



Indonesia's Violence against Children: The Challenges of Using the Best Interest Principle in Court Decisions

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Received: 25-12-2024 Reviewed: 10-01-2025 Accepted: 27-01-2025

Abstract

Incest cases in Indonesia remain a concerning issue that demands serious attention from various stakeholders. This study is motivated by legal challenges regarding the protection of incest victims, particularly with the application of the best interest of the child principle. In practice, however, cases of violence against children are often not addressed with an approach that prioritizes the best interest of the child. This research focuses on analyzing Verdict No. 148/Pid.Sus/2023/PN.BLN aims to identify the extent to which judicial considerations in resolving this case have either disregarded or adhered to the best interest of the child principle. The research adopts a normative legal method involving analysis, observation, and examination of written legal materials. In normative legal research, the focus lies on applying existing laws as a guiding framework within societal life, determining what is considered appropriate. This study employs a case-based approach by analyzing primary and secondary legal materials, including legislation, court decisions, and relevant legal literature. Data were collected through a literature review and analyzed deductively to address the research questions. The findings indicate that in Verdict No. 148/Pid.Sus/2023/PN.BLN, the judges have not fully prioritized the best interest of the child principal. Although efforts were made to protect children who are victims of incest, several critical aspects were not adequately considered. This highlights the need to enhance judges' awareness and understanding of the importance of the best interest of the child principle in every decision involving victims of violence, particularly in cases of incest.

Keywords: incest, child protection, best interest principle

Introduction

Incest is an act of violating norms, moral, religious, social, and legal norms. The history of incest relationships is not known exactly in what century, but incest events have occurred since ancient times. A documented example is the marriage of Ptolemy II to his sister, Elsiene. Some experts argue that this action is common among ordinary people. This

kind of tolerance is based on ancient Egyptian mythology, which describes the marriage of the god Osiris with his sister Goddess Isis. On the other hand, in ancient Greek mythology, there is a story of the god Zeus, who married Hera, his own brother. (Fuad, 2016)

Most of the victims of incest are minors. This is related to the psychological condition of children who are very sensitive to the influence of the surrounding environment (Jalil, 2022). *Incest cases* that occur in Indonesia can be considered as one of the indicators of the poor quality of protection for children. The existence of children who cannot live independently certainly requires the role of parents as a place of refuge (Zalabella, 2020). The National Commission on Women stated that in 2017, violence against women in the private sphere (*incest*) occupied the highest position compared to other forms of violence. One can be observed in connection with moral crimes from the criminal provisions in Chapter XIV in Book II of the Criminal Code. (Tambunan, 2022)

The ratification of the Violence Crime Law (TPKS Law) is a momentum for the state to be present as the front line in protecting victims of violence crimes in order to optimize the prevention and handling of violence crime cases. One of the regulations on legal protection for victims of violence is the Law of the Republic of Indonesia Number 12 of 2022 concerning Violence Crimes (Risal, 2022).

Legal protection for victims of *incest* rape is regulated in the Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection Jo. Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection. Article 9 also states that parents are the first to be responsible for the realization of children's welfare both spiritually, physically, and socially. The importance of parental responsibility to children so that if parents are proven to be negligent in their responsibilities and result in obstacles in the growth and development of children, their custody as parents can be revoked, as stipulated in Article 10 paragraphs (1) and (2) of Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare (Komalawati & Alfarijah, 2020).

At the Batulicin District Court, there is a criminal act committed by a father against his child. Where the father, who is the Defendant, committed *an incest* crime against his biological child. This case occurred at the Batulicin District Court case Number 148/Pid.Sus/2023/PT.Bln. In this decision, a father committed an act of harassment, namely associating with his son so that from his actions, the perpetrator was in prison for 20 years minus the period of arrest and/or detention that had been served and a fine of Rp1,000,000,000,- (one billion rupiah) Subsidy of 5 (five) months with an order that the Defendant remain in custody. This penalty is given based on Article 81 paragraph (3) of Law of the Republic of Indonesia Number 17 of 2016 concerning the Determination of Becoming Law on Laws and Regulations Number 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection. Article 76 D of Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection (Kusumawardani, 2015).

