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The Role of Witness and Victim Protection Agency (LPSK) in Assisting Children as Victims of Sexual Violence

Nathalie Cristine Lumban Gaol¹, Dr. R. Rahaditya, S.H., M.H.²

¹Tarumanagara University, Jakarta, Indonesia, nathalie.205210142@stu.untar.ac.id.

²Tarumanagara University, Jakarta, Indonesia, rahaditya@fh.untar.ac.id.

Corresponding Author: nathalie.205210142@stu.untar.ac.id¹

Abstract: One such human rights violation is child sexual abuse, which has a major impact on the psychological and social development of the victim. Children who are victims of sexual violence often experience severe trauma that can affect their lives in the future. The increasing number of cases of sexual violence against children in Indonesia makes it necessary for the state and society to provide protection and support to victims. The Witness and Victim Protection Agency (LPSK) is one of the important institutions responsible for protecting witnesses and victims. One of the human rights violations is sexual violence against children, which has a major impact on the psychological and social development of victims. The increasing number of cases of sexual violence against children in Indonesia makes it necessary for the state and society to provide protection and support to victims. The Witness and Victim Protection Agency (LPSK) is one of the important institutions responsible for protecting witnesses and victims. Despite this, LPSK faces many problems when carrying out its duties. These include budgetary issues, human resources, and cooperating with other related institutions. The purpose of this research is to discover the role of LPSK and how effective they are in assisting child victims of sexual violence.

Keyword: LPSK, Child Victims, Sexual Violence, Assistance, Protection.

INTRODUCTION

Human Rights (HAM) has become a complex issue amid the development of human life today. Human identity as social beings who in their lives meet or join groups causes the inherent rights of humans as individuals to be forgotten or neglected. Indonesia, as a state based on the rule of law, is obligated to implement the protection and enforcement of human rights. Based on the 1945 Constitution of the Republic of Indonesia, it is stated that “the protection, advancement, enforcement, and fulfillment of human rights is the responsibility of the State, especially the government”.

The current human rights violation phenomenon in Indonesia is sexual violence. Sexual violence occurs regardless of gender and age. Children as victims of sexual violence can be at very high risk. Their immature mental and physical state, as well as their limited ability to fully

protect themselves and process the impacts they will experience, are severely constrained. According to data from the Ministry of Women Empowerment and Child Protection throughout 2024, there were 20,715 cases of violence, with sexual violence having the highest percentage among other forms of violence at 9,515 cases, and based on age, children under 17 years showed a high percentage at 14,227 cases.

Sexual violence and sexual harassment are criminal acts regulated by Indonesian criminal law. Such crimes violate the law, and every country in the world (Pratama P., 2016, p. 3). As explained in Article 2 paragraphs (3) and (4) of the Republic of Indonesia Law Number 4 Year 1979 concerning child welfare, and Law Number 35 Year 2014 amending Law Number 23 Year 2002, child protection must begin as early as possible. Children are a trust and gift from God who inherently possess human dignity and worth. Children, the young generation who are the nation's successors, have strategic roles and unique characteristics that ensure the continuity of the nation and state in the future (Djamil, 2013, pp. 8-9).

In fulfilling the human rights that children also possess, the state certainly plays a role in it as a form of realization and implementation of the 1945 Constitution of the Republic of Indonesia. Furthermore, the state and government are responsible for protecting these children and providing them with the best environment for their growth and development (Candra, 2018, p. 2). Protection can be implemented by understanding the conditions and impacts on victims of sexual violence. This includes understanding how assistance, guidance, and recovery can be carried out. It is not easy for victims of sexual violence to be able to tell their experiences, and children tend to not understand, thus the establishment of the Witness and Victim Protection Agency (LPSK) and Law Number 31 Year 2014 concerning Witness and Victim Protection provides a ray of hope for victims. LPSK is responsible for protection, assistance, domestic and international cooperation, education and training, supervision, research and development, reporting, legal matters, socialization, and public relations related to witness and victim protection. The intended protection includes providing a sense of security and giving testimony during the judicial process, while the assistance provided includes fulfilling the rights to victim recovery. Although it cannot restore what has been taken from the victims by the perpetrators, at least by implementing assistance and recovery programs, it can fulfill the rights as victims, thus LPSK has an important role in fulfilling its responsibilities.

METHOD

The type of research conducted by the author is normative legal research, where the research focuses on positive law in the form of legislation and is carried out by examining and studying legislation and other regulations.

