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## The Effectiveness of Legal Protection for Victims of Sexual Violence by the Child Protection Organization (LPA) Majalengka

Mahfud Farichi

Master of Law Student, Universitas Jenderal Soedirman

✉ [mahfudfarichi@gmail.com](mailto:mahfudfarichi@gmail.com)

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### Abstract

Article 18 of the Child Protection Law states that every child who is a victim or perpetrator of a criminal offense is entitled to legal protection. To realize the legal protection of children, the Child Protection Agency (LPA) is present to assist in providing legal protection to child victims of sexual violence, one example of the services provided is legal assistance. This article will reveal the effectiveness of legal protection and the inhibiting factors experienced by LPA. This article is a socio-legal research with primary data obtained from interviews at LPA Majalengka, an LPA located in West Java province. Majalengka is a district with a low level of reporting of sexual violence against children, which does not mean that statistically it is low but tends to be because people are confused and lack trust in the law enforcement process in cases like this. The results showed that the provision of legal assistance by the Child Protection Agency in collaboration with the Legal Counsel for children of sexual violence cannot be said to be effective, because there are still several obstacles in its implementation, starting from law enforcement officials, parents of perpetrators/victims as well as facilities and infrastructure and obstacles from the children themselves. Efforts made to overcome these obstacles require cooperation between related agencies to handle cases of victims of sexual violence against children, which can be achieved by holding regular meetings between agencies, namely, the LPA, police, prosecutors, courts, correctional centers, legal aid agencies, and non-governmental organizations that focus on children.

**Keywords:** child protection agency; legal aid; legal protection, sexual violence against children.

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### Introduction

Children are part of a family that is a mandate and a gift from God Almighty as a perfect member of a family, a child whose identity is attached to dignity and dignity as a whole human being has rights and obligations in his life. The state has the power to hold the authority to maintain and protect each of its citizens, one of which is the child, and the state is obliged to provide attention and protection for each child. One of the efforts that can be made by the state is the existence of laws and regulations that can safeguard the rights of children as citizens and other civil rights of children and protect them from various acts of sexual violence and discrimination, including children in trouble with the law.<sup>1</sup>

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<sup>1</sup> Muchsin Muchsin, "Perlindungan Anak Dalam Perspektif Hukum Positif (Tinjauan Hukum Administrasi Negara, Hukum Perdata, dan Hukum Pidana)" (2011) XXVI:308 *Varia Peradilan*.

The economic and social problems that hit Indonesia have an impact on increasing the scale and complexity faced by Indonesian children, characterized by an increasing number of children who experience mistreatment, exploitation, acts of violence, trafficked children, and neglect, in addition to children living in conflict-prone, disaster-prone areas, and children in conflict with the law and others. The real impact associated with the deterioration of economic conditions and monetary crisis is the increase in the number of children in community-owned children's Social Care Centers (PSAA), which is further exacerbated by the decline in community income, which is one of the sources of funds.<sup>2</sup>

Legal protection of children includes violence against children and Indonesian children who experience sexual violence, and the presence or absence of elements of physical violence is still often used as a criterion for categorizing acts of sexual abuse against children as a form of crime. In the case of parents committing sexual abuse against their own children, the boundaries still tend to be narrowed because they are limited to forms of sexual contact by denying forms of non-sexual contact abuse, such as exhibitionism and pornography. The presence or absence of coercion is insignificant in cases of sexual crimes against children because of the gap in understanding sex between adults and children.<sup>3</sup>

Sexual violence against children is one of the extraordinary crimes that occur in Indonesia, and children are easy targets for perpetrators to become victims of sexual violence committed by adults and peers. There are various possibilities for children to become victims of sexual violence that are very likely to occur at unexpected times, places, and perpetrators. However, perpetrators of sexual violence against children are generally known to children in the family environment or around where the victim is in a very easy state to be tricked or deceived because the victim is still innocent underage.<sup>4</sup>

According to data from the Majalengka Regency Office of Women's Empowerment, Child Protection and Family Planning (DP3AKB) in 2019 from January to December there were 17 cases, this number consisted of 15 cases of sexual violence against children and 2 cases of physical violence<sup>5</sup>, while according to the Majalengka Police Criminal Investigation Unit released data on cases of sexual violence against children in Majalengka in 2020 which reached 21 reported cases, at the DP3AKB Office 18 cases of sexual violence against children. In 2021, at the Majalengka Regency Office of Women's Empowerment, Child Protection and Family Planning (DP3AKB), from the beginning of the year to August, there were 16 cases, which does not deny that many cases of violence experienced by women and children are not recorded. This is because these cases are still considered

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<sup>2</sup> Nurgiantoro Burhan Budi, *Anak Yang Membutuhkan Perlindungan Khusus Jakarta* (Rajawali, 2002) at 5.

