinion that mistreatment of children is a domestic matter. Article 59 of Law no. 23 of 2002 concerning Child Protection has emphasized that mistreatment of

children is a public matter, with the following arrangements: "The government and other state institutions are obliged and responsible for providing special protection to child victims of mistreatment".

According to Hendra Akhdhiat and Rosleny Marliani, there are several categories of mistreatment which include:

1. Physical abuse

According to Power and Jacklish, physical abuse is presumed to exist when a child is intentionally physically abused or placed in a condition that may be physically hurt. Physical abuse can also result in mental disorders, so clinical and medical approaches alone are often not sufficient.

2. Mental abuse

Quoting Innocenti's opinion, mental abuse / emotional abuse is any act that is intentionally or unintentionally committed by another person, which makes an individual sick or disturbed, or gets an unpleasant feeling. For example, verbal abuse (verbal attacks, verbal abuse), sarcasm, harassment, and physical violence.

3. Sexual abuse

According to Innocenti, in many countries, the term sexual mistreatment includes: "any sexual activity with someone who is not legally competent to give consent or has refused consent". For example: incest, encouragement, and coercion to commit illegal sexual acts, exploitation of children for pornography and prostitution (Akhdhiat & Marliani, 2011: 170 - 171).

Apart from the three categories of mistreatment, there is one more form of mistreatment, which the researcher categorizes as "Socially wrong treatment": for example: restricting/prohibiting children from associating with certain ethnicities, social strata, etc. which are irrelevant to the risk of growth and development and maturity. social child. Children are mono-dualists, as personal and social creatures. Children must be given a good social space so that later they are able to carry out their social roles in community life. The importance of social maturity will be felt especially in the life of a multicultural society. Indonesian society which is based on diversity always wants tolerance and social brotherhood.

Based on a philosophical approach, mentally and socially, fostering, education, and developing children's behavior are the responsibility of parents, society and the State. Parents and society need to provide clear information about the child's mental, educational, and socio-economic condition (Stewart Asquit in Marlina, 2009: 159).

Based on various international documents on child protection, the need for child protection can cover various aspects, including:

1. protection of the rights and freedoms of children
2. protection of children in the judicial process
3. protection of children in matters of detention and deprivation of liberty

4. protection of child welfare (in the family environment, education and social environment)
5. protection of children from all forms of exploitation (slavery, child trafficking, prostitution, exploitation, trafficking/abuse of drugs, exploiting children in committing crimes, and so on)
6. protection of street children
7. protection of children from the consequences of war / armed conflict
8. protection of children against acts of violence ([Arief 2005: 178](#))
9. protection of children in natural disasters, social disasters and displacement

The implementation of child protection must meet the following requirements:

- 1) is the development of truth, justice and child welfare
- 2) must have a foundation of philosophy, ethics and law
- 3) done in a positive rational
- 4) can be accounted for
- 5) useful for the concerned
- 6) prioritizing the perspective of regulated interests, not the perspective of regulating interests
- 7) not accidental and complementary, but must be done consistently
- 8) have an operational plan
- 9) emphasizes the elements of management
- 10) implementing a restorative justice response (restorative in nature)
- 11) is not a place and opportunity for people to seek personal/group gain
- 12) children are given the opportunity to participate in accordance with the situation and conditions,
- 13) based on the correct image of the human child
- 14) problem oriented and not target oriented
- 15) is not a criminogenous factor and is not a victimogen factor ([Gosita, 1999: 264-266](#)).

Child protection is related to several things that need protection, namely:

1. Extent of the scope of protection
 - a. The main protections include, among others: food and clothing, housing, education, health, law
 - b. Includes physical and spiritual things
 - c. It also concerns the classification of primary and secondary needs which results in priority fulfillment
2. Guaranteed implementation of protection
 - a. Naturally, to achieve maximum results, it is necessary to guarantee the implementation of this protection activity, which can be known, felt by the parties involved in the protection activity.
 - b. It is better if this guarantee is stated in a written regulation either in the form of law or regional regulation, which is simple in formulation but can be accounted for and is distributed evenly in the community.

