

## LAW ENFORCEMENT AGAINST CHILDREN WITH VIOLENCE

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### Abstract

The purpose of this research is first to describe the implementation of law enforcement against child victims of intercourse accompanied by violence in the Bima Kota Police PPA Unit; second, to describe the obstacles in law enforcement against child victims of violent intercourse at the Bima Kota Police PPA Unit. Empirical legal research methods (non-doctrinal), case and policy approaches, using data collection, documentation, observation and interviews and integrating with literature review of legal documents relevant to the object under study, and analyzed descriptively. The results of the study show, First, the implementation of law enforcement against child victims of violent intercourse at the Bima City Police Unit PPA is in accordance with applicable laws and regulations using the Criminal Procedure Code and the SPPA, where at the investigation level it is carried out starting with an initial examination or interrogation of witnesses who can provide clues to the incident. Then a post mortem et review was carried out on the victim's child to identify injuries to physical violence. Then the crime scene was processed at the scene to confirm other clues. Second, obstacles in law enforcement against child victims of sexual intercourse, (1) Witnesses who are still children and find it difficult to communicate during the examination process. Especially if the key witness is a child who is still traumatized by the events he witnessed. (2) There were no witnesses who saw them directly and the witnesses did not want to come to provide information. (3) There were difficulties in uncovering the cause of death of the victim's child because in the jurisdiction of the Bima City Police there were no forensic experts so they had to carry out an autopsy at the Bayangkara Hospital in Mataram. (4) There is no expert psychologist witness accompanying the child witness in proving the quality of the testimony given by the child witness.

**Keywords:** law enforcement; child; violence; criminal act

## INTRODUCTION

Children are the forerunner to the birth of a new generation which is the successor to the aspirations of the nation's struggle and human resources for national development. Children are a nation's asset. The future of the nation and state in the future is in the hands of today's children. The better the personality of the child now, the better the future life of the nation (Irawansah & Yuspin, 2022) and vice versa, if the child's personality is bad, the life of the nation will also be dilapidated in the future (Dellyana, 1990)

Law Number 23 of 2002 concerning Child Protection, contains provisions that child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with human dignity and status, and receive protection from violence and discrimination. The philosophy of this provision is the realization of Indonesian children who are free from all forms of threats of violence, be it physical, sexual or economic violence.

Sexual crimes are categorized as crimes against humanity because the victims of these crimes can damage their human dignity. When this happens to children, sometimes parents don't understand that small things can have a tremendous impact psychologically and physically. Children who are victims of sexual violence can be more closed to social interaction and also feel hurt by adults who do it.

Sexual violence often occurs due to the lack of introduction of sex education to children. This is because there is a taboo view when talking about matters related to sex. Sex education from an early age is very important so that children can know all of their body parts and what their functions are. Apart from that, one of the main reasons for the increasing number of cases of sexual violence is the easier access to pornography in cyberspace, with thousands of sites that are deliberately offered and presented to anyone and anywhere. Therefore there must be a will and strict control over these sites. In addition, effective moral education and sexual education movements must be given in schools. Severe punishments that create a deterrent effect must also be applied to proven offenders (Irawansah et al., 2022)

This condition requires parents to be more aware of gadget addiction behavior in children. In addition, it is necessary to build a culture of reporting, so that if there is a case of sexual harassment you can immediately report it to the authorities. Moreover, legal regulations that provide child protection are strong enough, such as Law Number 17 of 2016 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection, but these regulations have not been able to give a deterrent effect.

Furthermore, in the provisions of the Child Protection Act there are already articles providing weighted criminal sanctions and announcing the identity of the perpetrators, including threats of additional punishment in the form of chemical castration and installation of electronic detection devices for adult offenders, but case after case continues to recur. This obviously spreads anxiety, worry, and even fear among the people. This means that cases of sexual violence in Indonesia are like an iceberg phenomenon that is still worrying. Because of this, awareness of all parties is needed to start a culture of reporting when experiencing or finding cases of sexual violence. Society must be brave.

