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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Protection of Children as Witnesses in Sexual Violence Cases in Pati City

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Abstract. *Children who are both victims and witnesses in a criminal justice process in cases of sexual violence often experience trauma a second time after the child becomes a victim and then traumatized by testifying before the perpetrators of sexual violence. Children as witnesses in cases of sexual violence also often experience threats and acts of violence from perpetrators of sexual violence, especially when the child is not under the supervision and protection of the LPSK. This often occurs in the Pati City area. This study aims to determine and analyze the provisions for the protection of children as witnesses in cases of sexual violence in Pati City. To identify and analyze the weaknesses and solutions in the implementation of the protection of children as witnesses in cases of sexual violence in Pati City. The type of legal research used is non-doctrinal. In this non-doctrinal legal research, law is conceptualized sociologically as an empirical phenomenon that can be observed in life. In terms of substance, law is seen as a social force that is empirical in form, but which is seen legally and works to pattern the actual behavior of citizens. Based on the research results, it is known that the protection of children as witnesses in cases of sexual violence in Pati City has been regulated both in the dimension of the mandate related to the nation and state's obligation to protect children as witnesses in cases of sexual violence and the mechanisms for protecting children as witnesses in cases of sexual violence. However, based on information from the Director of the National Advocacy Legal Aid Institute Pati, Maskuri Alfaty, who said that there are still 20 children who are victims and witnesses in cases of sexual violence who are victims of threats during the legal process in Pati City.*

Keywords: *Children; Protection; Violence; Witnesses.*

1. Introduction

Disorders of adolescence and childhood, known as childhood disorders, which cause minor emotional distress and other mental disorders in perpetrators, can later develop into juvenile

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delinquency. Crimes committed by young people are essentially a product of their society and all the social interactions within it. Juvenile crime is considered a social ill.¹

General Explanation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, that children in conflict with the law are children in conflict with the law, children who are victims of the law, and children who are witnesses to criminal acts. Although children can determine their own actions based on their thoughts, feelings, and will, their surrounding circumstances can influence their behavior.²

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System regulates protection regarding the safety guarantees for children who are witnesses in Article 90 Paragraph (1) point (b) which states "safety guarantees, both physical, mental, and social." Safety guarantees are needed for a child who is a witness in a criminal trial. As one whose statement becomes evidence, there is a tendency that the testimony given by the child will be detrimental to the perpetrator or beneficial to the victim. Therefore, the existence of the witness could be threatened by other parties who feel disadvantaged by the testimony. In this case, testimony is one of the pieces of evidence in a trial so that the disappearance of a witness also means the loss or obstruction of evidence to be used as evidence in a criminal trial. As a concrete form of protection for the safety or security of child witnesses, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System provides freedom for child witnesses to provide the testimony needed in the trial process.³

The trial process in the juvenile criminal justice system does not require that child victims and/or witnesses be present in the courtroom. If the judge sees a separation of interests, child protection is intended to protect and nurture children in conflict with the law so that they can face their long future and provide opportunities for children to gain their identity through guidance to become independent, responsible, and useful individuals for themselves, their families, communities, nations, and countries. Child protection also includes activities that are direct and indirect in nature, avoiding actions that endanger children physically and/or psychologically. Justice means that every resolution of a child's case must reflect a sense of justice for the child. All parties involved in a criminal act must avoid and distance children from the judicial process so as to avoid stigmatization of children in conflict with the law and it is

¹Kartini Kartono, *Social Pathology 2 Juvenile Delinquency*, Rajawali Pers, Jakarta, 1992, p. 4.

²<https://www.hukumonline.com/berita/a/mengenal-anakyang-berhadapan-dengan-hukum-lt64081e7f1eea9/>, accessed May 29, 2026.

³Wiwik Afifah and Gusrin Lessy, "Legal Protection for Children as Witnesses in the Juvenile Criminal Justice System", *DIH, Journal of Legal Studies*, Vol. 10, No. 20, 2014, pp. 70-72.