- c. Arrangements must be adapted to the conditions and situation in Indonesia without neglecting the means of protection undertaken by other countries, which should be considered and imitated (critical imitation) ([Arif Gosita in Gultom 2008: 36](#))

Since the 1980s, America and Britain have developed child abuse prevention programs through various media, films, theater, poetry, books, comics, role plays, group discussions, and others. This was done because of concerns about the increasing number of mistreatment of children at that time. On average, children who are victims of mistreatment experience psychological disorders. They look gloomy, closed, seldom adapt and socialize, lack concentration, and their academic achievement decreases ([Hefler, 1976](#)).

In Malaysia, a Suspected Child Abuse and Neglect (SCAN) was formed which functions to prevent child abuse through the education of parents, perpetrators, the general public, and related elements. This agency is in charge of detecting, investigating, regulating, and documenting all mistreatment, which then forms a network structure and work operations. This institution also involves elements of society, including parents, community members, research institutions, professional institutions, non-governmental organizations, the police, and hospitals ([Akhdiat & Marliani, 2011: 174](#)).

According to Laurence Gray, measurable policies and programs are needed that can advance child protection in facing conditions of risk of violence, exploitation or neglect of children's rights. For the Indonesian context, Gray said education has a major role in not only developing a better life for children, but also presenting more maximum involvement of parents in children's growth and development. Read more Gray said: "... education has a key role not only in increasing the life options of the child, but also in involving parents more fully in the development of their children. It highlights that programs require commitment on the part of government, and fundamental shift in thinking that places positive outcomes for children as a central tenet in social and economic policy.

Strengthening civil society begins with earnestly pursuing an open public space that can be used to fully engage aspirational potentials in society, as well as continuously criticizing the imbalances that occur. The formation of independent democratic individuals who are capable of social reasoning and actively involved in decision-making processes in society is important. Here, civil society is defined as areas of social life that are organized and characterized, among others: voluntary, self-generating, self-supporting, and independent.

The public have basic rights to the government. These community rights are as follows ([Yuwono, et al, 2005: 63](#)):

1. the right to know (right to know) government policies, decisions made by the government, and the reasons for implementing certain policies and decisions
2. the right to be informed, which includes the right to be given an open explanation of certain problems that become public debates

3. right to be heard and to be listened to

Ideally, a regulation must be in accordance with the conditions and needs of the people who will be subject to these regulations so that there is no unrest and dissatisfaction. As a government administrator, the government is required to understand and understand the situation of society; but further than that is to consider the support and demands that exist in the community. Therefore, before the government proposes a draft regulation, the government has a very important function to be able to study the situation and conditions appropriately (Sunggono, 1994: 12-13).

Philip von Mehren and Tim Sawers said that if the development of laws and regulations and development will affect knowledge of social change, laws and regulations need to be positioned as an important variable influencing the process of social change. If legislation is solely the result of a social change, the analysis of legal development loses all normative implications for the policy-making process. Legal analysis ultimately becomes a descriptive act (Seidman, et al 2001: 11). The structure and services must be developed including:

1. *Primary Preventive Services*

This service is aimed at the community as a whole by strengthening the community's ability to care for and keep their children safe. Activities directly have an impact on changing attitudes and social behavior through advocacy and awareness raising campaigns, strengthening parental skills, promoting alternative forms of discipline without violence and increasing public awareness about the negative effects of violence against children.

2. *Secondary preventive services or early intervention services*

This service is aimed at children and families who are identified as vulnerable or at risk of abuse or neglect. For example, families who are divorced or experiencing separate lives, families who need mediation or counseling to overcome drug or alcohol use habits, families experiencing violence or families experiencing mental health problems so that they have difficulty in caring for their children. To overcome this, it is necessary to affirm the government's obligations and the responsibility of the community.

3. *Child protection problem handling services*

This service is aimed at children who have experienced violence, exploitation, neglect and mistreatment, children who are in conflict with the law. This condition requires ongoing interventions such as counseling, advice, monitoring, and the state's obligation to intervene in the case through supervision, family support services such as educational programs for parents, counseling for families and family members, healing therapy programs, and / or providing housing. temporary protection for children who are victims or providing alternative care through an official decision by the court.