The Public Prosecutor who has influence over the Defendant's detention period and

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his fine. The Judge sentenced the Defendant to imprisonment for 20 years minus the period of arrest and/or detention that had been served and a fine of Rp1,000,000,000,- (one billion rupiah) Subsidiary for 5 (five) months with an order that the Defendant remain in custody, on the grounds that the Judge's decision was not in accordance with the law and did not pay attention to the interests of the victim. The JPUM is of the opinion that the Defendant did not commit a criminal act that is threatened with criminal punishment in Article 81 paragraph (2) of Law Number 17 of 2016 concerning the Stipulation of Becoming Law on PERPU Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. Article 76D of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

Viewed from the perspective of the life of the nation and state, children are the heirs and portraits of the future of the nation, the next generation of the nation's ideals. Every child has the right to survival, growth, development, participation, and the right to protection from violence, discrimination, civil rights, and freedom (Hutagalung et al., 2022).⁸ However, an *incest* case committed by a father shows that the application of the penalty to rape cases (*incest*) is relatively mild and does not correspond to the criminal threat in the Child Protection Law, which reaches 20 years in prison. This is considered to be insufficient to provide justice to the victim, and the punishment applied is less delicate, so the case tends to be easily repeated and leaves a deep psychological impact on the child of the victim of incest. In an effort to provide legal protection for children, not only are parents obliged to fulfill the principle of the best interests of children, but the state must also participate and be responsible for realizing it. Therefore, it needs to be acknowledged that prison sentences alone are not able to solve the problem of incest perpetrators effectively enough. Therefore, it is necessary to conduct an analysis of the decision Number 148/Pid.Sus/2023/PN.Bln against the victim.

Research Method

This research method is a normative legal research that uses a case approach to analyze written legal regulations and court decisions.⁹ In this case, the analysis will be on the protection of child victims of incest with a focus on Decision No. 148/Pid.Sus/2023/Pn.Bln. The legal sources used consist of primary legal materials, such as laws and court decisions (Marzuki, 2014), and secondary legal materials, such as theses, dissertations, and relevant legal journals on child protection of incest victims. Data collection techniques are carried out through literature studies that critically assess legal literature, principles, legal theories, and laws and regulations (Sholehudin, 2022). The collected data is then processed through editing, classification, systematization, and data analysis to answer research questions (Abd. Malik, 2013). This approach was chosen because it provides an in-depth understanding of the legal principles governing custody, child protection, and the principles of justice, as well as allows the development of new concepts that can be used as guidelines in cases of child protection of incest victims that have not yet been regulated.

Result and Discussion

Ratio Decidendi in Decision Number 148/Pid.Sus/2023/PN.Bln

Ratio decidendi is a term taken from the Latin *rationes decidendi*, which is interpreted as the reason behind a decision. Judges, as law enforcement officials, have great duties and responsibilities because every decision that is successfully produced should reflect justice, usefulness, and legal certainty for justice seekers, in decision Number 148/Pid.Sus/2023/PN Bln, the Batulicin District Court decided the case of the crime of violence against minors committed by the Defendant Dede Sugimin Bin Sanen. The decision from the Batulicin District Court to Decide Defendant Dede Sugimin Bin Sanen as a Criminal Offender was explained in the minutes that on June 16, 2020, the Judge of the Batulicin District Court ruled that the Defendant Dede Sugimin Bin Sanen had committed a criminal act by deliberately committing a deception, a series of lies, or persuading the 15-year-old victim to have intercourse with him or with another person. This incident occurred in the room of the victim's old house on Jalan Merpati, Batulicin Irrigation Village, Karang Bintang District.