<sup>3</sup> Noor Azizah, "Penegakan Hukum Terhadap Pelaku Kejahatan Seksual Terhadap Anak Di Indonesia (Tinjauan Yuridis Terhadap Sistem Pidana Di Indonesia)" (2013) *Journal of Chemical Information and Modeling*.

<sup>4</sup> Mia Amalia, "Kejahatan Kekerasan Seksual (Perkosaan) Terhadap Anak Dampak dan Penanganannya di Wilayah Hukum Kabupaten Cianjur" (2019) *Jurnal Hukum Mimbar Justitia* at 651.

<sup>5</sup> Ariska Ariska, "Ada 17 kasus kekerasan anak perempuan, Bupati Majalengka ajukan raperda", (2020).

taboo, so the victims are reluctant to report. Majalengka is about 20-25 (percent) of cases (experienced by) women and children, including prostitution. According to the size (of Majalengka's population) 1,000,200 people were small. However, below does not mean there is no.<sup>6</sup>

If this problem continues to be ignored, the number of cases of sexual violence against children will continue to increase. It has a negative impact on children, and it cannot be denied that some victims of sexual violence experience psychological problems due to the impact that occurs if a child experiences sexual violence that is underage, immature, and does not understand. The impact that occurs on children certainly refers to their psychology; namely, the impact of physical sexual violence can be in the form of injuries to the intimate parts of the child, including mental trauma, fear, shame, anxiety, and even the desire to commit suicide attempts and stress that will greatly interfere with the function and development of children, and changes in attitudes in children who tend to close themselves. In addition, the social impact that children experience is cynical treatment from the community around them and fear of interacting.<sup>7</sup>

One private institution that plays a role in child protection is the Indonesian Child Protection Agency (LPAI), which has spread across various regions of Indonesia and focuses on protecting children's rights, one of which is in the Majalengka Regency. The Child Protection Agency (LPA) is the name of a partner in the region that collaborates with the LPAI, and the presence of the LPA in fulfilling its duties, namely focusing on children's rights, is very helpful for the people of Majalengka.

There has been quite a lot of research related to LPA. First, Harefa and Sitompul (2021) stated that LPA experienced performance constraints due to its uneven presence in all regions in Indonesia and the lack of understanding and public participation in child protection issues.<sup>8</sup> Second, Putri (2022) that there are no laws and regulations that can protect child victims who are undergoing a rehabilitation period in institutions as well as implementing regulations related to the staffing of child protection agencies throughout Indonesia.<sup>9</sup> The novelty of this article is that it examines legal protection which is limited to legal aid services organized by LPA for victims of sexual violence.

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<sup>6</sup> Inin Nastain, "Banyak Kasus Kekerasan Terhadap Perempuan dan Anak di Majalengka Tak Tercatat", (2021).

<sup>7</sup> Amalia, *supra* note 4.

<sup>8</sup> Beniharmoni Harefa & Lien Eprencia Bunga Sitompul, "Peran Lembaga Perlindungan Anak Mengadvokasi Anak Pelaku Tindak Pidana" (2021) Jurnal Hukum Pidana dan Kriminologi.

<sup>9</sup> Fauziah Ardina Putri, "Perlindungan Hukum Terhadap Anak yang Menjalani Rehabilitasi Sosial pada Lembaga Perlindungan Anak" (2022) Jurist-Diction.

## Research Problems

The following problems can be formulated based on the background description.

1. How is the legal protection of LPA Majalengka provided to child victims of sexual violence in the Majalengka Regency?
2. What are the inhibiting factors of the LPA Majalengka in providing legal protection to child victims of sexual violence in the Majalengka Regency?