4. *Social Recovery and Reintegration Services*

Rehabilitation, namely the district government's efforts to ensure that every child who is a victim of violence, mistreatment, exploitation and neglect gets rehabilitation support that includes rescue (rescue), health, education, psycho-social, economic, social and legal. Reintegration, which is in the form of post-rehabilitation support for children victims of violence, mistreatment, exploitation and neglect to provide guarantees that children can be accepted / reunited with their families and their environment and guaranteed growth and development in the future

Juridically normative, although efforts to overcome the problem of violence against children have been regulated, the existing regulations still provide partial regulation. The complexity of the problem of violence against children requires comprehensive efforts.

Regulations on the implementation of child protection are needed to ensure the implementation of effective, systematic, integrated and sustainable efforts needed to build the capacity of government institutions and the people of Kebumen district in:

1. abuse, exploitation and neglect of children;
2. recognize risky situations and intervene early in the emergence of various forms of violence, mistreatment, exploitation and neglect of children; and
3. respond appropriately and quickly to child protection issues that arise, including in the provision of physical and psychological recovery services as well as social reintegration in an environment that supports children's health and safeguards children's self-respect and dignity.

INDONESIAN NATIONAL POLICIES FOR CHILD PROTECTION: PROBLEMS AND CHALLENGES IN THE MULTI PERSPECTIVES

In theological perspective, children are a mandate from God. In terms of constitutionality, children are a continuation of the survival of a nation. Children have an existence and an important position as heirs and actors of the future development of the nation and state. When the quality of a nation has deteriorated in various dimensions, it is often said that the nation concerned has lost one generation. Such a nation; vulnerable to various forms of colonialism, whether colonialism in the physical, economic, social, or even ideological sense. The sacred and important position of the child can be one of the bases for cultivating the seriousness of our efforts in providing protection to children; so that possible crimes and mistreatment of children in the future can be anticipated and prevented.

Law No. 23 of 2002 regarding Child Protection is considered a sufficiently adequate rule in realizing Indonesia's commitment to protecting children's rights. However, that must be remembered and it is reaffirmed that the commitment to protect, fulfill and respect children's rights must be implemented in a concrete program. So the state as the bearer of the obligations with the bureaucratic mechanism it has together with the family and the community must be able to ensure that this can be carried out properly.

Law Number 23 of 2002 concerning Child Protection mandates the obligation to fulfill and protect children's rights as documented in the UN Convention on the Rights of the Child (KHA). This shows that children have strategic values as the buds of the nation and the next generation of development.

Its strategic role and special characteristics and characteristics are a manifestation of guaranteeing the continuity of the existence of the nation and state in the future. In the General Assembly of the United Nations on November 20, 1959, the Declaration of the Rights of the Child was ratified which contained 10 principles of children's rights, as follows:

1. Children have the right to enjoy all their rights in accordance with the provisions contained in the declaration of children's rights, without exception, their rights must be guaranteed regardless of ethnicity, skin color, sex, language, religion, political views, nationality, social rank, rich and poor, birth. or other status, both in himself and in his family.
2. Children have the right to special protection and must have the opportunity guaranteed by law and other means, in order to enable them to develop themselves physically, psychologically, morally, spiritually and socially in a healthy, normal situation in accordance with their freedom and dignity. Putting that goal into law, the best interests of the child must be the main consideration.
3. Children from birth have the right to name and nationality
4. Children have the right and must be socially guaranteed to grow and develop in a healthy manner. For that, both before and after birth, there must be special care and protection for the child and the mother. Children have the right to adequate nutrition, housing, recreation and health services.
5. Children with physical, mental and social disabilities due to certain conditions must receive education, care and special treatment.
6. In order for a child's personality to grow optimally and harmoniously, he needs love and understanding. As much as possible he should be raised under the care and responsibility of his own parents, and in any case should be endeavored to be in an atmosphere full of love, physical health and spirituality. Children under five years old are not allowed to be separated from their mother. Community and government authorities are obliged to provide special care to children who do not have a family and to children who cannot afford it. It is hoped that the government and

other parties provide financial assistance for children who come from large families.