In the phenomenon of criminal acts of sexual intercourse with children accompanied by violence reported at the Bima City Police, they have gone through a law enforcement process that has led to the death penalty (Ridwan et al., 2023). The perpetrators of intercourse also carried out acts of violence to the point where the victim's life was lost. Among the cases reported, all were sentenced to 20 years in prison and even the death penalty. This shows that the law works perfectly in providing justice for the victims' families as well as education and a deterrent effect for the community (Ma'arij et al., 2021).

The urgency of this research was carried out, based on the following considerations: first, the increasing cases of sexual violence against children, one of which is sexual intercourse with children accompanied by violence reported at the Bima City Police; secondly, law enforcement against perpetrators of sexual intercourse accompanied by violence is punished with a sentence of 20 years and the death penalty.

## RESEARCH METHOD

Research method, empirical law (non-doctrinal), case and policy approach, using data collection, documentation, observation and interviews and combining it with literature review of legal documents relevant to the object under study, and analyzed by descriptive analysis.

## RESULTS AND DISCUSSION

### Implementation of Law Enforcement Against Child Victims of Counseling Accompanied by Violence in the PPA Unit of the Bima City Police

Law enforcement is part of the legal system. Without law enforcement, the norms of material law will undoubtedly be expenses of paper. If the material criminal law is not enforced, there will be a violation of material law or the omission of legal norms made for the life of society, nation and state. The police are law enforcement tools that can provide protection, protection, and prevent crime from occurring in people's lives.

There are several factors that affect law enforcement, including:

First, the statutory factor in imposing criminal (legal) sanctions. In Imposing Criminal Sanctions (Punishments) to Perpetrators of Sexual Violence, the law is a form of rule which regulates the imposition of criminal sanctions (punishments) for anyone who commits a crime, in this case the law referred to relates to sexual violence against children. . The function of the law itself is that in every existing rule it can be a means used to be an alternative in tackling violence against children.

Second, law enforcement factors in carrying out their duties as law enforcers. Carrying out Duties as Law Enforcers In order to carry out law enforcement in accordance with the provisions of applicable laws, law enforcement officers are needed, both the parties that make up and apply the law only. Therefore apart from the law, law enforcers should also carry out their duties properly in terms of enforcing the law in an effort to tackle acts of sexual violence. (Law & Bima, 2023) Each of these law enforcers has a position and role in society, so that this position and role greatly influences their respective work in terms of law enforcement. Law enforcers are a group of role models in society, who should have certain abilities, in accordance with the aspirations of the community. As a group of role models, they should be able to choose the right time and environment in introducing new legal norms or rules, as well as setting a good example.

Third, the factor of facilities or facilities that support law enforcement. Supporting Law Enforcement Facilities or facilities are factors that also affect law enforcement. With adequate facilities, law enforcement can run properly because in the case of law enforcers carrying out their duties, they must be accompanied by supporting facilities. Without the existence of means or facilities, it is impossible for law enforcement to take place smoothly. What is meant by these facilities or facilities include, among other things, educated and skilled human resources, good organization, adequate equipment, adequate finances, and so on.

Fourth, community factors, namely the environment in which the law applies or is applied. Community factors, namely the environment in which the law applies or is applied by the community, are one of the elements involved in law enforcement. The community, together with law enforcers, participates in the prevention of crimes that occur, especially sexual violence against children. However, previously the community first knew and understood law enforcement, this was due to the fact that law enforcement originates from the community, and aims to achieve peace in society.

The large number of cases of sexual violence against children makes people afraid and feel uncomfortable in their household and social life. This results in a safe and peaceful atmosphere that will not be felt in the surrounding environment. Acts of sexual violence are acts that harm other people because acts of sexual violence are a form of violation of social and legal norms. Thus those who commit acts of sexual violence are given criminal sanctions (penalties) in accordance with applicable laws as a form of legal policy for the crimes they commit. Human behavior that is evil, immoral and anti-social makes people angry and causes irritation among the people and is very detrimental to the public. Therefore, these crimes should not be allowed to continue to develop and grow in people's lives, therefore acts of sexual violence must be eradicated for the sake of public order, security and safety. The community as a whole, together with the official institutions that have authority, be it the police, prosecutors, courts, even correctional institutions, and others, are obliged to deal with crime as far as possible. Thus, in order to be able to tackle acts of sexual violence, it is necessary to enforce the law against perpetrators of sexual violence by imposing punishments according to the crimes committed to provide a deterrent effect so as to reduce as far as possible acts of sexual violence against children, which many befall children.