It was explained that the victim was by the Defendant four times; the first and second incidents occurred around 2015 when the victim was still in elementary school. For the third and fourth incidents in 2018, the date and month were forgotten when the victim was in the 2nd grade of Elementary School, the incident occurred in the room of the victim's old house on Jalan Merpati, Batulicin Irrigation Village, Karang Bintang District, at that time the victim was playing alone, suddenly the Defendant came in a drunken state and immediately pulled the victim's hand to be taken into the victim's room, then after being in the room, the Defendant immediately put the victim to sleep on the bed, after that the victim rebelled but the Defendant instead strangled the victim's neck causing the victim to have difficulty breathing and told the victim not to tell anyone and threatened to kill the victim if she told the story. However, the victim expects the Defendant to be given the lightest punishment because the Defendant is the victim's biological father, and the victim can forgive him.

It was stated that when the evidence was shown in the form of 1 (One) black T-shirt, 1 (One) black pants, 1 (one) pink underwear, 1 (one) red bra, the victim knew and knew that the item belonged to him. From a medical point of view, the examination carried out resulted in a *Visum et Repertum* report, which confirmed that the victim had a tear in the blood membrane, which was a strong indication of intercourse. Medical documents also recorded the presence of a fetus in the victim's womb.

The Public Prosecutor's indictment is that the Defendant Dede Sugimin Bin Sanen, at an uncertain time, or at least at other times in 2015 to 2018, has committed a criminal act by deliberately committing deception, a series of lies, or persuading the 15-year-old victim to have intercourse with the Defendant or with another person. This indictment is based on Article 81 paragraph (3) of Law Number 17 of 2016 concerning the Stipulation of Becoming Law on PERPU Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection Jo. Article 76D of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection

The Public Prosecutor demands that the Defendant, Dede Sugimin Bin Sanen, be

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sentenced to life imprisonment or 20 years with a fine of Rp. 100,000,000.00 (one hundred million rupiah) and other crimes regulated in the law. This demand is based on Article 81

(2) Law Number 17 of 2016 concerning the Stipulation of Becoming Law on PERPU Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. Article 76D of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. However, the panel of judges disagreed with the public prosecutor because it was considered that the charges given must be in accordance with the deeds committed. The non-fulfillment of the claim was based on the Judge's consideration, which was stated as follows:

"Considering that in imposing the sentence must be adjusted to the level of the Defendant's guilt and the sense of justice in society in general, as well as the length of the sentence that is imposed, it must be enough to provide an educational and corrective side to the Defendant. With consideration, the victim has forgiven the Defendant. In this case, it must also be enough to provide protection to the victim so that it is considered sufficient and in accordance with the sense of justice if the Defendant is sentenced to imprisonment and a long fine, and the amount will be listed in this verdict"(Salinan Putusan No. 148/Pid.Sus/2023/PN.Bln, 2023).

The Judge stated that the Defendant was proven guilty of committing violence and threatening violence to force the child who was the victim to have intercourse, as stipulated in Article 81 paragraph (3) of Law Number 17 of 2016 concerning Child Protection jo. Article 76D of Law Number 35 of 2014. In his consideration, the Judge considered that the Defendant's actions were very serious and violated the child's basic right to live in a safe and violence-free environment.

The Judge imposed a prison sentence of 14 years, a fine of one billion rupiah, and a subsidy of 5 months of imprisonment, reflecting efforts to provide a deterrent effect and prevent the recurrence of similar crimes. The ruling also shows that the justice system pays special attention to child protection by imposing severe penalties for serious offenses like this. The evidence was confiscated for destruction, and the Defendant's obligation to pay the case cost also affirms comprehensive law enforcement. Nonetheless, the Defendant's plea for leniency and the victim's confession that she still expects a lenient sentence shows the emotional complexity in this case. Overall, this ruling reflects the Court's commitment to protecting children's rights and upholding justice in a firm and proportionate manner to crimes committed.

