

Legal Protection for Child Victims of Incest Crimes: Evidence from the Aceh Women's Empowerment and Child Protection Agency

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Submitted: February 19, 2026

Accepted: May 21, 2026

Published: June 24, 2026

Abstract: *This study examines legal protection for child victims of incest in Aceh, with a particular focus on power relations between victims and perpetrators. In this context, incest is understood as a crime that not only violates the physical integrity of the child but also damages the victim's psychological condition, social well-being, and sense of security, given that perpetrators generally occupy dominant positions within the family structure. Therefore, legal protection for child victims of incest requires a multidimensional approach that extends beyond law enforcement to include continuous assistance aimed at preventing revictimization. This study aims to analyze the fundamental concept of legal protection for child victims of incest and the role of the Aceh Office of Women's Empowerment and Child Protection (DP3A) in its implementation. The research employs a qualitative method with an empirical juridical approach. The findings indicate that legal protection for child victims of incest is grounded in the principle of special protection, which recognizes children as vulnerable legal subjects due to unequal power relations. Such protection is not limited to criminal prosecution of perpetrators but also encompasses comprehensive efforts to restore the victims' rights. Empirically, DP3A Aceh has implemented various protective measures, including psychological and physical recovery, social rehabilitation, education, and legal assistance for child victims of incest.*

Keywords: *Sexual Violence, Incest Crime, Legal Protection, Children*

Abstrak: Studi ini mengkaji perlindungan hukum bagi anak korban tindak pidana incest di Aceh dengan menitikberatkan pada perspektif relasi kuasa antara korban dan pelaku. Dalam konteks ini, incest dipahami sebagai kejahatan yang tidak hanya melanggar integritas fisik anak, tetapi juga merusak kondisi psikologis, sosial, dan rasa aman korban, mengingat pelaku umumnya memiliki posisi dominan dalam struktur keluarga. Oleh karena itu, perlindungan hukum terhadap anak korban incest menuntut pendekatan multidimensional yang tidak hanya berfokus pada penegakan hukum, tetapi juga pada pendampingan berkelanjutan guna mencegah reviktimisasi. Penelitian ini bertujuan untuk menganalisis konsep dasar perlindungan hukum terhadap anak korban tindak pidana incest serta peran Dinas Pemberdayaan Perempuan dan Perlindungan Anak (DP3A) Aceh dalam implementasinya. Metode yang digunakan adalah penelitian kualitatif dengan pendekatan yuridis empiris. Hasil penelitian menunjukkan bahwa perlindungan hukum terhadap anak korban incest bertumpu pada prinsip perlindungan khusus (*special protection*), yang menempatkan anak sebagai subjek hukum yang rentan akibat ketimpangan relasi kuasa. Perlindungan tersebut tidak hanya dimaknai sebagai penegakan hukum pidana terhadap pelaku, tetapi juga sebagai upaya komprehensif dalam pemulihan hak-hak korban. Secara empiris, DP3A Aceh telah melaksanakan berbagai bentuk perlindungan, meliputi pemulihan psikologis dan fisik, rehabilitasi sosial, edukasi, serta pendampingan hukum bagi anak korban tindak pidana incest.

Kata Kunci: Kekerasan Seksual, Tindak Pidana Incest, Perlindungan hukum, Anak

Introduction

The problem addressed in this study arises from the issue of legal protection for child victims of incest. From the perspective of power relations between victims and perpetrators, children as victims should receive optimal legal protection. In this framework, incest is understood as a crime that not only violates the physical integrity of the child but also destroys the victim's psychological structure, social condition, and sense of security, as perpetrators generally occupy dominant positions within the family. The protection of children is guaranteed under Indonesian legislation, particularly with regard to universal rights such as the right to life, growth, and development, as well as the right to be free from violence and discrimination. Therefore, parents, families, communities, the nation, and the state all bear the responsibility to safeguard children's fundamental rights.¹

The government has undertaken efforts to provide legal protection for children through various statutory regulations. One of the key instruments is Law Number 35 of 2014 concerning Child Protection, in conjunction with Law Number 23 of 2002 concerning Child Protection. These laws clearly stipulate that child protection fundamentally aims to guarantee and safeguard children's rights, enabling them to live,

