

The Urgency of Formulating New Government Regulation on the Mental Rehabilitation of Child Victims of Sexual Crimes After the Adaption to the New-Normal

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ABSTRACT

COVID-19 came with a lot of changes to the order of human life; what was once common became prohibited. These changes brought many impacts, one of which towards children as the most vulnerable of the population in many aspects, including the rise of violence and abuse towards children during the pandemic. This increase is not accompanied by prioritizing the mental rehabilitation of child victims. Government Regulation Number 40 of 2011 concerning the Guidance, Assistance, and Recovery of Child Victims or Perpetrators of Pornography considerably no longer provides the strongest solution for child victims of sexual violence and abuse to obtain mental rehabilitation. This research aims to analyze the existing regulations and current practice of handling child victims of sexual crimes as well as to analyze and suggest possible alternative approaches specifically in the mental rehabilitation of child victims correlating to the COVID-19 new normal order. This research will analyze the extent of implementation of the current legislation as well as focusing on the necessity for stronger regulation for mental rehabilitation. The research uses a normative juridical method; the legal materials used consist of primary legal materials in the form of laws and derivative regulations, secondary legal materials in the form of books and journals, and tertiary legal materials. The data used in this research is secondary data. The result shows that current regulations and practice of mental rehabilitation for child victims of sexual violence and abuse, especially exacerbated by the drastic changes that came with COVID-19, are not having the desired effect and that stronger regulations and law enforcement are urgently necessary with the focus on mental rehabilitation especially for children in the context of a new adaptation era.

Keywords: *child victims, sexual crimes, legislation, mental rehabilitation, COVID-19.*

1. INTRODUCTION

Since the World Health Organization (WHO) declared COVID-19 as a pandemic on Mar. 11, 2020, many societal systems changed and demanded to be urgently so. Face to face, physical meetings, once normality, became if not prohibited, a luxury. This physical-social distancing and quarantining are essential in the efforts to suppress COVID-19. However, for some, staying at home might not exactly be the safest place. This global lockdown exposed those more vulnerable, women and children, to whole another malady. United Nations Secretary-General António Guterres addressed a horrifying global surge in domestic violence amid the pandemic[1]. Nationally, President Joko Widodo noted

that the pandemic affected 70 million, or about 90 percent, of the country's children[2]. Due to distance learning, primary caregivers must now also manage children's schooling as well as their own work and responsibilities. Staying at home measures exacerbate the risk factors for abuse, neglect, and violence – be it physical, psychological, or sexual – associated with children.

The Indonesian Child Protection Commission recorded 6.519 cases of violence against children in 2020, with 1.622 cases involved physical violence, and 651 cases were accounted for sexual abuse[3]. For the first time in five years, the numbers of familial rape in Indonesia declined from an average of 1.000 cases

annually to 215 cases during the 2020 Covid-19 pandemic[4].

Children have equal fundamental rights as an adult would. They are not the property of their parents nor the state's, nor they are helpless charities. Children are human beings and the subject of their own right. Children's rights are human rights, after all. In accordance with international law, the state is inherently obligated to protect children against violence. These views are embodied in Article 19 of the Convention on the Rights of the Child (CRC) - The Government of Indonesia (GoI) ratified the Convention through the Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child (*Konvensi tentang Hak-Hak Anak*) – which stipulates that,

“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

With sexual violence, there are many repercussions to the victims. Firstly, the physical impact of sexual violence. Sexual abuse and violence, especially toward children, is one of the leading causes for the spread of sexually transmitted diseases (STDs), in addition to potential internal scarring and bleeding. In more serious cases, sexual violence may lead to damage to internal organs and even death. Secondly, the psychological impact. Victims could feel immense trauma as well as stress that can affect the development and functions of the brain. Lastly, the social impact. Victims of sexual abuse and violence are more likely than not to be alienated or shamed by their societies, further damaging their already-broken self-esteem when they would most need motivation and support.

