

## Legal Protection for Child Victims of Sexual Crimes

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**Abstract.** *This study aims to determine the legal protection for child victims of sexual intercourse at the Banyumas Police Department and the obstacles and efforts to overcome them. The approach method in this study is sociological juridical, the research specification is analytical descriptive. The data used are primary data and secondary data, the data collection method is carried out through field studies and literature studies. The data analysis method is qualitative analysis. Based on the results of the study, it can be concluded that the legal protection for child victims of sexual intercourse at the Banyumas Police Department is in accordance with the Child Protection Law and the Witness and Victim Protection Law, namely children receive legal assistance from the UPTD PPA, the Social Service, and the Ministry of Social Affairs and receive health examination service facilities and counseling services. The obstacles to legal protection are the existence of a safe house at the Banyumas Police Department, the lack of optimal recovery efforts for children, especially the provision of restitution, and the lack of public awareness of the importance of sex education for children. Efforts to overcome these obstacles are the PPA Unit of the Banyumas Police in coordination with the UPTD PPA, there needs to be a policy to coordinate with LPSK using electronic media (online), there needs to be socialization and education for children, parents and the community so that it can minimize criminal acts of sexual violence against children.*

**Keywords:** Children; Criminal; Protection; Sexual.

### 1. Introduction

Indonesia is a country based on law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI).<sup>1</sup> Thus, Indonesia guarantees

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<sup>1</sup>Rosa Maria and Ratih Mega Puspitasari, "Legal Protection for Perpetrators of the Crime of Child Abuse Based on Sema Number 1 of 2017", Ratio Legis Journal, Volume 2 No. 3, September 2023, p.1281.

human rights in the legal field, namely guaranteeing citizens equal standing before the law and government.<sup>2</sup>One of them is the guarantee of children's rights to protection as regulated in Article 28 B paragraph 2 of the 1945 Constitution and the United Nations Convention on the Rights of the Child.

Children are the next generation of the nation who are prepared to be implementers of sustainable development as well as controllers of the future of a country.<sup>3</sup>Children are also the hope of parents, the nation and the state who have a strategic role, ensuring the continued existence of the nation and state in Indonesia.<sup>4</sup>Children as weak individuals are not yet able to defend their rights, so children really need special protection and care. Given the child's immature physical and mental, it is very important to provide legal protection.<sup>5</sup>

Efforts to guarantee children's rights by enacting Law Number 23 of 2022 concerning Child Protection as last amended in Law Number 17 of 2016 (Child Protection Law).<sup>6</sup>One of them is legal protection for child victims of sexual violence (intercourse). The crime of intercourse is an act that deviates from the prevailing norms.<sup>7</sup>which has a very deep impact on children both physically and psychologically.<sup>8</sup>The crime of sexual intercourse with a child victim is regulated in Article 76D of the Law Child Protection, with criminal threats regulated in Article 81 of the Child Protection Law, namely a minimum prison sentence of 5 years and a maximum of 15 years and a maximum fine of IDR 5,000,000,000.00.

Currently, cases of sexual violence against children are still high, one of which is intercourse. The Ministry of Women's Empowerment and Child Protection (PPPA) reported that 16,854 children in Indonesia were victims of violence in 2023, with the number of children experiencing sexual violence reaching 8,838 children.<sup>9</sup>In Central Java province, cases of violence against children in 2023 were recorded at

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<sup>2</sup>Anton Rudiyanto, Function of Fingerprints of Murder Perpetrators (Case Study at Tegal Police), *Khaira Ummah Law Journal*, Volume 12 Number 4 December 2017, p.928.

<sup>3</sup>Teguh Ariawan, Siti Rodhiyah Dwi Istinah, and Denny Suwondo, "The Implementation of Child Violence Law Which Caused the Fatal Death", *Law Development Journal*, Volume 4 Issue 1, March 2022, p. 154.

<sup>4</sup>Robertus David Mahendra Saputra, Jawade Hafidz and Denny Suwondo, "The Legal Protection for Children as Criminal Actors", *Law Development Journal*, Volume 4 Issue 3, September 2022, p.461.

<sup>5</sup>Mohammad Taufik Makarao et al., 2013, *Child Protection Law and the Elimination of Domestic Violence*, Rineka Cipta, Jakarta, p. 14

<sup>6</sup>Mutiara Nastya Rizky, "Legal Protection for Child Victims of Commercial Sexual Exploitation Through Social Media", *Juris Media*, Volume 2 Number 2, June 2019, p. 198.