The data sources used by the author consist of primary legal materials through the 1945 Constitution of the Republic of Indonesia and Law Number 31 Year 2014 concerning Amendments to Law Number 13 Year 2006 concerning Witness and Victim Protection, complemented by secondary legal materials through several books, journals, and articles related to the writing topic.

The author uses a library research data collection method by reading, examining, studying, and understanding the collected data sources such as legislation, books, journals, and articles of both legal and non-legal nature related to the author's topic.

The data analysis used by the author is qualitative by connecting and comparing data sources with the author's thoughts, which are described in the form of words and sentences.

RESULTS AND DISCUSSION

The Role of LPSK in Assisting Child Victims of Sexual Violence

Sexual violence can be perpetrated by anyone, at any time, regardless of location or timing. Cases of sexual violence, such as incest (blood marriage), rape in educational

institutions and workplaces, are increasing in our society. Until now, the substance of the Criminal Code (KUHP) has not fully protected victims of sexual violence because the Criminal Code only focuses on punishing perpetrators and has not considered the best legal remedies for victims of sexual violence. Additionally, the Criminal Code does not yet cover the evolving types of sexual violence that exist today. Compared to the position of perpetrators, the position of victims in Criminal Law appears to be less than ideal (Marlina, 2015, p. 61). The position of victims as legal subjects holds equal standing before the law (equality before the law) (Arief & Gultom, 2007, p. 24). To protect the rights and welfare of sexual violence victims, comprehensive protection efforts are needed to ensure they receive physical, legal, and psychological support at every stage of recovery.

Protection means safeguarding something from dangerous elements; this can be important matters or goods. Protection also means helping those who are weaker. In this final project, the author will discuss protection provided by the state in the form of law. In this context, there will be rights and obligations between one another. According to Article 28D paragraph (1) of the Constitution of the Republic of Indonesia, "Every person shall have the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law."

The Witness and Victim Protection Agency (LPSK) is responsible for providing protection and other rights to witnesses or victims. This organization was established by the government based on Law Number 31 of 2014, which regulates witness and victim protection. The agency's duties focus on children's needs and protecting children from fear when testifying in court (Fadilla, 2016, p. 188). In accordance with Article 7A of the Witness and Victim Protection Law, (1) Victims of criminal acts are entitled to compensation in the form of:

- a) loss of wealth or income;
- b) compensation for suffering directly related to the criminal act; or
- c) compensation for medical and/or psychological treatment costs.

LPSK's duty is to assist victims and inform them that they are entitled to such compensation. According to Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection, the main function of LPSK is to provide protection to witnesses and victims of sexual violence and child-related crimes. The number of protection requests for cases of sexual violence and child-related crimes received by LPSK has nearly doubled from the previous year, according to LPSK's report book. The Witness and Victim Protection Agency (LPSK) is an independent institution responsible for providing protection to witnesses and victims in accordance with applicable laws. To fulfill its vision and mission, LPSK has duties, functions, and authorities regulated in the Witness and Victim Protection Law (UU PSK) Number 31 of 2014, which is an amendment to the 2014 Witness and Victim Protection Law that modified Law Number 13 of 2006 concerning Witness and Victim Protection.

Article 12A of Law Number 31 of 2014, as amended by Law Number 13 of 2006 concerning Witness and Victim Protection, explains the duties, functions, and authorities of the Witness and Victim Protection Agency. This article contains:

- a. Request information either orally or in writing from applicants and other parties related to the application.
- b. Examine statements, letters, and documents related to obtaining the truth about the application.
- c. Request copies of related letters and documents needed from any institution to examine the applicant's report in accordance with statutory provisions.
- d. Request case development information from law enforcement.
- e. Change protected identities in accordance with statutory provisions.
- f. Manage safe houses.

- g. Relocate protected persons to safer locations.
- h. Conduct security and escort services.
- i. Provide assistance to witnesses and victims in judicial proceedings.
- j. Conduct compensation assessments in providing restitution and compensation

LPSK Protection Measures for Child Victims

LPSK continues to work to ensure that victims receive their appropriate rights, including the right to seek compensation from perpetrators or restitution from perpetrators to victims. This law has been amended, as implemented by Government Regulation No. 43 of 2017 concerning the implementation of restitution for children who are victims of criminal acts. With this Government Regulation, the elements of restitution elaboration, including parties entitled to assistance, and the legal basis for the amount of restitution received, are explained (Ishaq, 2017, pp. 101-103).