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hoped that children can return to their social environment naturally. The judicial process for children's cases, from arrest, detention, and trial, must be carried out by special officials who truly understand children's problems. In deciding a case, a judge must be absolutely certain that his or her decision can be a strong foundation for returning and guiding the child towards a good future to develop himself or herself as a responsible citizen for the life of the family, nation and state. Non-discrimination is the absence of different treatment based on tribe, religion, race, class, gender, ethnicity, culture and language, the child's legal status, birth order, and physical and/or mental condition. The best interests of the child are all actions and decisions concerning the child, whether carried out by the family, society or law enforcement, the child's survival and development must always be the primary consideration. Respect for the child's opinion is to provide freedom to the child in order to develop his or her creativity and intellect (reasoning power). Respect for the child's right to participate and express his or her opinion according to the child's age level in decision-making, especially when it concerns matters that affect the child's life.⁴

Furthermore, it is explained in the explanation of Law No. 11 of 2012 concerning the Juvenile Justice System that children are an inseparable part of human survival and the continuity of a nation and state. Thus, children are an important component of the Indonesian nation and therefore their position is as a party that must be protected. Law No. 11 of 2012 concerning the Juvenile Justice System also explains that children have a strategic role which is expressly stated that the state guarantees the rights of every child to survival, growth, and development as well as to protection from violence and discrimination.⁵ Therefore, the best interests of children should be considered as the best interests of the survival of humanity. The consequences of Article 28B of the 1945 Constitution of the Republic of Indonesia must be followed up by creating government policies aimed at protecting children.⁶

The juvenile justice system in its development often positions children as victims of criminal acts to become witnesses of the crimes they experience. A child can experience pressure and circumstances that are not in accordance with their mental and spiritual readiness. The possibility of retaliation from the perpetrator and the very risky position of witnesses, does not rule out the possibility of changes from being a witness but can also become a perpetrator. The

⁴Sri Endah Wahyuningsih, "Legal Protection for Children as Victims of Criminal Acts Against Morality in Current Positive Criminal Law", *Journal of Legal Reform*, Volume III, No. 2, 2016, p. 173.

⁵Wiwik Afifah, "Legal Protection for Children as Witnesses in the Juvenile Criminal Justice System" *DIH Journal of Legal Studies*, Vol. 10, No. 20, 2014, p. 64.

⁶Erwin Asmadi, "Legal Protection for Children as Witnesses in Criminal Case Examination", *IURIS STUDIA: Journal of Legal Studies*, Volume 1, Number 2, 2020, p. 53.

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Director of the National Advocacy Legal Aid Institute Pati, Maskuri Alfaty said that there were 20 children as victims and witnesses in sexual violence cases who were victims of threats by the perpetrators, so that child victims and witnesses in sexual violence crimes were reluctant to provide testimony to investigators, this resulted in difficulties in handling sexual violence cases in Pati City. Maskuri added that one of the threats experienced by children as victims and witnesses in sexual violence cases in Pati City was experienced by 16-year-old YM in Pati City, the threat that was often carried out was the threat of spreading the rape committed by the perpetrator, this made the victim who was then asked for his testimony silent and did not dare to report the crime he had experienced, the perpetrators were gang groups who had often committed crimes in the community. The alleged rape incident occurred on May 24, 2025. The incident began when the victim from Margoyoso was going to Pati City by bus. At that time, it turned out that a man on a motorcycle invited the victim and was going to take her to Pati City. The incident occurred on May 24, 2025, at that time the victim was waiting for a bus to Pati City. Then, a gang member approached her and gave her a ride. The victim was then taken to a hotel in the Pati area instead of being taken to Pati City. The perpetrators gave the victim alcohol and drugs. After being intoxicated, the victim was then raped by five perpetrators at a hotel. Maskuri then stated that the case experienced by YM shows that the juvenile criminal justice system still has weaknesses in terms of protecting children when conveying their testimony regarding the crimes they experienced. These weaknesses include the absence of clear regulations regarding child assistance during the judicial process, the lack of guarantees of complete confidentiality of children's identities, and the potential for trauma experienced by children due to the judicial process.⁷Based on various existing explanations, it is clear that the implementation of protection for children as witnesses in cases of sexual violence in Pati City has not been able to be realized optimally.