The Judge identified that the actions taken by the Defendant, Dede Sugimin Bin Sanen, met the elements of a criminal act regulated in Article 81, paragraph (3) of Law Number 17 of 2016 concerning Child Protection. These elements include (a) each person, (b) violence or threat of violence, (c) is carried out by a parent or guardian, in the case of Decision Number 148/Pid.Sus/2023/PN Bln, the evidence collected by the investigators was in the form of *visum et repertum* results from the Bangkir Health Center, South Dampal District, Tolitoli Regency with Number: 440/VISUM- ET/XI/PKM-Br/2021 dated November 16, 2021,

which dr signed. Gina Puspita Sari. The results of *this visum et repertum* show that the victim experienced several conditions that were relevant to the Defendant's actions.

In the analysis of the evidence and its relation to the law and the verdict, it can be seen that the results of *visum et repertum* and the report on the results of social research are very relevant to the indictment of the Public Prosecutor and the Defendant's actions. These two pieces of evidence show that the Defendant had intercourse with the 15-year-old victim, violating the provisions as regulated and threatened with criminal punishment in Article 81 paragraph (3) of Law Number 17 of 2016 and Article 76D of Law Number 35 of 2014. Decision Number 148/Pid.Sus/2023/PN.Bln decided that the Defendant committed obscene acts committed by Parents, Guardians, Childcaregivers, Educators, or Education Personnel, as well as committing violence or threats of violence, coercing, committing deception, committing a series of lies, or persuading the victim to commit or allow obscene acts committed by Parents, Guardians, Childcaregivers, Educators, or Education Personnel.

Decision Number 148/Pid.Sus/2023/PN.Bln, in incest cases, must pay attention to the Judge's obligation to protect children as victims following applicable legal provisions, especially Law Number 35 of 2014 concerning Amendments to Child Protection Law Number 23 of 2002. Based on the provisions of Article 59 and Article 59A, judges have a moral and ethical responsibility to ensure that the rights of children who are victims of violence, including violence, are protected to the fullest. Article 59 states that the government, local governments, and other state agencies are responsible for providing special protection to children in various emergencies, including children who are victims of physical and/or mental violence and exploitation. In the context of incest cases, the protection that must be provided includes prompt and appropriate treatment, including physical, psychological, and social treatment and rehabilitation, as well as the prevention of diseases and other health disorders. A psychosocial approach is also very important during therapy and after recovery, which must be carried out by the authorities to ensure that the victim gets the support they need.

When a judge makes a decision, the decision will be respected and have a recognized value if the decision can reflect the sense of legal justice felt by the community. The decision is also a way for people who seek justice to obtain truth and justice. As a judge, he is expected to work professionally, fairly, honestly, and wisely and have a high level of empathy and a deep understanding of legal theories. This is because God Almighty will hold every decision made morally accountable and legally by the constitution, laws and regulations, and human rights values. (Ahmad, 2009)

Judge's Considerations in Deciding the Case in Decision No. 148/Pid.Sus/2023/PN.Bln Based on the Principle of Children's Interests and Survival

Various social groups, ranging from families to the government and even the state, must support each other for regulations that guarantee and uphold the rights and dignity of children. Forms of protection for children should have been implemented so far, but some of these protections have not provided guarantees for children to get treatment and opportunities that suit their needs in various areas of life. One of them is that in the case of violence,

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children do not have the same ability as adults to deal with legal problems, so it is necessary to guarantee protection for children. Therefore, as a form of state commitment, Indonesia decided to ratify the Convention on the Rights of the Child.

In decision No. 148/Pid.Sus/2023/PN.Bln, the Judge is explicitly guided by the principle of the child's best interests. This principle is reflected in various considerations taken by judges throughout the decision-making process. First, the Judge deeply weighs the psychological and physical impact caused by the Defendant's actions on the victim's child. The Judge realizes that the violence experienced by the victim not only causes physical suffering but also leaves deep psychological trauma. This consideration shows the Judge's awareness of the broad and sustainable impact on the life of the victim's child, per the principle of the child's best interests. This is evident in the decision where