In addition to providing protection, LPSK also offers services to protected witnesses or victims. Services offered by LPSK include:

1. **Physical Protection** Physical protection ensures witnesses and victims receive personal protection. They are entitled to security for themselves, their families, and their property. They also have the right to protection from threats related to their testimony, both pending and already given. Additionally, witnesses or victims receive new identities and safe houses, or new residences. In these safe houses, LPSK guards and monitors witnesses and victims to ensure the security of witnesses, victims, and their family members, in accordance with Law Number 31 of 2014.
2. **Fulfillment of Procedural Rights** LPSK has important duties that include protection and assistance throughout the legal process to provide procedural rights to child victims of sexual violence. These procedural rights are crucial to ensure that victims not only receive physical protection but also have fair rights during judicial proceedings. These services can be provided to fulfill witness and victim rights as stated in Article 5 Paragraph (1) of Law Number 31 of 2014.
3. **Legal Protection** LPSK plays a vital role in providing legal assistance to child victims of sexual violence. This role encompasses various stages of legal proceedings, from investigation to trial, to ensure children's rights are fully protected. LPSK assists victims during investigations to ensure they are well-served by police and protected from intimidation or pressure. During this process, LPSK can help victims feel secure when providing testimony. This is crucial in helping victims speak freely and without fear. LPSK assists child victims during prosecution. LPSK works with prosecutors to ensure victims' rights are fairly protected in filed charges. At this point, LPSK can help victims' families understand legal processes and their rights, such as rights to compensation or restitution. LPSK assists victims during trials. To protect underage victims' privacy, LPSK can request special mechanisms like closed hearings. LPSK is responsible for ensuring victims can testify without intimidation, for example by avoiding direct contact with defendants through video technology. At each stage, LPSK's responsibility is to provide legal protection to victims or their families in cases where parties involved in the case threaten or intimidate them. This protection includes preventive and legal measures that can be taken by LPSK and security apparatus. Beyond providing assistance, LPSK has the authority to file for restitution or compensation for victims. LPSK ensures that in restorative justice, victims' financial rights are fulfilled, and also helps manage other relevant rights, such as rehabilitation services and psychological recovery. LPSK performs various roles to reduce additional trauma that child victims of sexual violence might experience during legal proceedings and ensures that victims' legal rights are respected and protected.

4. Financial Support As regulated in Article 27 of Law Number 13 of 2006, costs for implementing LPSK's duties are charged to the State Budget (APBN). This enables witnesses and victims to receive financial support for this protection.
5. Medical Assistance LPSK is responsible for providing medical assistance to children who are victims of sexual violence to aid their physical and mental recovery. Initial Medical Examination: LPSK collaborates with healthcare facilities that have expertise in handling violence victims, such as hospitals or clinics that can provide specialized medical services for children. This ensures victims get access to initial medical examinations to identify physical injuries caused by violence and receive needed immediate treatment. Psychological Services: LPSK provides physical care and psychological support to help victims cope with trauma caused by sexual violence. This includes counseling therapy with psychiatrists or psychologists. LPSK conducts recovery monitoring to ensure medical assistance provided is effective and supports long-term recovery.
6. Restitution and Compensation Facilities Restitution is compensation given by perpetrators to witnesses and victims or their families. The right of witnesses and victims to claim restitution from perpetrators is not dependent on the perpetrator's ability to pay restitution. If perpetrators cannot pay restitution, public prosecutors can demand additional punishment, namely subsidiary imprisonment. Other additional punishments may be suggested, such as withholding other prisoner rights. Compensation is restitution provided by the state to victims because perpetrators are unable to return losses to victims. This award can only be given to victims of human rights violations and terrorism as regulated in Article 7 of Law Number 31 of 2014.

Throughout 2020, all protected individuals under the Witness and Victim Protection Agency (LPSK) received 4,478 protection programs including medical assistance, psychological assistance, psychosocial rehabilitation, restitution, compensation, physical protection, and fulfillment of procedural rights (Haqiqi, 2021).

Obstacles and Challenges in Implementing LPSK's Role

In cases of sexual harassment, law enforcement also faces difficulties when seeking evidence to uncover crimes. The purpose of evidence is to find and establish material truth for the judge's interest in deciding cases about specific events. Judges can make appropriate decisions to enforce the law, even though they cannot directly see the evidence. However, investigators face difficulties when searching for evidence. To prevent errors in criminal sentencing against individuals, law enforcement makes efforts to ensure the material truth of criminal cases.