There are numerous previous legal researches on the protection of child victims of sexual crimes and/or abuses published as journal articles, thesis, dissertations, or as such. Preliminary comparison of these publications, the authors found that much of this body of research focuses on the protection of child rights, witness protection, legal protection from different legal perspectives (i.e., restorative justice, progressive law, etc.). The novelty of this research is the focus towards mental health rehabilitation of children from a legal standpoint, going through the existing regulations and current practices as well as social study perspective on how sexual abuse and/or exploitation affect children mentally and how this understanding will help formulate practical suggestions on how to approach and handle specifically the mental rehabilitation of child victims of sexual crimes.

The serious, multiple consequences of sexual violence for the mental health of any victim affect many

aspects of their life. At the psychological level, it may lead to changes in the perception of the victim towards themselves, in their relations with their immediate social relationships and beyond, their community, and in the way they see their past and future. At the community level, sexual violence stigmatizes the victim, deprives them of social status or values as a person, and thus changes relationships within the community[5]. Mental repercussions from sexual violence have lasting negative impacts on the victim's perception of themselves, of others, and of events. In this equation, children are likely yet to have the physical and psychological capabilities to deal and manage with the mental ramifications that came from sexual violence.

Unfortunately, sexual assault victims are sometimes reluctant to cooperate with law enforcement because they fear the perpetrator will return to retaliate or that victims (or, in this case, their parents, families, or legal guardians) may feel ashamed to report that sexual abuse or violence have happened. The social and cultural environment, where there are practices enabling hesitancy of parents, family, or legal guardians to report sexual violence against children in their care, in the long run, instead of dealing with the existing problem at hand, add to mental pressure to the child.

It is the right of every victim of any type of violence to receive guidance and rehabilitation. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power stipulates several rights of victims to obtain access to justice, including compassion, respect, and recognition; receive information and explanation on the case progress; provide information; be provided proper assistance; protection of privacy and physical safety; restitution and compensation; and gain access to the mechanism of the justice system.

The declining number of familial rape, especially victimizing children, does not necessarily show progress, yet the pandemic created an entirely new challenge for underaged victims as well as their parents, legal guardians, or family to seek justice. Services from institutions providing either legal, medical, or psychological assistance became highly limited due to the shifting away from direct, face-to-face assistance. Victims tend to be 'stuck' at home or the community with the perpetrators. This condition has worsened the imbalance of justice from the non-existing standard of service for victims of sexual violence, especially for children.

From the above explanation, the authors came up with two formulations of issues as follows 1) how is the implementation of existing legislation on protection of child sexual crimes victims and 2) what legal efforts the government can take to improve mental rehabilitation of child victims of sexual violence in the adaptation to the new-normal era. Henceforth, the purposes of this research are to analyze the implementation of existing legislation on the protection of children victims of sexual crimes, as well as analyzing the legal efforts the

government can take to improve mental rehabilitation of child victims of sexual violence with a focus on the post-COVID-19 new normal era.

2. RESEARCH METHOD

This research used the normative legal research method where the author used qualitative analysis by explaining the correlating data, examining the relations between international law and Indonesian national law linked with social phenomena that happened in society with descriptions or statements, and not quantified by numbers. This research used secondary data comprises of 1) primary legal material, which is any legal norms that have binding power; 2) secondary legal material, in its broad definition, is legal material that is closely related to the primary legal material and is able to help analyze as well as understand the primary legal material; and 3) tertiary legal material is other, miscellaneous legal material which gives explanations of the primary and secondary legal materials[6].

The technique used in this research is a literature study conducted to obtain the materials on the topic. The literature study is conducted by identifying and searching related regulations, as well as books, research results, journals, language dictionaries, legal dictionaries in a variety of other sources. The authors used the approach of conceptual approach, which is an approach that refers to legal principles that can be found in legal doctrine, legislation, or court decisions. The conceptual approach is used to study research problems that are based on the existence of empty norms. That is, in a prevailing legal system or norms governing real events occurring in society.

3. FINDINGS AND DISCUSSION

3. 1. Sexual Violence and Its Mental Impacts

Morality is defined as "having an understanding of manners, manners, courtesy, civility, orderly and good customs" [7]. The law itself views decency as an act, conversation, behavior, and matters relating to the norms of decency that live in society, and full protection must be given for the achievement of decency and order in social life[8]. Sexual violence can be defined generally as an act that contains sexual elements that the victim does not want; when the perpetrator commits an act of sexual violence, there is an element of threat, unpleasant pressure and puts the victim in a cornered position and is not free[9]. Moreover, the World Health Organization in its Annual Report on Violence and Health in Chapter 6 defines sexual violence as[10],

"... any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work."