"Considering that in accordance with the Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 552/K/Pid/1994, dated September 28, 1994, the element of delicacy in the form of "violence or threat of violence" must be interpreted broadly, namely not only in the form of physical (external) violence but also including violence in the psychological (psychiatric) sense. In this case, the Panel of Judges argued that the Defendant's actions were not only by physical coercion but also with verbal threats in the form of murder if the Victim's Child reported the incident to others; this was enough to make the Victim Child become no longer free according to his will (psychologically) so that the Victim's Child would obey the Defendant's will, be silent and not resist when the Defendant had intercourse with the Victim's Child. Therefore, Defendant has used violence and threats of violence to force the Victim's Child to have intercourse with Defendant."

As such, the Judge placed the child's needs and well-being as a top priority, recognizing that the victim's recovery requires comprehensive protection. Children need the help of others to protect themselves. Given the circumstances and conditions, especially in the case of child rape. Child rape cases are serious crimes that not only physically damage the victim but can also have a traumatic mental and emotional impact that can last a lifetime. Rape is considered a criminal act that is very detrimental to the victim. Losses like this can cause trauma or embarrassment to the family or the community (Wahid & Irfan, 2018). Victims who experience trauma and shame can affect their lives into adulthood. The strategic role in ensuring the survival of the state and nation in the future as part of the next generation of national values must be owned by children. Therefore, they need to get their rights, be protected, and prosper (Sudarti et al., 2024).

Second, in emphasizing the importance of protection, the Judge highlighted the importance of protecting child victims from violence and the threat of further violence. This decision reflects the Judge's concern for the survival and welfare of the victim's child. The Judge considers the appropriate legal protection for the child, ensuring that the victim's child receives a safe and supportive environment for their recovery and development process. This is evident in the decision where

"Considering that the Panel of Judges disagrees with the Public Prosecutor regarding the length of the criminal period imposed, because in imposing the sentence must be adjusted to the level of the Defendant's guilt and the sense of justice in society in general, as well as the length of the crime imposed, must be enough to provide an educational and corrective side to the Defendant. In this case, it must also be sufficient to provide protection to the Victim's Child so that it is considered sufficient and in accordance with the sense of justice if the Defendant is sentenced to imprisonment and a fine for a long time and the amount will be listed in this verdict".

This consideration is in accordance with the principle of the child's best interests, which emphasizes the importance of creating safe conditions for children to grow and develop. Children are an inseparable part of human survival and the sustainability of a Nation and State. In the Indonesian constitution, children have a strategic role, which expressly states that the state guarantees the right of every child to survival, growth, and development, as well as protection from violence and discrimination. Therefore, the best interests of the part should be lived as the best interests of both children and children should be lived as the best interests for the survival of mankind (Anugrah & Sambas, 2024).

By referring to this legal framework, judges reinforce their commitment to protecting the rights and interests of children as an integral part of the principle of the child's best interests. This reference suggests that judges' decisions are based on subjective interpretations and a strong legal foundation designed to protect children. These protections include basic rights such as the right to education, health, safety, and security and the right to be protected from all forms of exploitation, violence, and discrimination. All efforts are made to ensure that all children have the opportunity to fulfill their rights and obligations to develop properly (Sudarti et al., 2024).

Fourth, in determining the punishment, the Judge considers aspects relevant to the protection and welfare of the child. The Judge ensures that the sentence imposed is not only repressive but also provides adequate protection for the child in the future. The punishment is expected to significantly deter the perpetrators and provide a sense of security for the victim's children and the wider community.

"Considering that the criminal threat in Article 82 paragraph (2) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection as amended by Perpu Number 1 of 2016 concerning the Second Amendment to Law Number 17 of 2016 is cumulative which contains the threat of imprisonment and also the penalty of fines, therefore, the Panel of Judges believes that the Defendant will be sentenced to imprisonment and a fine".