¹Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (2024): 1948–73; Dyah Listyarini, "Juvenile Justice System Through Diversion And Restorative Justice Policy," *Diponegoro Law Review* 2, no. 1 (2017); Zakki Fuad Khalil et al., "Bibliometric Analysis of Child Protection Policy Performance in ASEAN," *El-Usrah* 8, no. 1 (2025); Victoria Styan, "The Child Protection Response to Victims of Technology-Assisted Child Sexual Abuse," *Child Abuse Review* 34, no. 4 (2025).

grow, develop, and participate optimally, as well as to obtain protection from violence and discrimination. In addition, provisions related to child protection are also regulated in the Indonesian Criminal Code (KUHP), Law Number 12 of 2022 on Sexual Violence Crimes, and the Law on the Elimination of Domestic Violence. Specifically in Aceh, child protection is further governed by Qanun Aceh Number 6 of 2014 on Jinayat Law and Qanun Number 11 of 2008 on Child Protection. Beyond these, there are also other legal instruments that regulate the legal protection of children.

Although legal regulations on child protection are already in place, children remain vulnerable to violence. Based on data obtained from SIMFONI PPA, the number of cases of violence against children recorded between 2022 and 2024 reached 53,909 cases.² In general, forms of violence against children are classified into four categories: physical violence, psychological violence, sexual violence, and social violence. These forms of violence are interrelated. For instance, children who experience physical violence often suffer adverse consequences affecting both their psychological and physical well-being. Similarly, children who become victims of sexual violence may experience impacts across multiple dimensions, including physical and psychological harm.

Finkelhor argues that children who are most vulnerable to victimization often come from specific at-risk groups. These include children from divorced families, those living with adoptive, step, or guardian caregivers, children raised in violent households, those from families with alcohol dependency, and those from families with mental health problems. Among these groups, sexual violence is identified as the form of abuse most likely to be experienced by children.³

Based on data from the Indonesian Child Protection Commission (KPAI), more than 40% of sexual violence cases involving children are perpetrated by individuals close to the victim or those with blood relations, such as fathers, siblings, grandfathers, or uncles.⁴ Sexual relations involving individuals who share a blood relationship are defined as incest. This phenomenon constitutes a critical issue, as it occurs within the family sphere. When such acts take place, many victims experience fear and shame, which prevents them from disclosing the abuse to those closest to them.⁵ Furthermore, child victims are often subjected to significant pressure and threats. Such intimidation creates a cycle of fear that compels victims to remain silent. In many cases, even when the family is aware of the abuse, it is not reported because it is perceived as a disgrace that could tarnish the family's reputation. This situation significantly hinders victims'

²"Kekerasan," Kementrian Pemberdayaan Perempuan dan Perlindungan Anak, n.d.

³Jessika Eichler and Fanny Verónica Mora Navarro, "Proceduralising Indigenous Peoples' Demands: Indigenous Environmental Rights and Legal Pluralism in Contemporary Jurisprudence," *Legal Pluralism and Critical Social Analysis* 55, no. 1 (2023).

⁴Henny Yuningsih et al., "Ratio Legis of Chemical Castration to the Perpetrators of Sexual Violence against Children," *Sriwijaya Law Review* 4, no. 2 (2020); Tateki Yoga Tursilarini et al., "Examining Child Victims of Incest in Indonesia: Between the Legal System and Family Dysfunction," *Juris: Jurnal Ilmiah Syariah* 23, no. 1 (2024).

⁵Chiew Way Ang and Siow Li Lai, "Intimate Partner Violence in Cambodia: Is Women's Empowerment a Protective Factor?," *Asian Women* 38, no. 3 (2022).

access to protection, recovery, and justice. Incestuous rape also commonly occurs over a prolonged period, or at least repeatedly, thereby exacerbating the psychological trauma experienced by the child victims.⁶

In Indonesia, incest is classified as a serious criminal offense; therefore, victims are entitled to specific rights as stipulated in statutory regulations. Article 6 paragraph (1) of Law Number 31 of 2014 concerning the Protection of Witnesses and Victims provides that victims of human rights violations, terrorism, trafficking in persons, torture, sexual violence, and severe abuse, in addition to the rights referred to in Article 5, are also entitled to: (a) medical assistance and (b) psychosocial and psychological rehabilitation.