Indonesia specifically governs sexual crimes as part of its Book II Chapter XIV of the Criminal Code Book, which stipulates crimes against decency (*misdrijven tegen de zeden*), and offenders of decency (*overterdingen betreffende de zeden*), which is governed in Book II Chapter VI. The articles which regulate it include Article 287, anyone who has intercourse with a woman outside of marriage, even though it is known or should be presumed that he is not yet fifteen years old, or if he does not prove that he has not been able to marry, shall be punished by a maximum imprisonment of nine years; Prosecution. is only done upon complaints unless a woman has not reached the age of twelve or if there is one of the things based on Article 291 and Article 294.

Article 289, whoever by force or threat of violence forces someone to commit or allow the act of obscenity, is under threat of criminal prosecution for committing an act which attacks the honor of decency, with a maximum imprisonment of nine years. Article 290, punishment by a maximum sentence of seven years: Whoever commits obscene acts with someone even though it is known that the person is unconscious or helpless; Whoever commits obscene acts with someone even though it is known or should be reasonably suspected, that is a is not yet fifteen years old or if it is not evident that he is not yet capable of being married; Anyone who persuades someone who is known or should presume that the person is not yet fifteen years old, or if the age is not clear, that the person is not yet able to marry, to commit or tolerate sexual immorality or sexual intercourse outside of marriage with another person. Article 292, An adult who commits an act of being obscene to another person of the same sex, whom he knows or should reasonably suspect to be immature, shall be punished by a maximum imprisonment of five years. Article 293, Any person who, by giving or promising money or goods, misuses the clothes arising from a relationship, or by misdirection deliberately moves a person with good behavior and behavior to commit or allow obscene acts to be committed with him, even though he has not yet reached maturity, is known or should reasonably suspect, shall be punished by a maximum imprisonment of five years; Prosecution is only carried out upon the complaint of the person against whom the act was committed; The time periods referred to in Article 74 for this complaint are nine months and twelve months, respectively.

The criminal provisions stipulated in Chapter XIV of the second book of the Criminal Code are established by the legislators with the aim of providing protection for people who are deemed necessary to obtain protection against immoral acts or *ontuchte handeligen* and against good behavior; in the form of words or in the form of actions that offend decency because it is contrary to people's views of propriety in the field of sexual life, both from the perspective of the local community where the words have been spoken or where the act has been committed or viewed from the habits of the local community in carrying out their sexual life.

However, with respect to several articles of crimes against decency, the responsibility which is then carried out by the perpetrators is the punishment of the body. Criminal liability is defined as an obligation to pay retaliation to be received by the perpetrator for someone who has been harmed[11]. Furthermore, according to Simon, or in theory known as monistic accountability, there needs to be a combination of the objective element or action element and the subjective element or element of the maker[12]. Regarding the articles on sexual crime, it is only focused on perpetrators with corporal punishments that are threatened when the perpetrator commits a crime. So that legal protection for victims is only limited to criminal liability that will be imposed on the perpetrator. The position of children as victims of sexual crimes tends to be ignored. The loss of the victim's role in a criminal system itself is caused by four weaknesses, namely[13]:

1. The victim is only part of the evidentiary system and not an interested party in the ongoing process.
2. The process is only focused on efforts to punish perpetrators and prevent crime without looking at efforts to repair the losses caused and restore balance in society.
3. In the settlement, the focus of attention is only directed to the process of proving the perpetrator's guilt. Therefore, only one-way communication takes place.

Furthermore, Article 293 paragraph (2), which clearly states that "prosecution is carried out only on the complaint of the person against whom the crime was committed," contains an absolute complaint offense formulation. A complaint offense (*klachtdelict*) is defined as a criminal act whose prosecution is only carried out based on a complaint from an interested party/aggrieved party, where an absolute complaint offense is only prosecuted based on a complaint[14]. Regarding the complaint offense, the prosecutor will only prosecute if there has been a complaint from the person who suffered and was harmed by the crime. One of the weaknesses of the absolute complaint offense is that it defines the victim as the party who must seek the truth for himself.