## Research Methods

This article uses a juridical-sociological approach (social legal approach) or a type of sociological legal research, and can also be called field research, which examines the applicable legal provisions and what happens in reality in society.<sup>10</sup> In other words, research has been conducted on the actual situation or the real situation that occurs in society with the intention of knowing and finding the facts and data needed after the required data are collected, leading to problem identification, which ultimately leads to problem solving.<sup>11</sup> This study is included in empirical legal research because it aims to determine the effectiveness of the implementation of legal protection carried out by the Majalengka Regency Child Protection Agency. In addition, the factors that hinder the legal protection of the Child Protection Agency in the Majalengka Regency are discussed. The nature of this study is descriptive. Descriptive is a method used to describe an ongoing condition or situation to provide data about the object of research.<sup>12</sup> This method seeks to find and analytically describe facts relating to the problems derived from what is stated by informants, both in writing and orally.<sup>13</sup>

## Discussion

1. **Effectiveness of Legal Protection of the Majalengka Regency Child Protection Agency (LPA) in providing Legal Protection to Child Victims of Sexual Violence in Majalengka Regency**

Legal protection is provided to the community to enjoy all rights granted by law.<sup>14</sup> Legal efforts must be made to carry out legal protection by law enforcement officials in providing a sense of security, both in mind and physically, from

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<sup>10</sup> Bambang Waluyo, *Penelitian Hukum dalam Praktek* (Jakarta: Sinar Grafika, 2002) at 15.

<sup>11</sup> Waluyo, *supra* note 10.

<sup>12</sup> Ali Zainuddin, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2016).

<sup>13</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Yogyakarta: UII Press, 1996).

<sup>14</sup> Satjipto Raharjo, *Ilmu Hukum* (Bandung: PT Citra Aditya Bakti, 2000) at 54.

disturbances and various threats from any party.<sup>15</sup> Legal protection is a concept universally used by the rule of law. Legal protection can be divided into two types:<sup>16</sup>

- a. Preventive legal protection; and
- b. Restorative justice legal protection.

Preventive protection means protection by means of prevention, a legal state makes laws and regulations to prevent an offense and provides limits in carrying out obligations, in this case preventive legal protection is provided by the government which aims to prevent disputes, which directs careful government action in making decisions based on discretion.

Legal protection as explained leads to keeping a person from being treated as prohibited in laws and regulations from other people and providing sanctions for violators of laws and regulations. This explanation is inadequate regarding protection for victims of crime, while the victim is one that really needs serious attention in obtaining legal protection, according to Angkasa, legal protection in the perspective of victimology means every right given to victims based on statutory regulations.

The rights given to victims are regulated by international and national law, as well as regulations listed in the United Nations Declaration No. 40/A/Res/34 of 1985 which stipulates the rights of victims in obtaining access to justice, especially in the judicial process, including:<sup>17</sup>

- a. *Compassion, respect and recognition;*
- b. *Receive information and explanation about the progress of the case;*
- c. *Provide information;*
- d. *Providing proper assistance;*
- e. *Protection of privacy and physical safety;*
- f. *Restitution and compensation;*
- g. *To access to the mechanism of justice system.*

The United Nations has regulated the rights of victims in obtaining justice; Indonesia, as a member of the United Nations, has also inspired the need for the protection of victims' rights to obtain justice. Based on the Constitution of the Republic of Indonesia, the state is responsible for the protection of human rights, as outlined in Article 28I paragraph (4) of the 1945 Constitution which reads "The protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government."<sup>18</sup>

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<sup>15</sup> CST Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia* (Jakarta: Balai Pustaka, 1989) at 102.

<sup>16</sup> Wahyu Simon Tampubolon, "Upaya Perlindungan Hukum Bagi Konsumen Ditinjau Dari Undang-Undang Perlindungan Konsumen" (2016) 04:01 Jurnal Ilmiah Advokasi at 53-54.

<sup>17</sup> Gultom Maidin, *Perlindungan Hukum Terhadap Anak dan Perempuan* (Bandung: PT Refika Aditama, 2013) at 54.

<sup>18</sup> Saristha Natalia Tuage, "Perlindungan Hukum Terhadap Saksi dan Korban oleh Lembaga Perlindungan Saksi dan Korban (LPSK)" (2013) Lex Crimen at 56.

The Indonesian Constitution recognizes the importance of legal protection for the community, which is certainly the case for victims of a crime. According to Muladi, victims are people who either individually or collectively suffer losses, including physical, mental, emotional, and economic losses, or substantial interference with their fundamental rights, through acts or commissions that violate criminal law in each country, including abuse of power.<sup>19</sup> Based on the losses received by victims, protection is needed; therefore, Indonesia made arrangements to protect victims with the passing of Law No. 31 of 2014 concerning Witness and Victim Protection, explaining that victims are people who experience physical, mental, and/or economic losses caused by a criminal act.