From an institutional perspective, the Office of Women's Empowerment and Child Protection (DP3A) holds a strategic role in safeguarding the rights of women and children. This institution plays a crucial role in serving vulnerable groups, both within and beyond the family sphere. DP3A is mandated to ensure that women and children can live in conditions that are safe, dignified, and free from discrimination, violence, and exploitation. Furthermore, in fostering a culture of prevention and response to violence, DP3A implements integrated programs and policies to strengthen protection mechanisms and support systems for victims.⁷

Cases of incest as a criminal offense occur across nearly all regions of Indonesia, including the Province of Aceh, which is well known for its implementation of Islamic law. Based on information obtained from the official website of the Aceh Office of Women's Empowerment and Child Protection (DPPPA Aceh), the following data presents reported incest cases over several years.⁸

Table 1:
Data Tindak Pidana Inses di Aceh Tahun 2020-2024

No	Tahun	Jumlah Kasus
1	2020	4
2	2021	8
3	2022	8
4	2023	3
5	2024	0

Source: Buku Statistik Gender dan Anak Provinsi Aceh Tahun 2025

This phenomenon is deeply concerning as it fundamentally contradicts the core norms upheld by society, including moral, legal, customary, and religious norms. Such a profound conflict with these foundational values indicates the presence of serious and complex social problems in Aceh that require further attention.

⁶Layyin Mahfiana et al., "The Structure and Culture of Negotiating Child Victims' Rights in Cases of Sexual Violence," *Legality: Jurnal Ilmiah Hukum* 34, no. 1 (2026): 22–45.

⁷Tursilarini et al., "Examining Child Victims of Incest in Indonesia: Between the Legal System and Family Dysfunction."

⁸Fahmi, "Buku Statistik Gender Dan Anak Provinsi Aceh Tahun 2025," Dinas Pemberdayaan dan Perempuan dan Perlindungan Anak Aceh, 2025.

Previous studies have extensively examined cases of incestuous rape, including research on Legal Protection for Victims of Incestuous Rape in Indonesia. These studies highlight that legal protection for children as victims of incestuous rape has been regulated under relevant laws. Therefore, victims are entitled to legal protection and security measures to safeguard them from threats, intimidation, and other forms of coercive or repressive actions.⁹ Other studies have also indicated that incest cases are often difficult to uncover due to social stigma and the severe traumatic impact experienced by victims.¹⁰

Other studies have explored the phenomenon of incest as a form of sexual violence within the family, elaborating on its causal factors (both internal and external), typologies, impacts (including physical and psychological harm, early pregnancy, and genetic abnormalities), as well as therapeutic interventions for both victims and perpetrators.¹¹ This is further supported by findings from other studies, which indicate that the impacts of incest may include psychological trauma, physical harm, and the risk of pregnancy.¹²

Based on the aforementioned previous studies, it can be identified that, to date, there has been no research that specifically examines the actual implementation of legal protection for child victims of incest, particularly within the context of Aceh. Most existing studies focus on normative aspects and have not empirically analyzed how legal protection is delivered and implemented by authorized institutions. This gap has encouraged the author to further investigate the fundamental concept of legal protection for victims of incest, as well as the efforts undertaken by the Office of Women's Empowerment and Child Protection (DP3A) as the institution authorized to handle cases of violence against children, particularly victims of incest.

This study is conducted on the basis that incest constitutes a highly complex form of violence, as it occurs within the family sphere and has the potential to cause profound and long-lasting impacts on child victims of sexual violence. Therefore, it is necessary to conduct a study focusing on the empirical application of legal protection by authorized institutions, specifically DP3A Aceh. To address this issue, the research employs a qualitative method grounded in empirical jurisprudence. This empirical juridical approach involves direct observation and in-depth interviews to examine how DP3A delivers legal assistance and protection in practice.¹³

⁹Sri Utami, Hepy Krisman Laia, and Muhammad Arif Sahlepi, "Legal Protection of Child Victims of Sexual Crimes in the Perspective of Criminal Law," *International Journal of Law, Crime and Justice* 2, no. 2 (2025).