2. Research methods

The type of legal research used is non-doctrinal. In this non-doctrinal legal research, law is conceptualized sociologically as an empirical phenomenon that can be observed in life. In terms of its substance, law is seen as a social force that is empirical in form, but which is seen legally and works to pattern the actual behavior of citizens. Then, in terms of structure, law is a judicial institution that works to transform inputs (strictly legal material in abstracto in abstracto, namely the product of the political system) into outputs (strictly decisions in concreto) which in this way influence and direct the form and process of social interaction that occurs in society. In this

⁷Interview with Maskuri Alfaty as Director of the National Advocacy LBH Pati on June 20, 2025.

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perspective, according to Soetandyo, law will appear as a natural fact that will certainly be subject to regularities (nomos) or uniformities (uniformities).⁸

3. Results and Discussion

3.1. Protection of Children as Witnesses in Sexual Violence Cases in Pati City

The definition of protection according to Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims is all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims which must be implemented by LPSK or other institutions in accordance with the provisions of this Law. Then the definition of protection according to Law Number 23 of 2004 concerning the Elimination of Domestic Violence is all efforts aimed at providing a sense of security to victims carried out by the family, advocates, social institutions, police, prosecutors, courts, or other parties, either temporarily or based on a court decision.⁹

The definition of protection according to Government Regulation Number 2 of 2002 concerning Procedures for Protection of Victims and Witnesses in Serious Human Rights Violations is a form of service that must be carried out by law enforcement officers or security forces to provide a sense of security, both physical and mental, to victims and witnesses, from threats, harassment, terror, and violence from any party, which is given at the stage of investigation, inquiry, prosecution, and or examination in court. One of the legal norms used as a reference in enforcing and protecting women victims of sexual violence is the Criminal Code (KUHP). However, the regulation regarding legal protection for victims of sexual violence and sexual harassment in the Criminal Code is very limited. The Criminal Code does not recognize the terms sexual violence or sexual harassment, but rather recognizes the term indecent acts which are regulated in Articles 281 to 303 of Book II Chapter XIV concerning Crimes against Morality. In general, crimes against morality can be divided into, namely, Article 281 concerning violating morality in public, Article 282 and Article 283 concerning pornography, Article 284 concerning adultery, Article 285 concerning rape, Article 289 concerning acts that attack moral honor, Article 292 concerning

⁸Soetandyo Wignjosoebroto, *Law, Paradigm, Method, and the Dynamics of the Problem*, HUMA, Jakarta, 2002, p. 198.

⁹Lina Panggabean, Triono Eddy, Alpi Sahari, "Legal Protection for Children as Victims of Sexual Violence (Analysis of the Witness and Victim Protection Law)", *IURIS STUDIA: Journal of Legal Studies*, 2024, pp. 25-27.

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sexual relations with the same sex, Article 296 concerning pimps, and Article 299 concerning abortion.¹⁰

The definition of protection according to the provisions of Article 1 point 6 of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims determines that protection is all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims which must be implemented by LPSK or other institutions in accordance with the provisions of this Law. Justice is formed by correct thinking, carried out fairly and honestly and is responsible for the actions taken. A sense of justice and law must be upheld based on Positive Law to uphold justice in law in accordance with the reality of society that desires the achievement of a safe and peaceful society. Justice must be built in accordance with the ideals of law (*Rechtidee*) in a state of law (*Rechtsstaat*), not a state of power (*Machtsstaat*). The principles that must be upheld by the Indonesian state and society in order to provide protection for children are the principles of non-discrimination, the best interests of the child, the right to life, survival, and development, and respect for the child's opinion (Article 2 of Law Number 23 of 2002 in conjunction with Law Number 34 of 2014 concerning Child Protection). In Law Number 23 of 2002 in conjunction with Law Number 34 of 2014 concerning Child Protection, it is stipulated that children who are victims of sexual violence must receive special protection (Article 59 of Law 23 of 2002 in conjunction with Law Number 34 of 2014).¹¹