7. Children have the right to free compulsory education only at the very least which can increase their general knowledge, and which allows them, on the basis of equal opportunities to develop their abilities, personal opinions and feelings of moral and social responsibility, so that they can become useful members of society. The interests of the child must be guided by those responsible for the education and guidance of the child concerned: first of all this responsibility lies with their parents. Children must have free opportunities for play and recreation which are directed towards educational purposes, the community and the competent government must endeavor to improve the exercise of this right.
8. Under no circumstances should the child take precedence in receiving protection and assistance
9. Children must be protected from all forms of neglect, violence, exploitation. It must not be the subject of trade. Children may not work before a certain age, they may not be involved in work that is detrimental to their health and education, or which can affect the development of their body, spirit and character.
10. Children must be protected from acts that lead to social, religious and other forms of discrimination. They must be raised in a spirit of understanding, tolerance and friendship between nations, peace and brotherhood with the full awareness that their talents and talents are dedicated to their fellow humans.

Arief Gosita said that there are several bases for implementing child protection, as follows:

1. Philosophical basis; Pancasila is the basis of activities in various fields of family, community, state and national life, as well as the philosophical basis of child protection
2. Ethical basis; the implementation of child protection must be in accordance with the relevant professional ethics, to prevent deviant behavior in the exercise of authority, power, strength in the implementation of child protection.
3. Juridical basis, the implementation of child protection must be based on the 1945 Constitution and various other applicable laws and regulations. The application of this juridical basis must be integrative, namely the integrated application of laws and regulations from various related fields of law.

Pancasila and the objectives of the State contained in the Preamble of the 1945 Constitution Amendment Paragraph 4 is the philosophical foundation of every statutory regulation in Indonesia. The values of Pancasila are the *lichtstern* or guiding star for every legal rule in our country. Every material in the content of

statutory regulations, including the Regional Regulations on the Implementation of Child Protection that we will compile, must refer to Pancasila and be oriented towards the realization of the state's goals as set out in the Preamble to the 1945 Constitution Amendment Paragraph 4.

To realize the achievement of upholding and fulfilling the rights of its citizens, the government is obliged to provide protection and a sense of security to all citizens as outlined in a policy both at the national and regional levels. The government is responsible for taking actions both legally, politically, economically and socially to prevent, suppress, reduce and eliminate all forms of violence in the form of policies that apply at the national and regional levels.

Concern for the welfare of children means the seriousness of efforts to support the fulfillment of things that are needed by children to survive and grow and develop optimally, such as meeting basic needs, quality of care in a family environment, quality educational opportunities, and opportunities to learn to be part of the process. in its society.

Concern for child protection means serious efforts to ensure that every child is protected from the threat of various forms of violence, mistreatment, exploitation, and neglect which not only adversely affect children's safety and physical health, but also mental, moral, and social health.

Child victims of violence and crime must receive maximum protection and recovery so that they can regain their enthusiasm for life. Children with all forms of inherent vulnerability need protection and strengthening of their rights so that later they can grow and develop as a generation that is strong and with integrity. It is hoped that the emergence of a younger generation who are not only physically mature, but more than that a generation that is mature in physical, mental, spiritual, and social aspects. Therefore, prudent treatment of children is something that absolutely must be carried out by all stakeholders.

The definition of victims according to United Nations MU Resolution 40/34 of 1985, is people - both individually and collectively, who suffer losses due to actions (not doing) that violate the criminal law in force in a country, including regulations that prohibit abuse of power. Victims include people who have been victims of acts (not doing) which, although not yet a violation of the applicable national criminal law, are already violations according to internationally recognized human rights norms. Harm according to the resolution includes physical or mental injury, emotional suffering, economic loss,

Rhona KM Smith said that perfectly, the entire international human rights instrument is precisely at the "heart" of children's rights. Age and psychological and mental maturity factors often make him marginalized in policy making. Even policies concerning themselves alone, the children's community is alienated from their greatest interests ([El Muhtaj, 2009: 225-232](#)).

According to Stephen Schafer, seen from the victim interaction factor in the process of violence / crime, violence that befell children qualifies as biologically weak victim, namely crimes caused by the victim's biological condition that is still

weak so that it has the potential to become victims of crime. In terms of the aspect, the responsibility lies with the community or local government because they cannot provide protection to helpless victims (Mulyadi, 2007: 125).