Article 294 stipulates the categories of perpetrators of sexual crimes as follows:

"Whoever commits obscene acts with his child, stepchild, adopted child, child under his supervision who is not yet an adult whose care, education, or the guard is handed over to him or with his assistant or subordinate who is not yet an adult, shall be punished by a maximum imprisonment of seven years; By the same punishment shall be punished: An official who commits an obscene act with a person who because of his position is his subordinate, or with a person whose guardianship has been entrusted or handed over to him; Administrators, doctors, teachers, employees, supervisors or orderlies in prisons, state work places,

educational establishments, orphanages, hospitals, mental hospitals or social institutions, who commit obscene acts with people are included in them."

Parents, legal guardians, or persons in charge of care over a child, based on interpretation of this article, are categorized as possible perpetrators of sexual crimes towards a child. Persons in charge of care, in this sense, are persons who have substantial care over a child in a relatively significant manner, for example, doctors, teachers or educators, supervisors in the workplace, administrators in health establishments, or social institutions. These persons have a relatively substantial position of power over a child entrusted in their care, creating a power-play situation. Where a child should have been able to be in a safe, trustful environment, sexual abuses or assaults would have a relatively more significant impact on a child's mental health.

Article 295 stipulates the punishment of sexual crimes toward a child, as follows:

"By a maximum imprisonment of five years whoever in the case of his child, stepchildren, adopted children, or children under his supervision who are not yet mature, or minors whose care, education or care is handed over to them, or by their assistant or subordinate, deliberately causing and making it easier to commit obscene acts with them; By a maximum imprisonment of four years, whoever in the case of committing obscene acts by a person other than those mentioned in point 1 above, is known or reasonably suspected of being immature with another person, deliberately causing or facilitating the committing of the obscene act; If the guilty party commits the crime as a means of livelihood or habit, then the penalty can be increased by one third."

Sexual violations toward children are punishable by a maximum of four years in prison. This article also emphasized that perpetrators can be parents or legal guardians, further pointing out that sexual assaults committed toward child likely to happen in their primary care environment.

Law Number 35 of 2014 concerning the Amendments to Law 23 of 2002 concerning Protection of the Child (Child Protection Law) defines violence as any act against a child that results in physical, psychological, sexual misery or suffering and/or neglect, including threats to commit acts, coercion, or illegal deprivation of liberty[15]. WHO defined sexual violence as any sexual act, an attempt to commit a sexual act, commenting or suggesting unintentional sexual behavior, or otherwise, an act of violation to have sexual intercourse with coercion against someone[16]. The National Commission on Violence Against Women categorized sexual violence into the following fifteen forms: rape, sexual intimidation, sexual harassment, sexual exploitation, trafficking of women for sexual purposes, forced prostitution, sexual slavery, forced marriage, forced pregnancy, coercion abortion, forced contraception and sterilization, sexual torture, inhuman

and sexual punishment, traditional practices of sexual nuances that harm or discriminate against women, and sexual control[17].

Sexuality threads a very thin line between the values and taboos governing the behavior of individuals and society. At an individual level, some people may feel that being subjected to forced sex is a distressing and humiliating experience[5]. At a community level, in traditional cultures generally found in Indonesia, sexual relations are permitted only within the confines of marriage agreed to by the families concerned. The perception is that single women who have been a victim of sexual violence, of any age, be it a child, no longer have any chance of being married as they are dishonored and unfit for marriage. There were instances where families were marrying off young girls victims of sexual violence to the perpetrators to avoid family shame, which would add mental pressure to the child - unprepared to deal with psychological responsibilities that come with marriage from their age alone - and the threat that comes from facing their violators in a constant manner and in the long term without dealing with the psychological ramifications of being forced against their will. According to a UN annual report on citizens of the world, 20 countries legalized rapists to marry their victims to evade legal pursuits[18].

In addition, the more traditional community might enable a "victim-blaming" environment towards most victims of sexual crimes rather than emphasizing that abuse - sexual or any kind - is not right. Parents, families, or legal guardians feeling or being shamed for failing to protect the child, failing to recognize signs of sexual abuse committed to their child, etc. Hence creating the tendencies of parents, families, or legal guardians to feel shameful to report their child as a victim of sexual abuse.