The crime of sexual intercourse accompanied by violence is one of the sexual crimes that results from changes in the structure of our society. The crime of sexual intercourse accompanied by violence is a type of crime that has a very bad impact, especially on the psychological and physical victims and even kills them. This crime violates human rights and can damage human dignity, especially to the soul, mind and offspring. Cases of criminal acts of sexual intercourse are currently being heard in Indonesia. Victims in these crimes are often children.

The crime of sexual intercourse against children is like the iceberg phenomenon, the rate of sexual violence against children in the form of intercourse or obscenity may be higher because victims

do not dare to report it to the authorities. The reason is that victims and their families are afraid of environmental stigmatization and imagery by the mass media. In the mass media, rape news is often reported under vulgar titles. Unknowingly, both the mass media and society put their own pressure on victims.

Immoral crimes against children arise because the prison sentences given to perpetrators do not make people afraid to do this, instead there are more and more perpetrators of crimes of sexual violence against children. And acts of sexual violence against children are no longer just sexual violence but are also accompanied by acts of physical violence that kill the victim's child.

One of the acts prohibited by criminal law and included in sexual violence is intercourse accompanied by violence. The Criminal Code (hereinafter referred to as the Criminal Code) classifies criminal acts into criminal acts of decency. The Criminal Code defines the notion of rape or intercourse. Judges, in examining criminal cases, try to find and prove the truth of material law based on the facts revealed in the trial, and uphold the indictment formulated by the Public Prosecutor.

The role of investigators in tackling sexual intercourse with violence needs to be done to prevent cases of sexual abuse of minors by providing protection to victims and providing a deterrent effect on perpetrators of sexual intercourse with minors. Police is one of the components of the criminal justice system which is the spearhead in crime prevention. The role of the police seems bigger when compared to other components. This institution greatly determines the success of the criminal justice system as a whole.

Every crime or act against the law is certainly preceded by a *modus operandi*. The *modus operandi* plays an important role in the investigation and investigation process so that law enforcement officials know how the perpetrator committed the unlawful act and can reconstruct the scene. The *modus operandi* can also be used as a consideration for the judge to see whether there is a relationship between the victim and the perpetrator. Because we know that there are many opinions that explain that victims and perpetrators are closely related.

The perpetrators of sexual violence, both intercourse and sexual abuse of children, are pedophiles who are sexually aroused towards children and are very careful in hiding their actions. They infiltrate society by giving the impression that they are good people in order to gain the trust of adults to take care of children as nannies, teachers, sports coaches, scout coaches, house and garden cleaners and other jobs that allow them time with children. If parents already believe that perverts are good people, then children will follow their parents' perceptions and this is where repeated abuse is always accompanied by threats to keep secrets and violence.

The perpetrator's actions can cause physical and psychological trauma to the victim, especially those who are children so that it can affect the victim's self-development when he becomes an adult. Law enforcement officials are burdened with a special task to uncover a criminal act of obscenity against children in which during the investigation the perpetrator did not admit the act and there were also no witnesses who saw the act. This investigation must be carried out by people who have special abilities and provide knowledge of the laws governing child protection.

Based on an interview with Mr. Saiful, SH as Head of PPA Unit of the Bima City Police, sexual violence against children increases every year, be it intercourse or obscenity. Child victims with both child and adult perpetrators. The following will show data on cases of violence against children handled in the Bima City Police Unit Jurisdiction from 2017 to 2021.

**Table 1.** Data on Cases of Violence Against Children for 2017-2021

NO	YEAR	AMOUNT
1.	2017	43
2.	2018	39
3.	2019	51
4.	2020	62
5.	2021	71

Data Source Unit PPA Bima City Police 2021

Based on the table above, it can be seen that there has been an increase in cases of violence against children in the last five years, namely in 2017 there were 43 cases, in 2018 there were 39 cases, in 2019 there were 53 cases while in 2020 there were 62 cases and the number of cases increased in 2021 by 71 cases.

Meanwhile, the forms of violence against children handled in the jurisdiction of the Bima City Police based on the form of violence can be seen in the table below.