If the phenomenon of various forms of violence continues to befall children, it is not impossible when they reach adulthood, they will become the biggest contributor to crime in a country. On the other hand, if they get affection and treatment right from their youth, then at least their pathological and psychosocial grip is not so strong in influencing them to do evil. This is what is called children in need of special protection, vulnerable children, namely children who are in a marginal climate who are very vulnerable to being mistreated. Borrowing the term Maman Natawijaya, a condition full of violence in the name of adult capitalism worshipers (El Muhtaj, 2009: 225-232).

In UN General Assembly Resolution Number 44/25 dated November 20, 1989, it is stated that there are 4 points of recognition of the international community for the rights of children, namely (1) the right to survival of children (survival rights); (2) protection rights; (3) development rights; (4) the right to participate (participation rights).

Children need to get proper, planned, programmed attention and treatment, and demand seriousness and synergy from all elements of the nation and state. The wrong treatment we take in raising and honing children's potential can have fatal consequences for the child itself, which in the end, all of us will reap losses in various aspects. Not all good intentions to protect children can bring good results, without being accompanied by a good method and implementation of child protection.

In the life of the Indonesian nation which is based on Pancasila, the importance of child protection has been included in the principles of Pancasila and in the objectives of the State written in the Preamble to the 1945 Constitution Paragraph 4. The objectives of the Indonesian State, as stated in the Preamble of the 1945 Constitution, paragraph 4 states: ... to protect the whole nation and all the blood of Indonesia, and to promote public welfare, educate the nation's life and participate in implementing world order based on independence, eternal peace and social justice..."

We must raise and treat Indonesian children in the framework of divinity, humanity, unity, wisdom, deliberation, and social justice. Children have the constitutional right to be educated, protected, to gain welfare, and to have peace in their lives. Children must receive protection and justice in all aspects of their life.

According to Friedmann there are four functions of the State as follows (Hakim, 2012: 116):

1. As a provider, the State is responsible for and guarantees a minimum standard of living as a whole and provides other social security;
2. As a regulator, the State establishes the rules of state life;

3. As an entrepreneur, the State runs the economic sector through state / regional owned enterprises and creates a conducive atmosphere for the development of business fields;
4. As umpire; The state establishes fair standards for parties engaged in the economic sector, especially between the state sector and the private sector or between certain business fields.

Quoting the opinion of Clemens Bartollas, the purpose and basis of child protection cannot be separated from the main goal of realizing child welfare which is basically an integral part of social welfare. This does not necessarily mean that the welfare or interests of children are under the interests of society, but it must be seen that prioritizing the welfare and interests of children is essentially part of the effort to create social welfare (Marlina, 2009; 158).

Bahder Johan Nasution said that; the understanding of the concept of justice must be translated in relation to Pancasila, then linked to the interests of the Indonesian nation as a nation that must experience justice. Therefore, in relation to legal arrangements according to Pancasila justice, these regulations are carried out through regulations that protect the nation, namely protecting humans passively (negatively) by preventing arbitrary actions, and actively (positively) by creating humane social conditions that are humane. enabling the social process to take place fairly, so that in a fair manner, humans get ample opportunity to develop all of their human potential as a whole. Protection in this case means that the sense of justice that exists in the conscience of Indonesian people must be fulfilled. In this sense, the concept of justice according to the view of the Indonesian people is defined as a virtue or truth.

Such understanding starts from the view of the concept of justice which is based on the precepts of the One and Only Godhead with just and civilized human principles. The one and only divine precepts are the basis for leading the ideals of the State, which give souls to the efforts to organize what is right, just and good, while the just and civilized human principles are the continuation of the actions and practices of life from the basics that lead earlier. The basis of just and civilized humanity must follow, in series with the first. Its location cannot be separated because it must be seen as a continuation into the life practice of ideals and deeds towards God Almighty. This concept of justice not only becomes the legal basis for the life of the nation, but also serves as a guideline for the implementation and objectives to be achieved by law.