Based on the provisions of the articles formulated in part five of Law Number 23 of 2002 in conjunction with Law Number 34 of 2014, which regulates special protection for children and then comparing it with other articles in the same law, it can be understood that what is meant by special protection, in this case protection related to children who are victims of sexual violence, is protection that is only given to children who have the right to protection from the state and society as stated in Law Number 23 of 2002 in conjunction with Law Number 34 of 2014 outside of part five.¹²

The provision of special protection for child victims of sexual violence by Law Number 23 of 2002 in conjunction with Law Number 34 of 2014 is classified into several forms of protection depending on the type of sexual violence against children. In order to protect children's rights, a series of activities aimed at ensuring the growth and development of children must be carried

¹⁰Salsa Fadhila Putri Setyoadi, Heni Siswanto, Dona Raisa Monica, Diah Gustiniati, Refi Meidiantama, "Legal Protection for Child Witnesses in Criminal Acts of Sexual Violence Against Children (Study of Decision Number 18/ PID. SUS/ 2024/ PN.MET)", *Journal of Law and Citizenship*, Vol 15, No 4, 2025.

¹¹*Loc. cit.*

¹²*Loc. cit.*

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out in a sustainable and directed manner. These actions are intended to realize the best life for children who are expected to be the next generation of the nation who are potential, resilient, have noble morals and are strong-willed to maintain the unity and integrity of the nation and state. This is stated in Article 20 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, that "In the implementation of child protection, various parties such as the State, Government, Regional Government, Community, Family, and Parents or Guardians are obliged and responsible in it." Legal protection for children in relation to the phenomenon of sexual crimes is protection carried out before and after children become victims of sexual crimes. Legal protection carried out before children become victims of sexual crimes is preventive legal protection. Legal protection that is carried out after a child has become a victim of crime is legal protection that is repressive in nature.

The protection provided aims to prevent new problems for children in the future that can cause trauma and damage their social development. Protection is a very necessary step from the law for children so that children are not too burdened by existing problems that cause ongoing depression or prolonged trauma from what has happened and can be a source of strength for children in facing existing sexual crime cases. So that it does not damage the growth and development of children who can really still be fought for and can still continue their future like most other children who do not have the same problems. Protection for children as victims of crime in the criminal justice process has been very minimal, although there have been several changes in the Child Protection Law, but these changes are in the sentencing of perpetrators of crimes against children rather than related to the protection provided by the government to the victims themselves, especially the psychological protection of victims who experience sexual crimes, so it is feared that child victims of crime who report the crime that happened to them will actually become victims again (revictimization).¹³

The criminal justice system for children in cases of sexual violence requires legal protection because they are often victims of sexual violence. Sexual violence is an unwanted act that is degrading, humiliating, or hurting someone, either physically or psychologically, by targeting their body or reproductive functions. This action usually occurs due to an imbalance of power and can impact the victim's mental and reproductive health. This imbalance of power or position often places children who come into contact with the law as child witnesses or child victims, thus requiring legal protection, especially in cases of sexual violence. Child victims and child witnesses in criminal acts are children who are victims and children who are witnesses in criminal cases. Child victims and child witnesses are legally protected in Articles 89, 90, and 91 of Law of the

¹³*Loc, cit.*

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Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System. In Article 90 of the SPPA Law, child victims and child witnesses have the same rights to all legal protection, without exception, the following rights:¹⁴

- 1) Efforts for medical rehabilitation and social rehabilitation, both within and outside the institution;
- 2) The right to health and safety guarantees, including physical, mental and social;
- 3) Ease of obtaining information on the progress of the cases involved.