**Table 2.** Data on Violence Cases Based on the Form of Violence 2017-2021

No	Year	Bentuk Kekerasan				Amount
		Physique	Psychic	sexual	Abandonment	
1.	2017	23	-	13	7	43
2.	2018	21	1	11	6	39
3.	2019	27	-	16	8	51
4.	2020	21	6	19	16	62
5.	2021	26	4	23	18	71
Amount		118	11	82	55	

*Data Source Unit PPA Bima City Police 2021*

From the presentation of the table above, it can be seen that the most frequent form of violence against children is physical violence, namely as many as 118 cases, then sexual violence as many as 82 cases, while cases of economic violence or neglect as many as 55 cases and the last is psychological violence as many as 11 cases.

Based on an interview with Mr. Abdurahman, SH as a child investigator at the Bima City Police Unit that law enforcement against child victims of violent intercourse is in accordance with the Criminal Procedure Code and the SPPA, where at the investigation level it is carried out starting with an initial examination or interrogation of witnesses who can provide clues to the incident. the violence. Then a post mortem et review was carried out on the victim's child to identify injuries to physical violence. Then the crime scene was processed at the scene to confirm other clues.

He further stated that the implementation of the Investigation was carried out in accordance with statutory regulations. The implementation of the investigation carried out by the investigator against the suspected perpetrator of a crime related to intercourse is as follows:

- a. Examining victims of crimes related to sexual intercourse. Examination conducted by investigators on victims of sexual intercourse and has the aim of obtaining information on crimes that have befallen victims which will assist investigators in the process of examining criminal offenders.
- b. Examination of witnesses to hear their statements. Examination of witnesses aims to provide information in the framework of investigating a criminal case that he himself heard, heard and saw himself. The witness' statement will be included in the Minutes of Examination (BAP) as evidence that he has given information about a crime related to intercourse..

Procedures for examining witnesses by investigators relating to criminal acts related to intercourse are:

- 1) Witnesses are examined alone, but in certain cases they can be brought together with one another.
- 2) Witnesses are examined without pressure from anyone and in any form and witnesses are obliged to provide true information.
- 3) The witness is recorded in the Minutes of Examination (BAP) which is signed by the investigator after the witness agrees to the contents.

If the witness does not agree to sign, the investigator will record this in the minutes of examination and state the reasons why the witness does not want to sign.

If the investigator requires the testimony of an expert witness for questioning, he may seek the opinion of an expert who has special expertise:

- a. Examine the perpetrators of criminal acts related to intercourse. Examination of perpetrators of criminal acts related to intercourse to ascertain whether or not the actions committed by the suspect, if from the results of the examination that the actions committed by the suspect have elements of a criminal act, then from receipt of the report an examination can be carried out in accordance with criminal procedural law. Then the investigator will record the information given by the perpetrators of criminal acts related to intercourse and obscenity in the Minutes of Examination (BAP) in detail, according to what the suspect said.
- b. Preparation of Minutes of Investigation. After the process of examining the perpetrators is sufficient, the investigator will prepare Minutes of Examination. The Minutes of Examination contains information from the suspects who have committed crimes relating to intercourse and obscenity, minutes of searches, minutes of confiscation and so on.
- c. Search The search was carried out to obtain evidence relating to the crime of sexual intercourse. In carrying out a search, the investigator must have a permit from the head of the court. Before committing a crime related to intercourse and obscenity, the file will be submitted to the court. However, if the file is deemed incomplete, the court will return the file to the investigator to

complete the search. The investigator must first show identification to the suspect or his family. For security and orderliness during searches, officers can guard the place in question and have the right to order people not to leave the place.

- d. Confiscation of evidence used to commit a crime, In carrying out the confiscation there are provisions that must be carried out by the investigator, including having to have a permit to carry out the confiscation, showing identification, the investigator orders the suspect to hand over the evidence he has used to commit criminal acts related to intercourse and obscenity, and investigators will wrap up the confiscated evidence.
- e. Submission of case files to court for trial. If the process of examining criminal acts related to intercourse has been completed, the file will be submitted to the court. However, if the file is deemed incomplete, the court will return the file to the investigator to complete it and the investigator is obliged to carry out additional investigations to complete the file to be submitted to the court.