As such, this decision reflects a balance between justice for victims and the need to protect other children from similar violence. The basis of consideration is an argument that becomes the basis/material for compiling the consideration of the panel of judges before the panel of judges makes a legal analysis, which is then used to impose a verdict on the Defendant; the basis of consideration of the Judge itself has an important position in a decision made by the Judge because the better and more accurate the consideration used by

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the Judge in a decision will reflect the extent of the sense of justice that exists in the Judge who made the decision. (Hutagalung et al., 2022)

From these points, Decision No. 148/Pid.Sus/2023/PN.Bln has not fully emphasized the principle of the best interests of the child as a victim, even though it has considered the psychological and physical impact experienced by the victim. Referring to Article 59 of Law No. 35 of 2014, special protection for child victims must be carried out through prompt handling efforts, including treatment, physical, psychological, and social rehabilitation, as well as the prevention of diseases and other health disorders, as well as psychosocial approaches. Article 59 can be used as a further consideration for the Judge in deciding the case so that the verdict handed down is not only oriented to the criminalization of the perpetrator but also provides comprehensive protection and guarantee of recovery for the victim as a child who must get the best protection.

Before making a decision, the panel of judges considers both the juridical aspect and the psychological and sociological aspects. Juridical considerations of the alleged crime are the most important context in the Judge's decision and are the elements of a delicacy whether the Defendant's actions have fulfilled and in accordance with the formulation of the delicacy charged by the public prosecutor. Judges must be able to use legal logic when making decisions in a case. Judges are prohibited from associating objects more than they should have done in the period of realizing their duties. This does not limit the freedom of judges as they still have the right to give a broader interpretation in cases where the current law cannot meet all needs. The law became a tool for social reform that did not only depend on the law (Sudarti et al., 2024).

In the criminal justice process, the Judge has the primary responsibility to ensure that the elements charged in accordance with the provisions of the law have been proven. In the context of this case, the Judge focused on fulfilling the elements regulated in Article 81 paragraph (3) of Law Number 17 of 2016 concerning Child Protection, which regulates that in this decision, the Judge determines that determining the criminal does not reflect the principle of the best interests of the child after the decision is issued. Adjudicating according to the law must also be interpreted as adjudicating according to a sense of justice and considerations, including broader interests such as the interests of the community and the state. Victims of incest or rape can cause deep trauma to the victim, especially if they have to conceive a child as a result of a heinous act committed by the perpetrator. Rape committed by a family member or close relative who has an inbreeding relationship makes the victim obliged to receive protection after the verdict is issued (Sholehudin, 2021). Violence against children is a behavior that is carried out continuously, which results in physical or mental injury that is often committed by those closest to them, violence, or threats of violence against children. In decision No. 148/Pid.Sus/2023/PN.Bln the Judge ignored the Best Interests for Children after the verdict, which was based on a formalistic approach, proportionality to punishment, and retributive justice and limitations in court decisions.

Judges ignore the best interests of the child based on: (a) A formalistic approach the legal process in Court often favors a formalistic approach where the main focus is whether

all elements of the alleged crime have been proven beyond reasonable doubt. In this approach, the aspect of the child's best interests may not receive the primary attention, as a strict legal framework binds judges. In criminal law enforcement, justice must be obtained through the stages of the criminal justice system so that it does not rule out the possibility of applying restorative justice in all stages (Utari, 2020). (b) Priority on Retributive Punishment and Justice: the main purpose of the criminal Court is to punish the perpetrator in accordance with the applicable law. In these cases, the Judge's attention may be more focused on giving the Defendant a commensurate punishment than considering specific measures for the victim's welfare after the verdict. The retributive view assumes that punishment is a negative reward for deviant behavior committed by community members, so this view sees punishment only as retribution for mistakes committed on the basis of their respective moral responsibilities. This view is said to be perceptual backward (*backward-looking*); (c) Limitations in Court Decisions, Victim Protection in the Juvenile Justice System Law Article 18 states that Community Advisors, Professional Social Workers and Social Welfare Workers, Investigators, Public Prosecutors, Judges, and Advocates or Legal Assistance Providers are required to pay attention to the interests of victims. Based on Law Number 8 of 1981 concerning the Criminal Procedure Code Article 98 Paragraph (1), victims can file a lawsuit for compensation in the criminal justice process, with the responsibility imposed on the perpetrator. However, this provision is not imperative. Judges and prosecutorial institutions rarely give compensation sanctions to perpetrators because their main focus is on criminal prosecution, not the interests of the victims. The weaknesses in the Criminal Code and the Criminal Code, which are more perpetrator-oriented than victim-oriented, have resulted in the protection of victims becoming less relevant to today's needs (Murtadho, 2020).