Rejection on a community level includes being mocked, ridiculed, insulted, humiliated, and disparaged. Young girls who have been sexually violated may often be seen as a bad example, promiscuous for having illicit sexual relations, and expelled or withdrawn from school, especially if they are pregnant[10], further diminishing their future opportunities by closing access to education. Isolation, whether self-imposed or forced, is an affecting behavior prompted from fear of repeated violence, feeling of physical or psychological vulnerability, or in the case of forced isolation to save from public disgrace.

From a mental perspective, sexual violence can seriously affect a victim's mental health with consequences in the short, medium, or long term, with physical, emotional, cognitive, or behavioral symptoms. This effect can nonetheless be difficult for the victims, their families, parents, or legal guardians. Few factors that may affect the symptoms to be persistent and become chronic[16] are as follow:

- 1) Nature of the event (intensity, severity, duration);

- 2) Individual variations in vulnerability (highly emotional personality, mental disorder, prior trauma); or
- 3) Environment (lack of family and social support, presence of stigmatization, discrimination, etc.)

The most common modes of emotional display of victims of sexual violence are fear, anxiety, anguish, depression, shame, guilt, anger, euphoria, and apathy[5].

3.2. Legal Perspective

3.2.1. Legal System

According to Kelsen, a legal system is a system of norms where the highest one is a norm beyond no other[19]. But on the other hand, a legal system, according to Friedman, consists of three continuous elements which are:

1. Legal Substance, is known as the substantial system that determines whether the law can be implemented. Substance also means products produced by people who are in the legal system, which includes decisions issued, new rules drafted. The substance also includes living law, not just rules in law books. As a state that still adheres to the Civil Law System or the European Continental System (even though some of the laws and regulations have also adopted the Common Law System or Anglo Saxon), it is said that law is written regulations not stated by law. This system affects the legal system in Indonesia. One of the effects is the principle of legality in the Criminal Code. Article 1 of the Criminal Code stipulates that "no criminal act can be punished if there are no rules to regulate it." So, an act is subject to legal sanctions if the act has been regulated in statutory regulations.
2. Legal Structure, is known as the Structural system, which determines whether the law can be properly implemented. The legal structure, based on Law Number 8 of 1981, includes the Police, Attorney General's Office, Courts, and Criminal Management Bodies. The authority of law enforcement agencies is guaranteed by law. So that in carrying out their duties and responsibilities apart from the influence of government power and other influences. There is an adage that states, "*fiat justitia et pereat mundus*," let justice be done, though the world perish. The law cannot run or be enforced if there are no credible, competent, and independent law enforcement officers. Statutory regulation is only as good as law enforcement officials; lest justice is just wishful thinking. The weak mentality of law enforcement officials has resulted in law enforcement not working properly. Many factors influence the weak mentality of law enforcement officers, including a weak understanding of religion, economy, non-

transparent recruitment processes, and so on. So that it can be emphasized that law enforcement factors play an important role in the functioning of the law. Even when the regulations are good, the low quality of law enforcement will be a problem. Likewise, if the regulations are bad while the quality of law enforcement is good, there's also a possibility of problems arising.

3. Legal Culture is human's attitude towards law and the legal system - their beliefs, values, thoughts, and expectations. Legal culture is an atmosphere of social thought and social forces that determine how the law is used, avoided, or abused. Legal culture is closely related to the legal awareness of society. The higher the community's legal awareness, a good legal culture will be created and can change the public's mindset about the law so far. In simple terms, the level of public compliance with the law is one indicator of the functioning of the law.

The relationship between the three elements of the legal system itself is like mechanical work. The structure is like a machine, and the substance is what the machine does and produces, while legal culture is anything or anyone who decides to turn the machine on and off and decide how the machine is used. Associated with the legal system in Indonesia, Friedman's theory can be used as a benchmark in measuring the process of law enforcement in Indonesia. The Police are part of a joint structure with organs of prosecutors, judges, advocates, and prisons. The interaction between the components of the legal servants determines the strength of the legal structure. However, the upholding of the law is not only determined by the robustness of the structure but also in relation to the legal culture in society[20].