<sup>7</sup>Setiyawati and Achmad Arifullah, "Legal Protection for Child Victims of the Crime of Rape in Decision Number 239/PID.SUS/2022/PN.CLP", *Ratio Legis Journal*, Volume 2 No. 3, September 2023, p.1409

<sup>8</sup>Sri Endah Wahyuningsih, "Legal Protection for Children as Victims of Criminal Acts Against Morality in Current Positive Criminal Law", *Journal of Legal Reform*, Volume III Number 2, May-August 2016, p.172.

<sup>9</sup>Febriana Sulistya Pratiwi, Data on the Number of Violence Against Children in Indonesia by Type in 2023, <https://dataindonesia.id>, accessed January 15, 2025.

1,327 children.<sup>10</sup>In the jurisdiction of the Banyumas Police, in 2024 the forms of child sexual violence were dominated by molestation, which amounted to 17 cases, and sexual intercourse, which amounted to 14 cases.<sup>11</sup>

The Indonesian National Police (Polri), which is the spearhead in law enforcement, plays an important role in providing legal protection for child victims of sexual intercourse. However, in practice, efforts to provide legal protection for child victims of sexual intercourse experience various obstacles, including the lack of initiative from the victim to report to the police because they feel ashamed. In addition, there are also difficulties in providing evidence considering that sexual intercourse has minimal witnesses.

This study aims to determine and analyzing legal protection for child victims of sexual intercourse at the Banyumas Police as well as obstacles and efforts to overcome them.

## 2. Research Methods

The approach method in this study is sociological juridical, the research specification is analytical descriptive. The data used are primary data and secondary data while the data collection method is carried out through field studies and literature studies. The data analysis method is qualitative analysis.

## 3. Results and Discussion

### 3.1. Legal Protection for Child Victims of Sexual Intercourse Crimes at Banyumas Police

Sexual intercourse with children can be damaging, dangerous and frightening for children. Child victims of sexual violence suffer material and immaterial losses such as emotional and psychological shocks, which can affect the child's future life.<sup>12</sup>

Based on the research results, in the jurisdiction of the Banyumas Police, cases of sexual intercourse with children are quite high. This can be seen in the following table:

**Table of Cases of Sexual Violence Against Children at Banyumas Police Department 2022 to 2024**

No	Year	Number of cases
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<sup>10</sup>Data on Violence Against Women and Children in Central Java Province 2019-2023, <https://ppid.dp3akb.jatengprov.go.id>, accessed January 15, 2025.

<sup>11</sup>Imam Maulana Muhammad and Rahtami Susanti, "Implementation of Child Protection as Victims of Sexual Violence (Study at UPTD PPA Banyumas Regency)", *Serambi Hukum Journal*, Volume 17 Number 02 of 2024, p. 62

<sup>12</sup>Maidin Gultom, 2013, *Legal Protection for Children and Women*, Refika Aditama, Bandung, p. 2

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1	2022	33
2	2023	44
3	2024	31

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Source: Banyumas Police PPA Unit, 2024

Based on the results of the interview with Iptu Sigit Harmoko, the high number of cases of sexual violence against children is influenced by several factors, both internal and external factors. Internal factors, usually from the victim's family where there is a lack of early sexual education for children, as well as a lack of communication between parents and children. External factors come from the environment, namely the lack of parental supervision, the influence of social media, where children who see it on the internet are practiced. It is not uncommon for cases of sexual violence against children to be committed by the perpetrators from the family. Another cause of environmental factors is the child's environment in a remote area, making it easier for the perpetrators to carry out their actions. The victim (child) factor itself also influences the high number of cases of sexual violence against children. This is because children do not know that the treatment they receive is a criminal act of sexual violence.<sup>13</sup>

In the crime of sexual intercourse with child victims, it is important in the investigation process to provide children's rights in order to provide legal protection for children. This is considering that the child's condition still greatly needs special protection and care due to physical and mental reasons that are not yet mature and adult.<sup>14</sup>Therefore, in the case of a crime involving a child, the one who handles it is the investigator at the PPA Unit. The form of legal protection provided to child victims of sexual intercourse is as follows:<sup>15</sup>

1. The inspection process is carried out at the PPA Unit

For children involved in criminal acts, either as victims or as perpetrators, the investigation is carried out by the PPA Unit of the Banyumas Police. The examination is carried out in a separate room that is not mixed with adults. The investigation process carried out by the PPA Unit of the Banyumas Police is a manifestation of repressive legal protection efforts.