One crime that currently needs to be prioritized for legal protection is sexual violence, especially against children. Given that children are the next generation of the nation, replacing the older generation, replacing the leaders who will continue the life of a country. This is very basic and very important for legal guidance and protection to ensure balanced physical, mental, and social growth and development.<sup>20</sup>

A child needs legal protection, and the problem of legal protection for children is one way to protect the nation's buds. This legal protection is necessary because children are part of a society with physical and mental limitations. Children need special protection and care, and all efforts made consciously by everyone or public and private institutions aimed at safeguarding, controlling, and fulfilling the physical, mental, and social welfare of children and adolescents in accordance with their interests and original rights.<sup>21</sup> All efforts made consciously by every person or public and private institution are aimed at safeguarding, controlling, and fulfilling the physical, mental, and social welfare of children and adolescents in accordance with their interests and rights. All joint efforts made consciously by individuals, families, communities, government and private bodies to secure, procure and fulfill the spiritual and physical welfare of children. Therefore, H. Rozali Abdullah argues that to get legal protection from all forms of physical or mental violence, neglect, mistreatment, and sexual abuse while in the care of parents or guardians, or any other party responsible for the care of the child.<sup>22</sup>

The main thing that needs to be protected is child sexual abuse, according to End Child Prostitution in Asia Tourism (ECPAT) International, child sexual abuse is a relationship between a child and an older person or adult such as a stranger, sibling or parent where the child is used as an object to satisfy the sexual needs of the perpetrator. These acts are carried out using coercion, threats, bribery, deception, and pressure. These activities of sexual violence against children do not

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<sup>19</sup> Maidin, *supra* note 17.

<sup>20</sup> Marlina Marlina, *Peradilan Pidana Anak di Indonesia Pengembangan Konsep Diversi dan Restorative Justice* (Bandung: PT. Refika Aditama, 2009) at 15.

<sup>21</sup> Marlina, *supra* note 20.

<sup>22</sup> H Rozali Abdullah, *Perkembangan HAM dan Keberadaan Peradilan HAM di Indonesia* (Ghalia Indonesia, 2004) at 20.

necessarily involve bodily contact between the perpetrator and the victim. Forms of sexual violence against children include Rape, Incest and Exploitation.<sup>23</sup> Sexual violence against children tends to have several impacts:

- a. The impact on the psychology of victims of sexual violence and harassment will lead to deep trauma, and the stress experienced by victims can disrupt brain function and development. Thus, emotionally, children who experience sexual violence will experience guilt and self-blame, imagined events where children experience sexual violence, nightmares, insomnia, and fear of many things for victims of sexual violence become more afraid and embarrassed to establish relationships with others due to self-esteem problems.
- b. The physical impact of Child victims will experience decreased appetite, difficulty sleeping, headaches, discomfort around the vagina or genitals, risk of contracting sexually transmitted diseases, injuries to the body due to violent rape, and can cause unwanted pregnancies and others.
- c. Social impact, where the victim is isolated or ostracized and rejected by the family and community, due to social stigma as well as long-term impacts such as lost opportunities for education, training, skills, and employment, and fewer opportunities for marriage, social acceptance, and integration.<sup>24</sup>

The Indonesian Child Protection Institute has duty and authority as an observer and complaint institution when there are problems with children, providing legal aid services, psychosocial assistance, conducting studies on policies and legislation, as well as promoting education and counseling regarding the fulfillment of children's rights, and advancing and fighting for children's rights in order to accommodate every region in Indonesia LPAI. It is hoped that the Child Protection Institute functions as the purpose of cooperation between the Government, the Police and the Child Protection Institute to defend and protect children from the crime of sexual violence, which is the mandate of the legislation.<sup>25</sup> In this case, the functioning of the law put forward by Anthoni Allot explains that it will be effective if the purpose of its existence and application can prevent unwanted actions, with a comparison between the reality of the law and the ideal of the law, specifically the level between the law in action and the law in theory. In other words, this activity shows the relationship between the law in the book and the law in action.<sup>26</sup>

Law in Action can certainly run effectively if supported by three pillars: authoritative and reliable institutions or law enforcers, clear and systematic legal

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<sup>23</sup> Ivo Noviana, "Kekerasan Seksual Terhadap Anak: Dampak dan Penangannya (Child Sexual Abuse: Impact and Handling)" (2015) 01:01 Sosio informa at 15.