3.2.2. Implementation of Existing Legislation on Protection of Child Sexual Crimes Victims

The 1945 Constitution of the Republic of Indonesia in Article 28B para (2) stipulates that every child has the right to live, grow and develop and is entitled to protection from violence and discrimination; in this case, the Indonesian government then issued Law No. 23 of 2002 which was later revised through Law No. 35 of 2014 concerning Child Protection, in which the state, government, local government, community, family and parents or guardians are obliged and responsible for child protection[21]. This shows that children are legal subjects whose presence is protected by the state and the surrounding community. Children are given the opportunity to grow in a wide and open space with the full support of the state. The state guarantees that the welfare and protection of children are prioritized. However, it cannot be denied that sexual crimes in which children are victims are still quite high, even during the COVID-19 pandemic.

Sexual violence cases tend to be treated similarly to other crimes, whereas sexual violence targets

vulnerable groups, especially women & children; thus, special handling is needed. In Article 4 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, it is stated that the Police are law enforcement officers who are tasked and responsible for public order, safety, and security of the community. The Police are the first institution to handle legal cases with authority to carry out investigations, investigations, detentions, and confiscations. The results of the process carried out by the Police are the basis for the Public Prosecutor as the representative of the state to prosecute criminals. Other law enforcers included in the criminal case settlement process are public prosecutors and judges. According to the Criminal Procedure Code (KUHAP), the stages that must be passed systematically in criminal justice are:

1. Police investigation stage.
2. Prosecution stage by the prosecutor.
3. Examination in court by the judge.
4. The verdict (execution) by the prosecutor's office and correctional institution.

The crime of sexual violence against children is one form of violence against children, which is an example of the vulnerability of the position of children, especially to the sexual interests of men. The sexual image of a girl who has been placed as a male sexual object turns out to have far-reaching implications for the child's life so that she is forced to always face violence, coercion, and physical and psychological torture. Attention and protection of the interests of victims of criminal acts of sexual violence either through the criminal justice process or through certain social care facilities is an absolute part that needs to be considered in criminal law policies and social policy policies, both by the executive, legislative and judicial institutions as well as by existing social institutions.

Sexual crimes tend to be considered private and trivial; they come with a preference of putting reputation first. Victims tend to have to repeatedly tell their experience from investigation to trial, which is mentally taxing in addition to the mental repercussion that stems from the act of violence itself. Law enforcement on sexual crimes is not victim-based. The three primary responsibilities of law enforcement in sexual assault cases are to protect, interview, and support the victim, investigate the crime and apprehend the perpetrator, and collect and preserve evidence of the assault that will assist in the prosecution of the assailant. The first step necessary in approaching child victims of sexual crimes is to establish a trust-based process. It is necessary to enable investigators to have a more accurate sense of the true level of sexual violence in the community because they get information about more crimes and criminals, including information that may assist in identifying patterns of repeat offenders; provide victims with another option for healing – an option that falls in between not reporting the crime, and, being involved in a full criminal investigation; afford victims an opportunity to find out what the criminal process is like, and, during

the blind report to determine whether there can be trust built between the victim and the investigator.

Restitution, as regulated in Article 71D of the Child Protection Law, states that children who are victims of criminal acts have the right to apply for restitution rights to the court. The provisions in Article 71 D paragraph (2) of the Child Protection Law further regulate implementing regulations, namely Government Regulation No. 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Crime. This regulation aims to clarify the mechanisms and procedures for implementing restitution for children who are victims of criminal acts. Government Regulation Number 7 of 2018 concerning Providing Compensation, Restitution, and Assistance to Witnesses and Victims, which contains arrangements for providing compensation to victims in general prior to the issuance of PP Number 43 of 2017 concerning Implementation of Restitution for Children Who Become Victims of Criminal Acts. In its implementation, there are procedures that must be followed, especially for the victim who asks for compensation from the perpetrator. The main focus of children who are victims of criminal acts is to get restitution based on Article 2 paragraph (2) PP No. 43 of 2017 are children who are in conflict with the law, children who are economically and/or sexually exploited, children who are victims of pornography, children who are victims of kidnapping, selling, and/or trafficking, children who are victims of physical and/or psychological violence and children who are victims of sexual crimes. Furthermore, in Article 3 *a quo*, restitution that can be given to a child who is a victim is in the form of compensation for loss of wealth, compensation for suffering because of a criminal act, and compensation for medical and/or psychological treatment costs. The request for restitution itself is submitted by the party of the victim, in this case, the parent or guardian of a child who is a victim of a crime, the heir of a child who is a victim of a crime through a special power of attorney, as well as by other institutions.