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<sup>13</sup>Results of an interview with Iptu Sigit Harmoko, as Head of the PPA Unit of the Banyumas Police Criminal Investigation Unit, January 27, 2025.

<sup>14</sup>Mohammad Taufik Makarao et al., 2013, *Child Protection Law and the Elimination of Domestic Violence*, Rineka Cipta, Jakarta, p. 14

<sup>15</sup>Results of an interview with Ipda Andi Dwisantosa, as an investigator at the PPA Unit of the Banyumas Police, January 15, 2025.

## 2. There is assistance from the Social Service, UPTD PPA, and the Ministry of Social Affairs

For child victims of sexual intercourse, during the investigation and examination process they receive assistance from the Social Service, UPTD PPA and the Ministry of Social Affairs. Assistance for victims is aimed at providing protection, recovery and rehabilitation for victims. In terms of undergoing examination, the Social Service will accompany them. The Social Service also provides counseling services for children to help recover from trauma, educate families on how to support children, help children adapt to the social environment. The Social Service also conducts social research related to victims of crime. Assistance from the UPTD PPA is to issue a report which is an official record documenting the process of assistance, intervention, and protection of child victims of sexual intercourse.

## 3. Provision of safe housing

The provision of safe houses is one form of protection service provided for victims of violent crimes, both physical violence and sexual violence, especially women and children. Safe houses function as temporary places to provide physical protection, psychological recovery, and social rehabilitation for victims of violence until they can live independently again. In this case, the PPA Unit of the Banyumas Police coordinates with the UPTD PPA, then the UPTD PPA will cooperate with related parties to provide safe houses for child victims of crime.

## 4. Provision of child rehabilitation places

The PPA Unit of the Banyumas Police in order to provide protection for children coordinates with the Ministry of Social Affairs in providing rehabilitation facilities for child victims of sexual intercourse at the Baturraden Child Rehabilitation which is a social rehabilitation center located in Banyumas. The place is designed to handle children who need special protection, such as abandoned children, victims of violence, exploitation, or other problematic children including child victims of sexual intercourse.

## 5. Provision of health examination services, both physical and mental

Providing health check-up services for child victims of sexual intercourse is an important step to ensure the physical condition of the victim as well as the child's mental condition. In terms of mental examination, the PPA Unit of the Banyumas Police collaborates with Prof. Dr. Margono Soekarjo Banyumas Hospital, especially the Psychiatry Polyclinic.

## 6. Provision of counseling services from psychologists

Counseling services for child victims of sexual intercourse are very important to help recover child victims of crime from psychological trauma. In this case, the PPA

Unit of the Banyumas Police is working together with Prof. Dr. Margono Soekarjo Banyumas Regional Hospital.

#### 7. Granting of restitution

For child victims of sexual intercourse, they are entitled to restitution. In this case, the investigators of the PPA Unit of the Police Resort Police conveyed to the victim about their rights to receive restitution. In the example case, the victim did not demand restitution, but only hoped that the perpetrator would be punished as severely as possible.

Based on the description above, it can be seen that the PPA Unit during the investigation process has provided legal protection for child victims of sexual intercourse. Protection for victims of sexual intercourse is in accordance with the Child Protection Law and the Witness and Victim Protection Law. Investigators from the PPA Unit of the Banyumas Police immediately followed up on the victim's report and immediately carried out a series of investigative actions starting from arrest, detention, confiscation of evidence, examination of witnesses until the case was completed and transferred to the public prosecutor. During the investigation process, child victims of sexual intercourse received legal assistance from the PPA UPTD, the Social Service, and the Ministry of Social Affairs. In addition, children also received health check-up services and counseling services.

Efforts to protect children who are victims of sexual intercourse are in line with the provisions of Article 59A letter a of the Child Protection Law, which states that special protection for children who are victims of violent crimes is carried out through rapid handling efforts, including physical, psychological, and social treatment and/or rehabilitation, as well as prevention of diseases and other health disorders. Meanwhile, assistance to victims is a manifestation of the provisions of Article 59A letter d of the Child Protection Law, namely the provision of protection and assistance in every judicial process.