<sup>24</sup> Esmu Diah Purbararas, "Problema Tramatik : Kekerasan Seksual Pada Remaja" 2:1 Jurnal IJTIMAIYA at 66.

<sup>25</sup> Soekanto, *supra* note 13.

<sup>26</sup> Taneko Soleman B, *Pokok-Pokok Studi Hukum dalam Masyarakat* (Jakarta: Rajawali Press, 1993) at 48.

regulations, and high public legal awareness.<sup>27</sup> Therefore, according to Donald Black, by comparing the reality of law in theory with the reality of law in practice, a gap is found between the two by examining the comparison between legal reality and legal ideals. This is in accordance with what was planned, and there are no imbalances in its implementation.<sup>28</sup> On the contrary, there is a level between law in action and law in book theory.<sup>29</sup> Therefore, the enactment of law is closely related to criminal acts of sexual violence against children. It is necessary to know whether legal protection is effective through cooperation between the government, the Majalengka district police, and the Majalengka Regency Child Protection Agency in implementing laws and regulations relating to the legal protection of child victims of sexual violence in the Majalengka Regency.<sup>30</sup>

The LPA Majalengka provides legal protection for children in the following ways:

**a. Legal protection of child victims of sexual violence in a preventive manner**

The formation of Regional Regulations as a public policy that can realize the results to be obtained; in this case, the Majalengka Regency local government provides legal protection for women and children, because in the Majalengka Regency area, there are still many cases of crimes against women and children, one of which is sexual violence against children. The Child Protection Agency oversees the process of forming Regional Regulation No. 2 of 2021 concerning the Implementation of Protection of Women and Children, so that it is in accordance with the objectives of the establishment of Regional Regulation No. 2 of 2021 concerning the Implementation of Protection of Women and Children, namely, providing protection for women and children. After the Draft Regional Regulation on the Implementation of Women and Children Protection (RAPERDA), it is stipulated as Regional Regulation of Majalengka Regency Number 02 of 2021 concerning the Implementation of Women and Children Protection. The Majalengka Regency Child Protection Agency conducts the socialization of Child

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<sup>27</sup> Raida L Tobing, *Efektivitas Undang-Undang Money Laundering* (Jakarta: Badan Pembinaan Hukum Nasional, Kementerian Hukum dan HAM RI, 2011).

<sup>28</sup> Saifulloh Saifulloh, *Refleksi Sosiologi Hukum* (Bandung: Refika Aditama, 2010) at 58.

<sup>29</sup> Soleman B Taneko, *Pokok-Pokok Studi Hukum dalam Masyarakat* (Jakarta: Raja Grafindo Persada, 2001).

<sup>30</sup> Muhammad Arif Setiawan, "Studi Hukum Dalam Perspektif Ilmu Sosial - Analisis Mengenai Gerakan Sosiologi dalam Hukum dan Relevansinya dengan Studi Hukum di Indonesia" (1995) *Jurnal Hukum IUS QUIA IUSTUM*.



Protection against criminal acts of sexual violence, with the theme of Sexual Violence Against Children, which is carried out once a year.

**b. Legal protection for child victims of sexual violence through restorative justice**

Burt Galaway dan Joe Hudson yang menerangkan bahwa restorative memiliki unsur-unsur yang mendasar, yakni: pertama, tindak pidana dipandang sebagai suatu konflik/pertentangan antara individu-individu yang mengakibatkan kerugian kepada para korban, masyarakat, dan para pelaku tindak pidana itu sendiri; kedua, tujuan dari proses criminal justice haruslah menciptakan perdamaian di dalam masyarakat dengan memperbaiki kerugian yang diakibatkan oleh konflik itu; ketiga, proses tersebut harus menunjang partisipasi aktif oleh para korban, pelaku dan masyarakat untuk menentukan pemecahan terhadap konflik yang bersangkutan.<sup>31</sup>

As for restorative justice protection, the LPA Majalengka always accompanies victims from receiving reports and assessments to the end of the Social Reintegration process. Legal assistance in many cases has been successful until the trial is completed and provides successful rehabilitation, where one of the victims was still ashamed and traumatized, feeling that he was not confident, especially shyness with friends and neighbors around the house. However, after assistance from the LPA in the form of recovery from the psychological side of the child through a psychologist from LPA Majalengka's partner, there was a change in the child victim, becoming willing to communicate again intensely coming to the victim's house. However, there are also cases that are resolved without going through the judicial process because the victim's family prefers to receive compensation from the perpetrator, while the victim's family feels that they need money more due to economic needs than legal certainty and justice, according to the law.