Based on Article 91 of the SPPA Law, child victims and child witnesses can be referred by authorized parties such as Community Guidance Officers, Professional Social Workers, or Investigators from child protection agencies or child welfare agencies. In certain urgent circumstances, Investigators are authorized to immediately refer Child Victims to health service facilities or child protection agencies without having to wait for a social report. Based on the results of the social assessment by Community Guidance Officers and Social Workers, these children are entitled to receive services in the form of medical rehabilitation, social rehabilitation, and social reintegration through authorized agencies. If necessary, Child Victims and/or Child Witnesses can also be given protection by the Witness and Victim Protection Agency (LPSK), or placed in social shelters in accordance with the provisions of laws and regulations. LPSK as a protection agency for witnesses and victims has the authority and responsibility to provide protection and rights as regulated in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection.¹⁵ According to Article 5 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims:

(1) Witnesses and victims have the right to:

- a. receive protection for the security of his/her person, family and property, and be free from threats relating to the testimony he/she will, is or has given;
- b. participate in the process of selecting and determining the form of security protection and support;
- c. provide information without pressure;

¹⁴Loc, cit.

¹⁵Loc, cit.

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- d. get a translator;
- e. free from entangling questions;
- f. receive information regarding case developments;
- g. receive information regarding court decisions;
- h. receive information in the event that the convict is released;
- i. kept his identity secret;
- j. get a new identity;
- k. obtain temporary residence;
- l. get a new residence;
- m. obtain reimbursement for transportation costs according to needs;
- n. get legal advice;
- o. receive temporary living expenses assistance until the Protection period ends; and/or
- p. get assistance.

(2) The rights as referred to in paragraph (1) are granted to Witnesses and/or Victims of criminal acts in certain cases in accordance with the LPSK Decision.

(3) Apart from Witnesses and/or Victims, the rights granted in certain cases as referred to in paragraph (2) may be granted to Witnesses, Perpetrators, Reporters and experts, including people who can provide information related to a criminal case even if they did not hear it themselves, did not see it themselves or did not experience it themselves, as long as the person's information is related to the criminal act.

Children as witnesses in the Law are regulated in Article 29A of the Republic of Indonesia Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims. According to this provision, the LPSK can provide protection to children who are witnesses and/or victims in the criminal justice process, but permission from

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the child's parents or guardians is required. As explained above, there are exceptions to this permission, such permission is not required in the following cases:¹⁶

1. Parents or guardians are suspected of being perpetrators of crimes involving children;
2. Parents or guardians are suspected of trying to prevent children from giving information;
3. Parents or guardians are not competent in their responsibilities as parents or guardians;
4. When a child does not have parents or guardians;
5. The whereabouts of the child's parents or guardians are unknown.

Some of these situations require adjustments when granting permission for LPSK to continue to provide protection, namely by means of a determination from the Head of the District Court in response to the LPSK's request. Based on Article 2 of the Law on Protection of Witnesses and Victims, that the protection of witnesses and victims is implemented in every criminal justice process based on upholding human dignity and honor, guaranteeing a sense of security for witnesses and victims, upholding the principle of justice, providing equal treatment without discrimination, and legal certainty in the implementation of the rights of witnesses and victims.¹⁷

According to Police Commissioner Heri Dwi Utomo, Head of the Pati Police Criminal Investigation Unit, in an interview, the investigation prioritized the child's mental state and emotional state when providing testimony as a witness. Permission from the child's parents or guardians was also granted during the case reconstruction process at the school. A persuasive approach was also used to gather the child's testimony as a witness.¹⁸

Heri added in his interview that he must pay attention to children's rights as protected in Articles 89, 90, and 91 of the Child Protection Law (SPPA) in this case. He stated that there is good legal protection to fulfill the rights of child victims and child witnesses with the presence of the Witness and Victim Protection Agency (LPSK). The examination process in this case was also carried out by prioritizing the conditions of the child victims and child witnesses so that psychological and physical safety was sought. The protection of child witnesses in this case was accompanied by LPSK representatives from the center with the permission and approval of parents and guardians. Child witnesses involved in this case receive protection for their personal

¹⁶*Loc, cit.*

¹⁷*Loc, cit.*

¹⁸Interview with Heri Dwi Utomo as Head of Criminal Investigation Unit of Pati Police, September 12, 2025.