The position of victims in criminal justice has been neglected so far. In settlement of criminal cases, it was found that many crime victims lacked adequate legal protection, both immaterial and material protection. This raises a classic problem that criminal justice as the basis for solving criminal cases does not recognize the existence of crime victims as justice seekers. In the context of examining a criminal act, often the victim is only positioned as a witness, as a reporter in the investigation process, and as a source of information, or as one of the keys to the settlement of a case. In criminal cases, victims of crime are the ones who suffer the most. In settlement of criminal cases, often the law puts too much emphasis on the rights of a suspect or defendant while the rights of victims are neglected, one of which is the right to compensation which is a right that requires someone who has acted detrimentally to others to pay a sum of money or goods to a person who is harmed, so that the loss that has occurred is considered to have never

occurred, compensation is actually the realm of civil law, however, to realize the simple, fast and low-cost principle of justice this compensation can be combined with a criminal examination.

Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children who are Victims of Crime has clearly outlined the procedures for how victims can apply for restitution and the stages for submitting restitution, from the investigation stage to the prosecution stage. It is admirable that through this government regulation, law enforcement officers who are a legal structure and an inseparable part of a legal system are required to work optimally due to a narrow deadline. The Police and the public prosecutor are obliged to go down and be at the forefront of providing information on children's rights, which may often be ignored. However, Government Regulation Number 43 of 2017 is considered inadequate as a guideline for granting restitution to child victims of sexual crimes. Children as victims from time to time are forced to do the extra work to get justice for themselves; the initial administrative requirements that must be fulfilled based on Article 7 Government Regulation Number 43 of 2017 are considered troublesome. For child victims of sexual violence who find it difficult to get the identity of the perpetrator, of course, it will be difficult to fulfill this requirement. Not only that but Government Regulation Number 43 of 2017 also does not fully guarantee that the perpetrator must pay the restitution that is the right of the victims because it stops at the procedures for granting restitution. Perpetrators can easily forget their obligation to pay the restitution they are obliged to pay.

3.3. Government Legal Efforts to Improve Mental Rehabilitation of Child Victims of Sexual Violence in the adaptation to the New-Normal Era

Changes that come from COVID-19 affect many aspects of society, forcing them to continually adapt drastically. Tallent stated that every individual must continually strive to arrive at biological, personal, psychological and social, and environmental harmony[22]. In terms of maintaining the order of society, which is constantly changing, orderly life is required to be able to provide instructions to the community[23]. Conceptually, the basis for changes to law in general and criminal law in particular is based on five signs in the field of reform of national criminal law, including reform of criminal law, apart from being carried out for sociological, political and practical reasons, consciously compiled within the framework of the national ideology of Pancasila; reform of criminal law must not ignore aspects related to the human condition, nature and Indonesian traditions while still recognizing the laws that live in society, both as a source of positive law and as a source of negative law; reform of criminal law must be adapted and adapted to the universal trends

that grow in the association of civilized societies; keeping in mind the harsh nature of criminal justice and one of the objectives of punishment which is preventive, the reform of criminal law must also consider preventive aspects; reform of criminal law must always be responsive to developments in science and technology in order to increase the effectiveness of its function in society[22].

This includes the meaning that law is a picture of values in society; thus, these living values contribute also to live up to the law[23]. Indonesia, a country with the rule of law, as stated in Article 1, paragraph 3 of the 1945 Constitution of the Republic of Indonesia, Indonesia is a state based on the law (*rechtstaat*) rather than standing on power (*machstaat*). Government regulations as an integral part of the legal hierarchy in Indonesia can be used as a tool to improve the legal system in Indonesia. The existence of government regulations is expected to be a derivative of legislation.