### **3.2. Obstacles Arising in the Protection of Child Victims of Sexual Intercourse Crimes at the Banyumas Police and Efforts to Overcome Them**

Child protection aims to ensure that children's needs are met so that they can live, grow, develop and participate optimally in accordance with human dignity.<sup>16</sup> Legal protection for child victims of sexual intercourse is a shared responsibility of the state, society and family. However, in practice, efforts to provide legal protection for child victims of sexual intercourse still face several obstacles, both from internal and external factors. Likewise, at the Banyumas Police, efforts to provide

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<sup>16</sup>Rika Saraswati, 2015, *Child Protection Law in Indonesia*, Aditya Bakti, Bandung, p. 15

legal protection for child victims of sexual intercourse also face obstacles, namely:<sup>17</sup>

#### 1. Weaknesses in regulations in protecting child victims of sexual crimes

Protection for child victims of sexual intercourse has been regulated in several laws and regulations, including the Child Protection Law, Law Number 12 of 2022 concerning Sexual Violence Crimes (TPKS Law), Law Number 13 of 2006 concerning Protection of Witnesses and Victims (Witness and Victim Protection Law). The Child Protection Law emphasizes children's rights in general, including protection from sexual violence, but does not regulate the forms of sexual violence in detail. The TPKS Law regulates more specifically regarding sexual violence, including victim recovery mechanisms. However, the implementation of this law still faces challenges where it still clashes with the witness and victim protection procedures regulated by the LPSK. The Witness and Victim Protection Law regulates the rights of victims, but does not specifically address the needs of child victims of sexual violence (sexual intercourse).

The impact of overlapping laws and regulations governing legal protection for child victims of sexual violence is one of them is confusion in law enforcement, because the authorities are confused about choosing which rules are more appropriate. In addition, victims have difficulty in accessing justice because they have to face long and complicated procedures, as well as a lack of coordination between law enforcement agencies such as the police, prosecutors, LPSK and the Ministry of PPPA.

The solution to overcome these obstacles is to harmonize regulations by ensuring that existing laws complement each other and do not conflict, strengthen the implementation of the TPKS Law so that it becomes the main reference in cases of sexual violence, including for child victims, and improve coordination between institutions, especially in victim protection and recovery. Overlapping laws and regulations must be resolved immediately so that protection for child victims of sexual intercourse can run effectively.

#### 2. Lack of certified investigators specializing in children

In the PPA Unit of Banyumas Police, there are still many personnel who do not meet the standards as child investigators, where there are only two personnel who have received training in the Child Criminal Justice System. The lack of personnel who are certified child investigators is an obstacle in providing protection for children. Investigators have a crucial role in handling cases with a child-friendly approach, but their number is still limited. This can have an impact on many cases of child sexual violence (intercourse) handled by general investigators who do not

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<sup>17</sup>Results of an interview with Ipda Andi Dwisantosa, as an investigator at the PPA Unit of the Banyumas Police, January 15, 2025.



understand the special approach to children so that interrogation of children can traumatize child victims and make them reluctant to give testimony.

The solution to overcome these obstacles is to increase the quota of training and certification for child investigators, routine training for general investigators so that they have a basic understanding in handling child cases so that they do not only depend on certified child investigators. In addition, coordination with related parties, namely UPTD PPA, the Social Service, and the Ministry of Social Affairs in providing protection for child victims of sexual intercourse to obtain assistance facilities and health examination services and counseling services.

### 3. There is no safe house at Banyumas Police Headquarters

A Safe House is a place that functions as a shelter or place of protection for those who feel threatened and need a safe place to live. Safe Houses are often used by victims of domestic violence (KDRT), sexual violence, violence against children, and victims of human trafficking. Safe Houses are also part of the protection system for witnesses and victims of crime. This is regulated in Law No. 31 of 2014 concerning Protection of Witnesses and Victims, which gives witnesses and victims the right to obtain a safe temporary place to live, known as a Safe House.<sup>18</sup>The lack of supporting facilities in the form of safe houses in each region is quite concerning. Where the existence of safe houses is very important to provide protection to children who are victims of sexual violence by their families.<sup>19</sup>

At the Banyumas Police, up to now there is no safe house to accommodate child victims of sexual violence (intercourse).<sup>20</sup>Efforts to overcome these obstacles are that the PPA Unit of the Banyumas Police coordinate with the UPTD PPA, so that during the ongoing trial process, the UPTD PPA will try to place child victims of sexual intercourse with related parties who provide safe houses for child victims of crime.