Based on Roscoe Pound's argument which states that Law is a tool of social engineering, a legal product should be created to direct society towards a better life order. In the issue of child protection, legal regulations are urgently needed that can become an instrument for community development that is aware of children's rights. With protection, it is hoped that children will be protected and eliminated from all forms of neglect, violence and exploitation, so that children can grow and develop fairly in accordance with their rights and responsibilities,

so that they become young people with character and integrity as holders of social capital and national development capital.

Hendra Akhadhiat and Rosleny Marliani said that law is the government's social control. This means that the law is made by those who are authorized to rule with the aim of holding a harmonious life together. In its function as a means of social control, law states normative life conditions as outlined in the form of legislation, litigation, and adjudication. The goals to be achieved are the creation of justice and/or legal certainty, benefits, and a peaceful life (Akhadhiat & Marliani, 2011: 170).

CONCLUSION

Sexual violence, as a form of social behavior deviance, greatly affects the psyche of the child. The psychological trauma that accompanies it is so deep that it requires special treatment. Sexual violence cases are often an iceberg phenomenon, namely cases that appear to the surface are often just the spark, and those that are not monitored or underreported are more than what appear on the surface (reported). Considering that this is a very taboo issue and is often considered a family disgrace, so it is often covered up. The rate of violence against children is still high and evenly distributed in almost every region. The government must have a high commitment and more concrete steps in providing protection to children. For prevention efforts, the government is obliged to conduct intensive and extensive socialization and strengthening of public understanding of children's rights, providing access to information to the public about factors that influence violence against children, types of violence against children, and their impact on children and society. Services for children who are victims of violence must comply with the Minimum Service Standards for Integrated Services for Women and Children Victims of Violence which include: (a) Service for complaints/reports of victims of violence against children; (b) Health services for children who are victims of violence. Social Rehabilitation for children who are victims of child abuse victims of violence; and (c) Law enforcement and assistance for children who are victims of violence. Repatriation and social reintegration of children who are victims of violence. The government is responsible for organizing programs to build critical awareness about prevention, handling/services for victims of violence, and rehabilitation that reach all levels of society.

REFERENCES

- Adfina, F. (2017). Peran Unit PPA Sat Reskrim Polres Sukoharjo dalam Menangani Viktimisasi Berganda Terhadap Anak Korban Tindak Pidana Date Rape. *Indonesian Journal of Police Studies*, 1(8).
- Akhdiat, A., & Marliani, R. (2011). *Psikologi Hukum*. Bandung: CV Pustaka Setia.
- Aprilianda, N. (2017). Perlindungan anak korban kekerasan seksual melalui pendekatan keadilan restoratif. *Arena hukum*, 10(2), 309-332.
- Arief, B. N. (2005). *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*. Bandung: Citra Aditya Bhakti.
- Arifin, R., Rodiyah, R., & Putri, F. R. A. (2020). The Legal and Social Aspect for Underage Marriage Women's Education Rights in the Perspective of Human Rights: Contemporary Issues and Problems. *Sawwa: Jurnal Studi Gender*, 15(2), 219-240.
- Djanggih, H. (2018). Konsepsi Perlindungan Hukum Bagi Anak Sebagai Korban Kejahatan Siber Melalui Pendekatan Penal Dan Non Penal. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 30(2), 316-330.
- El Muhtaj, M. (2009). *Dimensi-Dimensi HAM, Mengurai Hak Ekonomi, Sosial dan Budaya*. Jakarta: Rajawali Press.
- Erdianti, R. N., & Al-Fatih, S. (2019). Fostering as an Alternative Sanction for Juveniles in the Perspective of Child Protection in Indonesia. *Journal of Indonesian Legal Studies*, 4(1), 119.
- Gosita, A. (1993). *Masalah Korban Kejahatan*. Jakarta: Akademika Presindo.
- Gosita, A. (2019). Aspek hukum perlindungan anak dan konvensi hak-hak anak. *Era Hukum-Jurnal Ilmiah Ilmu Hukum*, 6(2), 264 - 266.
- Gultom, M. (2008). *Perlindungan Anak*. Bandung: Refika Aditama.
- Hakim, L. (2012). *Filosofi Kewenangan Organ Lembaga Daerah*. Malang: Setara Press.
- Harahap, I. S. (2016). Perlindungan Hukum Terhadap Anak Korban Kejahatan Seksual dalam Perspektif Hukum Progresif. *Jurnal Media Hukum*, 23(1), 37-47.
- Hidayati, N. (2014). Perlindungan Anak terhadap Kejahatan Kekerasan Seksual (Pedofilia). *Ragam Jurnal Pengembangan Humaniora*, 14(1), 68-73.
- Huraira, D., Rohmah, N., Rifanda, N., Novitasari, K., Diena, U., & Nuqul, F. L. (2015). Kekerasan seksual pada anak: Telaah relasi pelaku korban dan kerentanan pada anak. *Psikoislamika*, 12(2), 5-10.
- Kusumaatmadja, M. (2000). *Hukum, Masyarakat, dan Permbinaan Hukum Nasional: Suatu uraian Tentang Landasan Pikiran, Pola dan Mekanisme Pembaharuan Hukum di Indonesia*. Bandung: CV Putra A Bardin.
- Lubis, E. Z. (2017). Upaya Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual. *JUPIIS: Jurnal Pendidikan Ilmu-Ilmu Sosial*, 9(2), 141-150.