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and family security and are free from threats related to the testimony they will, are, and have given in the court environment.¹⁹

Director of LBH National Advocacy Pati, Maskuri Alfaty said that there were 20 children as victims and witnesses in sexual violence cases who were victims of threats by the perpetrators, so that the child victims and witnesses in sexual violence crimes were reluctant to give their testimony to investigators, this resulted in difficulties in handling sexual violence cases in Pati City. Maskuri added that one of the threats experienced by children as victims and witnesses in sexual violence cases in Pati City was experienced by 16-year-old YM in Pati City, the threats that were often made were threats in the form of spreading the rape committed by the perpetrator, this made the victim who was then asked for testimony to be silent and did not dare to convey the crime that had been experienced, the perpetrators were a gang group that had often committed crimes in the community. This alleged rape incident occurred on May 24, 2025. The incident began when the victim from Margoyoso was going to Pati City by bus. At that time, it turned out that there was a man riding a motorbike inviting the victim and would be taken to Pati City. The incident occurred on May 24, 2025. The victim was waiting for a bus to Pati City. A gang member approached her and gave her a ride. Instead of taking her to Pati City, they took her to a hotel in Pati. The perpetrators then gave her alcohol and drugs. After she was high, she was raped by five perpetrators at a hotel. Maskuri then stated that YM's case shows that the juvenile criminal justice system still has weaknesses in protecting children when they testify about the crimes they have experienced. These weaknesses include the lack of clear regulations regarding child support during the trial process, the lack of guarantees of complete confidentiality of children's identities, and the potential for trauma experienced by children due to the trial process.²⁰

Based on the explanation above, it can be seen that the protection mechanism for children as witnesses in cases of sexual violence has been regulated in Article 5 paragraph (1) of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, which states that the rights of children as witnesses consist of:

- 1) receive protection for the security of his/her person, family and property, and be free from threats relating to the testimony he/she will, is or has given;
- 2) participate in the process of selecting and determining the form of security protection and support;

¹⁹*Loc. cit.*

²⁰Interview with Maskuri Alfaty as Director of the National Advocacy LBH Pati on June 20, 2025.

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- 3) provide information without pressure;
- 4) get a translator;
- 5) free from entangling questions;
- 6) receive information regarding case developments;
- 7) receive information regarding court decisions;
- 8) receive information in the event that the convict is released;
- 9) kept his identity secret;
- 10) get a new identity;
- 11) obtain temporary residence;
- 12) get a new residence;
- 13) obtain reimbursement for transportation costs according to needs;
- 14) get legal advice;
- 15) receive temporary living expenses assistance until the Protection period ends; and/or
- 16) get assistance.

The mechanism for protecting children as witnesses in cases of sexual violence is specifically regulated in Law Number 23 of 2002 in conjunction with Law Number 34 of 2014 concerning Child Protection and Law of the Republic of Indonesia Number 11 of 2012 concerning the Child Criminal Justice System.

Article 89 of the Republic of Indonesia Law Number 11 of 2012 concerning the Child Criminal Justice System states that "Child Victims and/or Child Witnesses have the right to all protection and rights regulated in the provisions of laws and regulations."

Article 90 of the Republic of Indonesia Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that:

(1) In addition to the rights regulated in the provisions of laws and regulations as referred to in Article 89, Child Victims and Child Witnesses have the right to:

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- a. medical rehabilitation and social rehabilitation efforts, both within and outside the institution;
- b. guarantee of safety, both physical, mental and social; and
- c. ease of obtaining information regarding case developments.

(2) Further provisions regarding the implementation of the rights of Child Victims and Child Witnesses as referred to in paragraph (1) are regulated by Presidential Regulation.

Article 91 of the Republic of Indonesia Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that:

(1) Based on the considerations or suggestions of the Community Guidance Officer, Professional Social Worker or Social Welfare Officer or Investigator, they can refer the Child, Child Victim or Child Witness to an agency or institution that handles child protection or a child social welfare institution.