With the increasing number of children protected from sexual violence through the Witness and Victim Protection Agency (LPSK), several challenges and obstacles have emerged that hinder the fulfillment of victims' rights in sexual violence crimes, one of which is restitution or compensation. The general challenges faced by LPSK in handling cases of sexual violence against women and children are:

1. Sexual violence is not only a criminal offense but also a social issue. To handle these cases, not only legal processes are required but also social interventions, particularly from local governments.
2. Due to pregnancy termination regulations in Government Regulation No. 61 of 2014 concerning Reproductive Health, most victims do not yet have access to necessary pregnancy termination. Consequently, this will have long-term impacts on those who have experienced it.
3. The number of restitution order implementations remains very low because many perpetrators claim inability to pay restitution and choose alternative punishment instead.

LPSK has been legally recognized to assist and protect witnesses and victims, but there are still several obstacles preventing them from performing this task better. Bureaucratic barriers and inter-institutional coordination hinder the provision of protection. Complex administrative procedures often interfere with cooperation between LPSK and law enforcement agencies, such as police and prosecutors. Ultimately, this causes delays in rapid protection for victims. Additionally, unclear understanding of LPSK's functions among law enforcement officers often results in lack of response or even disregard for protection requests submitted by LPSK. Meeting comprehensive protection needs for victims faces major constraints in terms of resources and budget. Limited facilities, such as temporary shelters, are often affected by budget constraints.

To meet the comprehensive protection needs of victims, the main constraints lie in resources and budget. Due to budget limitations, facilities such as temporary housing or access to necessary medical and psychological care for victims are limited. The scope of services that can be provided by LPSK is also constrained by the shortage of professional staff, especially in the fields of legal assistance and psychological counseling, particularly in areas far from city centers or government institution locations.

According to LPSK's 2020 Annual Report, regarding the sexual violence protection program facilitated by LPSK, data from LPSK's 2020 annual report shows an increase in the number of sexual violence victims receiving restitution over the past three years. Victims who suffer physically due to their ordeal have a crucial right restitution and compensation. Victim protection, particularly the victim's right to receive compensation, is an integral part of human rights in the field of welfare and social security (Indah, n.d., p. 101).

The Witness and Victim Protection Agency (LPSK) faces numerous challenges when assisting victims, particularly victims of sexual violence crimes. The social impact experienced by victims includes social exclusion from the community and loss of educational rights for sexual violence victims, especially children. Victims must maintain the spirit to continue their lives and go through the judicial process with support from their legal counsel and surrounding community. There are not many psychologists available to help victims of sexual violence. Sometimes, in cases of sexual violence occurring in certain regions, there are insufficient psychologists available. To fulfill the restitution rights of sexual violence victims, law enforcement officials also need to provide assistance (Wibowo, personal communication, April 12, 2021).

The absence of enforcement measures for sexual violence perpetrators presents a challenge for law enforcement in fulfilling restitution for sexual violence victims. Individuals who have been sentenced by the panel of judges and ordered to pay restitution to victims often refuse and choose subsidiary punishment, which is considered lighter. This results in many restitution orders being unenforceable in society since restitution payment depends on the perpetrator's goodwill. Additionally, law enforcement agencies have not provided adequate training on how to treat victims and handle restitution, especially for victims of sexual violence. This is necessary to achieve mutual agreement and awareness about how to maximize the fulfillment of restitution for victims.

Among the difficulties and obstacles faced by the Witness and Victim Protection Agency (LPSK) in helping sexual violence crime victims obtain restitution are the lack of support from society and victims' legal counsel, resulting in social effects on victims such as isolation, and the shortage of human resources (HR), particularly psychologists, to assist victims who have experienced sexual violence.

To support LPSK's service capacity, there needs to be an increase in budget allocation and recruitment of more experts to overcome these obstacles and challenges. Furthermore, inter-agency coordination must be improved through simplification of administrative procedures and strengthening mutual commitment to fulfilling victims' rights. Additionally,

society must be better educated about the rights of sexual violence victims to reduce social stigma and support the victims' comprehensive recovery process.

CONCLUSION

The role of the Witness and Victim Protection Agency (LPSK) is crucial in handling cases of sexual violence against children to ensure proper protection, justice, and recovery for victims. Sexual violence against children is a particularly dangerous type of violation that impacts physical health as well as psychological and social well-being. Therefore, LPSK is an institution with special authority to assist and protect children who become victims of sexual violence to ensure the rights that have been regulated by law. The Witness and Victim Protection Agency (LPSK) faces many problems during the execution of its duties, which affect how effective the protection and assistance to victims are, especially victims of sexual violence. Although LPSK is legally recognized to assist and protect witnesses and victims, there are still several obstacles that prevent them from performing these duties better. Continuous efforts to overcome these challenges will enable LPSK to better carry out its function as an institution that protects victims and witnesses, which will result in a safer legal environment that supports the recovery and fulfillment of the rights of sexual violence victims.

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