In particular, the regulations made by the government prior to the COVID-19 pandemic require new and more tangible changes to address the problem of mental recovery and rehabilitation for child victims of sexual crimes. The urgency to update the regulations is needed to be the answer to the problems that arise. In the case of government regulations, the increase in sexual violence during the pandemic and the resulting victims cannot be underestimated. Mental recovery and rehabilitation of child victims of sexual crimes are some of the many things in the social order that must not be allowed to dissolve. Law Number 35 of 2014 has existed to be a protector for child victims of violence, but in various government regulations that have been found, it does not function effectively to help victims after sexual violence occurs. Rehabilitation should no longer be the responsibility of the victim, but the state is required to be present and active for child victims of sexual violence cases.

Like a legal system, which must work well, the state through the government as a legal structure must serve as much as possible as the front guard for the mental recovery of victims; the activation of institutions under the government is needed to help rehabilitate and assist child victims of sexual crimes. On the other hand, the legal structure that is a product made by the government is also required to really address the problems of child victims of sexual violence. The regulations made should no longer make children the object of sexual violence but as legal subjects whose rights and obligations must be protected as stated in Article 27 of the 1945 Constitution. Finally, the legal culture, where society is the driving wheel, must also properly educate that sexual violence is not a disgrace that must be covered up but rather a criminal act that must be reported and legally processed.

4. CONCLUSION

From the authors' general observation, communities and families are still fixated on how they

are perceived and the shame that comes with family members, in this case, a child being involved in sexual relations. important to note, forced sexual relations. Not only do we still see hesitancy of parents/legal guardians in reporting sexual abuse as a violation, abuse, crime but families marrying off young girls' victims of sexual violence to their preparators to avoid family shame, which likely might add mental pressure to the child - unprepared to deal psychological responsibilities that come with marriage from their age alone - and the threat that comes from facing their violators constantly and in the long term without dealing with the psychological ramifications of being forced against their will. In addition, the community's tendency to enable a "victim-blaming" environment towards most victims of sexual crimes rather than emphasizing abuse - sexual or any kind - is not right. Parents, legal guardians, or families feeling and/or being shamed for failing to protect the child, failing to recognize signs of sexual abuse committed to their child, etc. Hence the tendencies of parents, legal guardians, or families to feel shameful to report their child as a victim of sexual abuse. At the same time, the authors focus here on how victims of unconsented sexual abuse/relations by others – presumably adults, so in this case, our research on this part. However, the authors do believe an individual approach through child-targeted sex education not only from a scientific but also moral/religious values on consent as well as sexual-health awareness.

Based on the discussion above, there is a necessity to create new legislation in the form of government regulation to accommodate the rehabilitation necessity of child victims of sexual crimes, which covers access to sustainable medical services, including mental rehabilitation and assistance for child victims in the national & regional level with high consideration of health protocols after COVID-19; cooperation with private medical facilities to provide rehabilitation targeted for child victims, and mechanism of rehabilitation financing for both facilities and infrastructure. In addition to policy-level interventions for the rehabilitation of child victims of sexual crimes, it is in the authors' recommendation that prevention of sexual crimes should be a targeted focus. This prevention can be done in different levels as follows:

1. Individual-level approach through child-targeted training or formal education in schools on respect-based relationship building, consent, as well as sexual abuse awareness.
2. Relationship-level approach through mentoring for parents or legal guardians on the awareness on sexual abuse, peer programs, and training that promotes healthy relationship.
3. Community-level approach targeted from neighborhood or faith organizations to foster community characteristics that discourage sexual violence, the role of mass media and/or social marketing campaigns in discouraging

sexual violence, as well as publicizing resources to help sexual crimes victims.

Ultimately, these efforts can be integrated and implemented through a policy-level approach in creating legislative measures. Every child has fundamental rights. They are precious and vulnerable. It is not only the responsibility of their parents/caregivers/families to take care of them but also the state's inherent role to protect their rights -one of which is free from all forms of physical or mental violence. And what the government can do is formulating regulations creating a trust-based mechanism, specifically tending the mental vulnerability of a child in terms of victims' rehabilitation.

AUTHORS' CONTRIBUTIONS

All authors contributed equally to the research process of this work.

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