(2) In the event that the Child Victim requires immediate assistance, the Investigator, without a social report from a Professional Social Worker, can directly refer the Child Victim to a hospital or institution that handles child protection according to the Child Victim's condition.

(3) Based on the results of the Community Research from the Community Supervisor and social reports from Professional Social Workers or Social Welfare Workers, Children, Child Victims, and/or Child Witnesses have the right to receive medical rehabilitation, social rehabilitation, and social reintegration from institutions or agencies that handle child protection.

(4) Child victims and/or child witnesses who require protection can obtain protection from institutions that handle witness and victim protection or social protection homes in accordance with the provisions of laws and regulations.

The protection mechanism for children as witnesses in cases of sexual violence is specifically regulated in Article 16 of Law Number 23 of 2002 in conjunction with Law Number 34 of 2014 concerning Child Protection, which states that:

- (1) Every child has the right to protection from being subjected to abuse, torture or inhumane punishment.
- (2) Every child has the right to obtain freedom in accordance with the law.

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(3) The arrest, detention or imprisonment of a child shall only be carried out in accordance with applicable law and may only be carried out as a last resort.

Based on the various provisions above, it is clear that the protection of children as witnesses in cases of sexual violence in Pati City has been regulated both in the dimension of the mandate related to the nation and state's obligation to protect children as witnesses in cases of sexual violence and the mechanisms for protecting children as witnesses in cases of sexual violence. However, based on information from the Director of the National Advocacy Legal Aid Institute Pati, Maskuri Alfaty, who said that there are still 20 children who are victims and witnesses in cases of sexual violence who are victims of threats in the legal process in Pati City still occurs.²¹ It is also clear that protection for children as witnesses in sexual violence cases in Pati City has not been optimally implemented. This clearly violates the principles of legal protection. According to Socrates, legal protection is centered on the concept that the law must reflect justice and truth, and that good law is law that aligns with the ideals of a just and just society. Socrates believed that humans possess insight that reveals good and evil, which serves as the basis for assessing the law.²²

3.2. Weaknesses in Legal Protection for Children as Witnesses in Cases of Sexual Violence

1) Weaknesses in Law Making

The regulation regarding the legal protection process for children as witnesses uses Law Number 31 of 2014 concerning the Protection of Witnesses and Victims. It is clear that this law has a weakness in Article 5 Paragraph (2) of the Law on the Protection of Witnesses and Victims which states: "The rights as referred to in paragraph (1) are granted to Witnesses and/or Victims of criminal acts in certain cases in accordance with the LPSK Decision."²³

This article does not automatically state that legal protection for witnesses and/or victims applies. Children, as victims and/or witnesses, are a vulnerable group, particularly in cases of sexual violence, and therefore require prompt action. The process from application to decision is time-consuming and can jeopardize children's safety and rights, as law enforcement tends to proceed quickly. The witness and victim protection law is considered insufficiently responsive to criminal cases and urgent situations.²⁴

²¹Interview with Maskuri Alfaty as Director of the National Advocacy LBH Pati on June 20, 2025.

²²Garuda Wiko, *Understanding Law from Construction to Implementation*, Rajawali Press, Jakarta, 2009, p. 10

²³Interview with Maskuri Alfaty as Director of the National Advocacy LBH Pati on June 20, 2025.

²⁴*Loc, cit.*

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Another legal weakness is the fact that the Republic of Indonesia Law No. 13 of 2006 in conjunction with the Republic of Indonesia Law No. 31 of 2014 concerning Protection of Witnesses and Victims and the Regulation of the Republic of Indonesia Witness and Victim Protection Agency Number 1 of 2024 concerning Service Standards within the Witness and Victim Protection Agency has not specifically regulated the regulatory dimension of Protection for children as witnesses in the criminal justice process in Indonesia, especially children as witnesses in acts of sexual violence.