Criminal court decisions mainly serve to determine faults and impose sentences. While the best interests of the child are important, direct handling of rehabilitation and victim protection is often carried out by institutions outside the criminal justice process, such as social or psychological services. The Judge of the Batulicin District Court or even the decision of the criminal case conditioned the victim only as a witness in the trial process, without examining the victim's suffering and right to obtain justice and access to know how justice was carried out as it should be in the Court's decision. Judges must work closely with psychologists and social institutions to accompany victims during the judicial process and ensure a comprehensive recovery afterward. In addition, children from underprivileged families are entitled to social assistance, so judges must ensure that the victim's family gets the necessary support, both financially and in other supports so that the child's recovery can run effectively. Protection and assistance in every judicial process is also the responsibility of judges, as stipulated in Law Number 35 of 2014 concerning Amendments to Child Protection Law Number 23 of 2002 Article 59A, which requires the provision of protection and assistance in every judicial process, starting from investigation, prosecution, to examination in court sessions. The Judge must ensure that the victim is accompanied by legal counsel, psychologists, and social workers during this process.

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Conclusion

The court decision No. 148/Pid.Sus/2023/PN.Bln shows the Court's commitment to protecting children's rights and upholding justice firmly and proportionately. The Judge's *ratio decidendi* in the decision emphasized that the acts of violence committed have caused deep and prolonged suffering for the victims, so they need maximum legal protection. The Judge also referred to specific laws regarding child protection to strengthen legal arguments that focus on children's welfare and rights. However, the criticism of this decision is that the legal protection provided is still limited to the judicial process. A victim-centered approach is needed so that legal protection can include long-term victim recovery and reintegration efforts, not just limited to court time.

In decision No. 148/Pid.Sus/2023/PN.Bln, the Judge only accommodated the child's interests when the case occurred. However, after the verdict under Law Number 35 of 2014 concerning Amendments to the Child Protection Law Number 23 of 2002, Article 59A concerning victim protection did not exist. In this case, the Judge used several approaches to ignore the child's best interests principle after the verdict was issued. First, a formalistic approach that focuses on proving elements of a criminal act without considering the welfare of the child. Second, the priority on retributive punishment emphasizes the punishment of the perpetrator more than the restoration of the condition of the victim's child. Third, limitations in the verdict that only focus on the punishment aspect without paying attention to the rehabilitation and protection of the victim after the verdict. In addition, the lack of application of compensation sanctions for victims shows that the rights and interests of children have not been the top priority in law enforcement, so the principle of the best interests of children has not been fully realized.

Therefore, the government and law enforcement officials need to strengthen the implementation of laws that focus on child protection, such as Law of the Republic of Indonesia Number 35 of 2014 and Law of the Republic of Indonesia Number 17 of 2016. Consistent and firm law enforcement against perpetrators of violence against children must be a priority, including in ensuring that the sentences imposed not only provide a deterrent effect but also pay attention to the rehabilitation and recovery of victims. The community needs to be given more intensive education about the importance of child protection and the negative impact of violence against children. Ongoing counseling programs by the government and civil society organizations can help increase public awareness and understanding of children's rights and the importance of reporting cases of violence to the authorities. However, for the next researcher to be able to examine the role of various legal institutions, including the police, prosecutors, and courts, in handling cases of violence in the family. Identify the obstacles faced and solutions that can be implemented.

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