**2. Inhibiting Factors of the Majalengka Regency Child Protection Agency (LPA) in providing Legal Protection to Child Victims of Sexual Violence in Majalengka Regency**

The Majalengka Regency Child Protection Agency, as a preventive protection effort to see these various influencing factors, conducts socialization on the

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<sup>31</sup> Joe Hudson Burt Galaway, *Criminal Justice, Restitution and Reconciliation (Criminal Justice) Penggantian Kerugian dan Perdamaian* (New York: Criminal Justice Press, 1990) at 2.

protection of children from criminal acts of sexual violence, which is carried out annually with an intensity of once a year starting from 2017 to the current year 2023. However, the implementation of the socialization of sexual violence against children in Majalengka District still experiences the following obstacles:

- a. Lack of Human Resources (HR) so that it can only be carried out once a year sexual violence socialization activities
- b. Lack of support from the Majalengka district government in carrying out the Implementation of Protection of Women and Children as the obligations and responsibilities of the Regional Government based on Article 14 of Regional Regulation Number 02 of 2021 concerning the Implementation of Protection of Women and Children "providing support for facilities and infrastructure for the implementation of protection of women and children's empowerment" and fostering and supervising the implementation of protection of women and children's empowerment."

The implementation of socialization is sought to provide public awareness of the importance of protecting children from criminal acts of sexual violence, but the results are not always as expected due to the lack of human resources of LPA Majalengka and the Majalengka Regency Government as it made Regional Regulation Number 02 of 2021 concerning the Implementation of Women's and Children's Protection and various kinds regarding Child Protection, However, what LPAI Majalengka feels is that children in Majalengka are not fully protected by the PERDA and the Majalengka community is not fully aware of the PERDA and even seems that the ratification of the PERDA was forced in order to fulfill policies from the Center regarding the existence of a Child Friendly District Program (KLA). However, the implementation of the socialization of sexual violence against children in Majalengka district still experiences the following obstacles:

- a. Due to the lack of public awareness of the importance of understanding the prevention of sexual violence against children, many people only consider the past wind after participating in socialization; there are also areas that have never been given socialization so that their understanding is still lacking in prevention efforts.
- b. Parents' lack of understanding of the development of technology and information. Many parents fulfill their children's needs by facilitating them with mobile phones, but parents do not understand the use of the Internet and social media; thus, supervision of children is not optimal.

In the effort of restorative justice LPA Majalengka Regency in providing legal protection to child victims of sexual violence, so far, it has been carried out if there is a report from the police, and there are no victims who ask for direct assistance to LPA personally by the victim or the victim's family. Reports of victims of sexual violence against children in accordance with Law No. 11 of 2012 concerning the

Child Criminal Justice System, the first action in the process of juvenile criminal proceedings with an investigation based on a report made by the reporter to the police, and then asked the Child Protection Agency to assist child victims of sexual violence.

At the investigation stage, the Child Protection Agency also conducted an investigation through a personal approach to the victim and the victim's family to obtain information related to the chronology of the crime of sexual violence that can occur, knowing the extent of sexual violence, so that it can provide maximum assistance both in terms of law and victim recovery. Juvenile criminal cases can be settled in two ways: through litigation and non-litigation channels. Settlement through litigation means that it is resolved through the criminal justice process, whereas case settlement by non-litigation means case settlement outside the criminal justice process.

After receiving a report from the police to assist child victims of sexual violence, the Child Protection Agency conducts an investigation or digs up information in a family manner for the victim to determine in detail the case and the impact received by the victim. It is necessary to provide maximum assistance both legally and in the direction of appropriate handling of the impact received by victims due to acts of sexual violence. Investigating or digging up information on victims is difficult because not all children can provide clear and detailed information, especially regarding the psychological condition of children who experience intensive and severe psychological trauma that is difficult to recover. Therefore, more effort is needed to provide a sense of security and comfort to children who are victims of sexual violence so that when asked for information by the police, they can provide clear chronological details.

At the stage of examining victim witnesses, the Majalengka Child Protection Agency also provides counseling in the case and accompanies the examination of victim witnesses, which is the Majalengka Child Protection Agency to maintain the rights of victims to be fulfilled, directing settlement through litigation.