### 4. The lack of optimal recovery efforts for child victims of sexual crimes

According to the National Commission on Violence Against Women, recovery is not only related to the needs of victims, but also includes fulfilling their basic rights as citizens such as education, health, population and political rights.<sup>21</sup>In the framework of victim recovery, there is restitution for victims of sexual violence. However, until now, restitution at the Banyumas Police has not been given

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<sup>18</sup>Fenty Chandrasari, Safe House, Protection for Women and Children Victims of Violence, <https://rri.co.id>, accessed January 15, 2025

<sup>19</sup>Suheflihusnaini Ashady and Abd. Hasan, "Safe Home Policy for Child Victims of Domestic Violence", *Fundamental Justice Journal*, Volume 2 Number 1, April 2021, p. 23

<sup>20</sup>Results of an interview with Ipda Andi Dwisantosa, as an investigator at the PPA Unit of the Banyumas Police, January 15, 2025.

<sup>21</sup>Nur Hasyim, "Questioning Recovery for Child Victims of Violence in Indonesia", *Palastren*, Volume 9 Number 2, December 2016, p. 310



optimally to victims because it must go through LPSK, while the LPSK itself is located in Semarang. This makes it difficult for victims to obtain restitution because the costs are too high and the process takes quite a long time. Coordination between the PPA Unit of the Banyumas Police and the Witness and Victim Protection Agency (LPSK) itself requires quite a long time and quite a lot of money if it has to be coordinated directly in Semarang. As a result, even though investigators have informed the victim of their rights regarding restitution, there are many cases where the victim does not want restitution considering the process takes too long.<sup>22</sup>

#### 5. Lack of public awareness of the importance of sex education for children

Children can be given sex education since they ask about the differences between male and female genitalia, therefore basic knowledge that needs to be given early on is by training children to recognize the anatomy of the male and female body, especially about genitalia, how to socialize with the opposite sex, how to prevent children from sexual harassment, and then by teaching children to prohibit others from touching, groping, or doing other things to their genitals.<sup>23</sup>

In the Banyumas Police area, there are still many people who do not understand the importance of sexual education for children. In addition, there is still a stigma and taboo in discussing sexual issues with children. This makes the prevention and handling of sexual violence against children difficult. In the case example, the child has been a victim of a criminal act of intercourse since he was in 5th grade of elementary school, and the child did not dare to tell his mother or biological father. The treatment received by the child will affect the child's psychology in the future.<sup>24</sup>

The solution to overcome these obstacles is the need for a policy to provide sex education to children. The crime of sexual intercourse with children is one form of sexual violence against children. This is an iceberg phenomenon, where many occur but only a few appear on the surface. Therefore, there needs to be public awareness, the courage of victims or families to report to the authorities. In addition, there must also be several elements that coordinate with each other to prevent sexual violence against children through socialization and education for children, parents or the community so that it can minimize the crime of sexual violence against children. In this case, the Banyumas Police can cooperate with related parties from the Ministry of Women's Empowerment and Child Protection and the Social Service to conduct socialization to schools or in the community.

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<sup>22</sup>Results of an interview with Ipda Andi Dwisantosa, as an investigator at the PPA Unit of the Banyumas Police, January 15, 2025.

<sup>23</sup>Srie Maya Pratiwi, Gilar Gandana and Qonita, "The Importance of Early Childhood Sex Education as a Prevention of Sexual Harassment", *Genta Mulia Journal*, Volume 15, Number 2, 2024, p. 274.

<sup>24</sup>Results of an interview with Ipda Andi Dwisantosa, as an investigator at the PPA Unit of the Banyumas Police, January 15, 2025.

Based on the description above, it can be seen that in order to provide legal protection for child victims of sexual intercourse at the Banyumas Police, there are several obstacles, both internal and external. These obstacles affect legal enforcement efforts in order to protect child victims of sexual intercourse at the Banyumas Police.

#### 4. Conclusion

Legal protection for child victims of sexual intercourse at the Banyumas Police Department is in accordance with the Child Protection Law and the Witness and Victim Protection Law, but there are still several obstacles both from the factors of laws and regulations, law enforcement officers, facilities, society and legal culture. Therefore, it is important for the community to play an active role in protecting children to prevent sexual violence against children.

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