2) Weaknesses in Law Implementation

Law enforcement as an influence on legal protection for children as witnesses in cases of sexual violence against children are parties involved in the law enforcement process, namely the police, prosecutors, judges, and legal counsel for the accused. The legal protection process is carried out through processes and assessments by law enforcement, the role of law enforcement that should be different from the actual role of law enforcement, so that it can hinder the legal protection process. This form of resistance can be found if the sensitivity and perspective of law enforcement is lacking towards child protection because it requires an emotional approach in handling children. Many courts do not have a special room for examining child witnesses, a child-friendly waiting room, and a children's courtroom. However, in this case, no obstacles were found in the facilities and infrastructure in the child protection process. The Pati District Court has an inadequate child-friendly courtroom. The lack of supporting facilities for child psychological protection, such as a special children's room, is not optimal.²⁵

3) Weaknesses of Legal Culture

Weaknesses in the community's legal culture that hinder legal protection for children in cases of child sexual violence can be identified when assisting parents or guardians who are unfamiliar with the applicable laws, such as a lack of understanding of children's rights as witnesses, a lack of education regarding witness protection mechanisms from the Witness and Victim Protection Agency (LPSK) and how to apply for legal protection from other institutions. Consequently, the community is less able to provide support for legal protection for children as witnesses.²⁶

Another cultural weakness is the fact that sexual violence is considered taboo, leading to a lack of prompt reporting for legal assistance. This cultural tendency neglects mental health and downplays even minor acts that may constitute sexual violence. A culture that discourages reporting sexual violence and tends to suppress children's voices presents a significant obstacle

²⁵*Loc. cit.*

²⁶*Loc. cit.*

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to law enforcement. Values such as maintaining honor and confidentiality often hinder legal protection for children. Therefore, a shift in legal culture is needed through education that promotes the protection of children's rights and access to justice without discrimination.²⁷

4. Conclusion

The protection of children as witnesses in cases of sexual violence in Pati City has been regulated both in the dimension of the mandate related to the obligations of the nation and state to protect children as witnesses in cases of sexual violence and the mechanism in protecting children as witnesses in cases of sexual violence. However, based on information from the Director of the National Advocacy Legal Aid Institute Pati, Maskuri Alfaty, who said that there are still 20 children as victims and witnesses in cases of sexual violence who are victims of threats in the legal process in Pati City. Weaknesses in the protection of children as witnesses in cases of sexual violence in Pati City are in the form of weaknesses in the creation of Law Number 31 of 2014 concerning the Protection of Witnesses and Victims which cannot automatically act on violations of the law against children as witnesses if there is no complaint. Law of the Republic of Indonesia No. 13 of 2006 Jo. Law of the Republic of Indonesia Number 31 of 2014 concerning Protection of Witnesses and Victims and Regulation of the Witness and Victim Protection Agency of the Republic of Indonesia Number 1 of 2024 concerning Service Standards within the Witness and Victim Protection Agency have not specifically regulated the regulatory dimension of Protection for children as witnesses in the criminal justice process in Indonesia, especially children as witnesses in crimes of sexual violence. Weaknesses in legal implementation include a lack of sensitivity and perspective of law enforcement towards child protection because it requires an emotional approach in handling children. The Pati District Court has an inadequate child-friendly judicial space. The lack of supporting facilities for child psychological protection, such as special rooms for children, is not optimal. Weaknesses in the community's legal culture as an obstacle to legal protection for children in crimes of sexual violence against children can be found when accompanying parents or guardians of children who are quite unfamiliar with the applicable legal explanation, such as a lack of understanding of children's rights as witnesses, a lack of education regarding the witness protection mechanism from the LPSK and how to apply for legal protection or other institutions. Consequently, the community is less able to provide support for legal protection for children as witnesses. The solution that can be implemented is that there needs to be clear, specific guidelines for law enforcement officers (judges, prosecutors, lawyers) in handling cases involving children as witnesses, considering that there are no specific rules that have been used as guidelines so far.

²⁷Loc, cit.

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