According to the author, the implementation of the investigation process into criminal acts related to coitus accompanied by violence examined at the Bima City Police PPA Unit.

Based on an interview with Mr. Abdurahman, SH that sexual violence occurred because there was a factor that influenced the unlawful act. This crime does not stand alone, its causes can be influenced by the conditions that support it, the existence of victims indirectly encourages the perpetrators and it could be because there are other influencing elements.

The police in handling cases of children, especially sexual violence, are very different from adult victims because in essence children must be protected by all components of the state. Legal protection provided by the police in handling cases of children, especially sexual violence, are:

1. Since receiving a report of violence against children within 1 x 24 hours the police provide temporary protection to the victim.
2. Temporary protection for a maximum of 7 (seven) days from receipt or handling.
3. Within 1 x 24 hours from the provision of temporary protection, the police request a letter of determination of a protection order from the court.
4. Based on Article 69A letter d of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, in delegating the case to the Prosecutor's Office the police provided assistance to child victims in collaboration with LPA.
5. In conducting investigations against child victims, especially women, it is the female police (polwan) who will conduct the investigation. Because it is felt that policewomen can carry out investigations with heart and it is hoped that child victims will not feel ashamed and freely tell a detailed chronology of criminal acts, this protection is in accordance with Article 1 paragraph (9) of Law Number 11 of 2012 concerning the Juvenile Justice System.
6. In asking questions not formally, female police officers (policewomen) ask questions very carefully and make the atmosphere not tense.
7. The police guarantee that the identity of the victim is protected from the public (society), this is in accordance with Article 64 letter i Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and in accordance with Article 5 letter i Law Number 31 of 2014 concerning Protection of Witnesses and Victims.
8. Carry out recovery for victims by providing enthusiasm and motivation for victims so that child victims do not feel ostracized by society and can socialize as before..

### **Obstacles in Law Enforcement Against Child Victims of Coitus Accompanied by Violence in the PPA Unit of the Bima City Police**

In the process of upholding the law, law enforcement officials carry out it in accordance with the applicable laws and regulations with the hope that the victim will get justice for what happened to him and the perpetrator will receive punishment according to his actions.

However, in law enforcement, the crime of sexual intercourse accompanied by violence often encounters obstacles. Based on an interview with Mr. Saiful, SH as Head of PPA Unit of the Bima City Police, the obstacles encountered in the process of enforcing the law on children who are victims of violent intercourse are as follows:

1. Witnesses who are still children and find it difficult to communicate during the examination process. Especially if the key witness is a child who is still traumatized by the events he witnessed. In this case the investigator coordinates and cooperates with the Child Protection Agency (LPA) to accompany the child witness and child victim during the examination. In addition, the investigator also asked to be presented by a special expert witness to examine the witness' child or the victim's child.

2. There were no witnesses who saw it in person and the witnesses did not want to come to provide information. The witness did not want to be bothered with legal matters which he felt wasted time and money during the examination so he did not want to go to the PPA Unit to provide information.
3. There was difficulty in uncovering the cause of death of the victim's child because in the jurisdiction of the Bima City Police there were no forensic experts so they had to carry out an autopsy at the Bayangkara Hospital in Mataram.
4. There were no expert psychologist witnesses who accompanied the child witness in proving the quality of the testimony given by the child witness..

## CONCLUSION

The implementation of law enforcement against child victims of violent intercourse at the Bima City Police PPA Unit is in accordance with applicable laws and regulations using the Criminal Procedure Code and the SPPA, where at the investigation level it is carried out starting with an initial examination or interrogation of witnesses who can provide clues to the violent incident. Then a post mortem et review was carried out on the victim's child to identify injuries to physical violence. Then the crime scene was processed at the scene to confirm other clues.

First, the Witness is still a child and has difficulty communicating during the examination process. Especially if the key witness is a child who is still traumatized by the events he witnessed. Second, there were no witnesses who saw it directly and the witnesses did not want to come to provide information. Third, there was difficulty uncovering the cause of death of the child victim because in the jurisdiction of the Bima City Police there were no forensic experts so they had to carry out an autopsy at the Bayangkara Hospital in Mataram. Fourth, there were no expert psychologist witnesses accompanying child witnesses in proving the quality of the testimony given by child witnesses.

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