- Marlina, M. (2009). *Peradilan Pidana Anak di Indonesia, Pengembangan Konsep Diversi dan Restorative Justice*. Bandung: Refika Aditama.
- Marlina, T. (2019). Pelaksanaan Pendampingan Psikososial Sebagai Perlindungan Khusus Terhadap Anak Korban Kejahatan Seksual (Studi di Dinas Sosial Pemberdayaan Perempuan dan Perlindungan Anak Kab. Kuningan)". *Syntax Literate; Jurnal Ilmiah Indonesia*, 4(8), 154-169.
- Mufrohim, O. (2019). Implementasi Diversi dalam SPPA: Kajian terhadap Efektifitas Peradilan Pidana Anak dalam Dimensi Restorative Justice sebagai Upaya Penanggulangan Penuhnya LPKA (Studi di POLRESTABES Semarang). *Thesis*. Universitas Negeri Semarang.
- Mulyadi, D. (2018). Perlindungan Hukum Bagi Anak Korban Perkosaan Dalam Peradilan Anak. *Jurnal Ilmiah Galuh Justisi*, 6(2), 170-183.
- Mulyadi, L. (2007). *Kapita Selekta Hukum Pidana Kriminologi dan Viktimologi*. Jakarta: Ghalia Indonesia.
- Nasution, B. J. (2011). *Negara Hukum dan HAM*. Bandung: Mandar Maju.
- Noor, A. R., Suhadi, S., & Rizqia, G. P. (2019). Perlindungan Hukum Terhadap Anak Korban Kejahatan Seksual Yang Dilakukan Oleh Anak Di Kota Balikpapan. *LEX SUPREMA Jurnal Ilmu Hukum*, 1(1), 32-49.
- Pertiwi, R. (2020). Hak Restitusi Anak Korban Kejahatan Seksual. *Pancasila and Law Review*, 1(1), 29-37.
- Rahman, N. (2021). Kebijakan Perlindungan Anak Korban Kejahatan Seksual di Cirebon. *Jurnal Hukum & Pembangunan*, 50(3), 619-632.
- Restia, V., & Arifin, R. (2020). Perlindungan hukum bagi anak sebagai korban kekerasan dalam rumah tangga. *Nurani Hukum*, 2(1), 23-31.
- Rizky, M. N., Fitriani, R. I., Sudiby, M. W., Husnasari, F. A., & Maulana, F. (2019). Perlindungan Hukum Terhadap Anak Korban Eksploitasi Seksual Komersial Melalui Media Sosial. *Media Iuris*, 2(2), 197-216.
- Sumirat, I. R. (2017). Perlindungan Hukum terhadap Perempuan dan Anak Korban Kejahatan Perdagangan Manusia. *Jurnal Studi Gender dan Anak*, 3(01), 19-30.
- Wahyuningsih, S. E. (2016). Perlindungan Hukum Terhadap Anak Sebagai korban Tindak Pidana kesusilaan dalam Hukum Pidana Positif Saat Ini. *Jurnal Pembaharuan Hukum*, 3(2), 172-180.