However, in practice, it is not always resolved through litigation, and several cases are resolved through non-litigation channels. The settlement was carried out with the knowledge of the LPA who accompanied the victim to a meeting with the perpetrator who sought to discuss the victim's family and find a way to compensate the victim for sexual violence, which then the victim's family received compensation due to the family's poor economy. The Majalengka Child Protection Agency still emphasizes the best interests of the child by examining the impact that has been received by the victim. However, the Child Protection Agency can only assist and the decision lies with the victim.

As for the implementation that was resolved through litigation, it was carried out several times in collaboration with NGOs, with the aim of making the perpetrator a snare and providing more protection to the victim. However, this is

not conducive because NGOs do not keep the identity of the victim confidential, violating the provisions of the law.

The implementation of the assistance program for child victims of sexual violence at the Majalengka Child Protection Agency (LPA), as explained above, both efforts in restorative justice, of course, do not always go with what is always expected due to several obstacles:

**a. Culture of Peace**

In order to avoid cases entering the police/court level in cases of sexual violence between victims and witnesses in conducting meetings are always under pressure from the perpetrator, as if the case should not enter the legal path and there are even some victims we handle in the lure of material; however, as long as LPA assisted and LPA strengthened some of the victims we handled always until the incrah in court. However, in reality, there are still families of victims who receive a sum of money from the perpetrator's family in cases of sexual violence, which is not allowed, but in practice this sometimes happens. The family receives the money for economic factors without paying attention to the suffering of the victim; as a result, the victim suffers and the victim's family takes the victim to be entrusted by a distant relative to continue their education or work.

**b. Safe house**

There is no Safe House (Shelter), but the Safe House functions as a temporary shelter for women and children victims of physical, sexual, and other crimes. This safe house itself is a temporary residence that is confidential according to standards based on applicable regulations. Safe houses are intended for women and children victims of violence to provide a sense of security and comfort in mental recovery for women and children victims of violence.

**c. Human Resource**

The lack of human resources (HR) causes the companion to not focus on children's problems, because there are many children being handled while there are few human resources (HR) so that the companion cannot focus on one child's problem. Especially in Majalengka District, there is a lack of psychologists and psychiatrists dealing with children's mentality.

When referring to effective theory, legal protection depends on the legal system, which refers to 3 (three) components: legal structure, Legal Substance, and legal culture:<sup>32</sup>

**a. Legal Substance**

Friedman explains that "Another aspect of the legal system is substance. By this is the actual rules, norms, and behavioral patterns of people inuding the system the stress here is on Irving law, nor just riles in low books ". The explanation given by Friedman is that there are factors that affect the effectiveness of law, namely the substance of law as the output of the legal system, in the form of laws and regulations, and decisions that are used by those who regulate and those who are regulate.<sup>33</sup> When associated with the criminal behavior of sexual violence against children. The Majalengka Regency Government refers to laws and regulations related to criminal acts of sexual violence and refers to many cases of criminal acts of sexual violence against children. The Regional Government has regulated the implementation of legal protection for women and children, as regulated in Regional Regulation Number 02 of 2021 concerning the Implementation of Protection of Women and Children. With the presence of the Regional Regulation on the Implementation of the Protection of Women and Children, the Child Protection Agency can carry out its role as a non-governmental institution that is invited to collaborate in organizing legal protection for children.

**b. Legal Structure**

Friedman explains that "To begin with, the legal system has the structure of a legal system consisting of elements of this kind the number and size of courts, their jurisdiction Structure also means how the legislature is organized what procedures the police department follows, and so on Structure, in a way, is a kind of cross section of the legal system a kind of still photograph, with freezes the action." In this relationship, it is desirable to have a reliable apparatus so that it can perform its job well.<sup>34</sup> If this law enforcement apparatus is connected to the implementation of legal protection for acts of sexual violence against children, as stipulated in Regional Regulation No. 2 of 2021 concerning the Implementation of Protection of Women and Children, every time there is a case of sexual violence against children, the Majalengka Regency Police, together with the Majalengka Child Protection Agency, provides legal protection for victims. In this case, every case reported by the police always coordinates with the Child Protection Agency to always accompany the victim until the victim receives

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<sup>32</sup> Sudjana Sudjana, "Penerapan Sistem Huku Menurut Lawrence M.friedman Terhadap Efektifitas Perlindungan Desain Tata Letak Sirkuit Terpadu berdasarkan Undang-Undang Nomor 32 Tahun 2000" (2019) 02:01 Al Amwal at 157.

<sup>33</sup> Lawrence M Friedman, "Is There a Modern Legal Culture?" (1994) 07:02 Ratio Juris at 9.

<sup>34</sup> Lawrence M. Friedman, *supra* note 33.

each or her rights. Restorative justice can carry out legal protection well, but in preventive efforts, it has not been able to prevent acts of sexual violence against children effectively because the implementation is not intensified by the Majalengka Regency Regional Government. In this case, the implementation of the protection of women and children can be carried out more effectively if there is consistency or seriousness of the Majalengka Regency Regional Government apparatus towards the implementation of Regional Regulation Number 02 of 2021 concerning the Implementation of Protection of Women and Children.

### **c. Legal Culture**

Friedman explains that "The third component of the legal system, of legal culture. By this, we mean people's attitudes towards law and legal systems their belief in other words, is the climate of social thought and social force that determines how law is used, avoided, or abused ". Legal culture consists of the values and attitudes that influence the law's operation. This legal culture serves as a bridge connecting the rule of law with the legal behavior of all citizens. The culture, mindset, and attitude of the community towards the rule of law greatly influence how the law is effective.<sup>35</sup>

Cultural changes in the current generation are supported by technology, and people become acquainted with strangers through social media until they finally get to know each other physically without suspicion from both the victim and the victim's family because they have an open mind to be able to have friends, which can be seen in the absence of problems. However, with too open-minded thinking, the victim and the victim's family are not careful about new people known from social media, so sexual violence against children eventually occurs.

Based on the description above, it can be stated that the factors that hinder the implementation of legal protection for child victims of sexual violence are the lack of initiative of the Majalengka Regency Government in implementing Regional Regulation No. 2 of 2021 concerning the Implementation of Protection of Women and Children and the lack of public caution in protecting children from new people. Roscoe Pound explained that law as a tool of social engineering and social control that aims to create harmony in order to optimally meet human needs and interests in society.<sup>36</sup> There needs to be very close cooperation between the local government, law enforcers, and child protection institutions in implementing local regulation No. 2 of 2021 concerning the Implementation of Women and Children Protection so as to achieve the initial objectives of efforts to implement the protection of women and children in the Majalengka Regency area.

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<sup>35</sup> *Ibid.*

<sup>36</sup> Atip Latipulhayat, "Khazanah: Roscoe Pound" (2014) PADJADJARAN Jurnal Ilmu Hukum (Journal of Law) at 414.

## Conclusion

Legal protection carried out by LPA Majalengka for child victims of sexual violence has not been effective. Legal protection is performed in two ways. First, the prevention of sexual violence, carried out through participation in the formation of draft regional regulations, and when it has been passed, LPA Majalengka participates through socialization to the community. Second, restorative justice and legal assistance should be carried out to restore the victim's condition through rehabilitation and fulfillment of a sense of justice through punishment, but sometimes it is problematic when the victim is willing to accept compensation, which then makes them want to terminate the case.

The inhibiting factors in providing legal protection experienced by the LPA Majalengka are the culture of peace in the community, limited facilities such as safe houses, and limited human resources. Based on legal system theory, the limitations of LPA Majalengka are not related to substance and structure because there is a Majalengka Regional Regulation on the Implementation of Women and Children Protection and recognition from the Police to involve LPA Majalengka in investigations. The most important problem comes from the aspect of legal culture; people are not familiar with institutions such as LPA Majalengka, so efforts to get involved in legal protection are rejected.

## Suggestion

The Majalengka community's understanding of protection for child victims of sexual violence must be carried out continuously. The community needs to be educated to understand that criminal acts with child victims, especially sexual violence, are criminal acts that are severely punished under the Child Protection Law. Criminal offenses should also not be reconciled, and the restorative justice model in this kind of case does not aim to open space for diversion for adult perpetrators but rather facilitates rehabilitation for victims.

The Majalengka District Government and its people need to be more supportive and participate in the legal protection of children who are victims of sexual violence. This legal protection does not have to be carried out by relying on non-profit organizations, such as LPA Majalengka, which are not yet very popular in the community. This support is carried out with various social community activities that can reduce the opportunity for sexual violence for children, which does not always have to depend on schools, but can also be done by community organizations in the immediate environment.

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