¹⁰Erick Yuda Pratama, Nur Rochaeti, and Anggita Doramia Lumbanraja, "Perlindungan Hukum Bagi Anak Korban Delik Inses Dalam Perspektif Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak (Studi Putusan Nomor 191/PID.SUS/2017/PN Temanggung)," *Diponegoro Law Journal* 11, no. 3 (2022): 1–11.

¹¹Sri Utami, Hepy Krisman Laia, and Muhammad Arif Sahlepi, "Legal Protection of Child Victims of Sexual Crimes in the Perspective of Criminal Law."

¹²Nadhira Salsabila, "Kebijakan Kriminal Perlindungan Anak Korban Inses Di Indonesia" (Universitas Islam Sultan Agung (UNISSULA) Semarang, 2023).

¹³Wiwik Sri Widiarty, *Buku Ajar Metode Penelitian Hukum* (Yogyakarta: Publika Global Media, 2024), 122.

The empirical juridical approach in this study is employed not only to describe the practice of legal protection carried out by DP3A, but also to analyze the gap between legal norms and their implementation. Through this approach, the study assesses the extent to which the provisions of the Child Protection Law are operationalized in assisting child victims of incest. DP3A is positioned as an institutional actor responsible for implementing the state's mandate in protecting children's rights; therefore, the analysis encompasses patterns of assistance, legal and social interventions, as well as structural and cultural constraints. This approach serves as an evaluative framework for assessing the effectiveness of protection measures and for formulating policy recommendations that are more responsive to the needs of victims of incest-related violence.

The Concept of Legal Protection for Child Victims of Incest

According to the *Kamus Besar Bahasa Indonesia* (KBBI), incest is defined as a sexual relationship or marriage between two closely related individuals that is considered to violate customary norms, law, and religion.¹⁴ In Indonesia, incest is more commonly referred to as *kawin sumbang* or *hubungan sumbang*, which denotes a marital or sexual relationship between individuals who are legally prohibited from marrying due to close consanguineous ties.¹⁵ In Islamic criminal law, incest is not recognized as a distinct category of *jarimah*; rather, it is understood as *zina mahram*, referring to illicit sexual relations committed between individuals who are related by blood.¹⁶ However, the prohibition of incest can be found in the Qur'an Surah An-Nisa verse 23, which explicitly forbids marriage with individuals who share blood relations or are within the category of *mahram*.

In general, incest is categorized into three types: parental incest, sibling incest, and familial incest. First, parental incest refers to sexual relations between parents and their children, for example, a father with his daughter or a mother with her son. Second, sibling incest refers to sexual relations between biological siblings, such as an older brother and a younger sister. Third, familial incest refers to sexual relations involving close relatives within the extended family, whether along ascending, descending, or collateral lines of kinship, including grandparents, uncles, aunts, nieces, and nephews, who are connected by blood relations or inheritance ties under applicable legal or customary rules.¹⁷ Incest can be classified into two forms. First, incest is categorized as consensual sexual relations, occurring on the basis of mutual agreement or willingness

¹⁴Badan Pengembangan Bahasa dan Pembinaan Bahasa, "Inses," n.d.

¹⁵Meredith Rossner and Helen Taylor, "The Transformative Potential of Restorative Justice: What the Mainstream Can Learn from the Margins," *Annual Review of Criminology*, 2024; Swati Kaushal, "Punishment for Crimes: An Instrument of Social Change," *Proceedings of International Young Scholars Workshop* 9 (2020).

¹⁶Agus Rahmat and Safira Mustaqilla, "Penegakan Hukum Bagi Pelaku Tindak Pidana Incest Di Aceh Besar Dalam Perspektif Hukum Pidana Islam," *JARIMA* 1, no. 1 (2025): 19–20.

¹⁷Benhammouda Mokhtar, "The Child As A Victim Of The Digital Environment," *Journal of Law and Sustainable Development* 12, no. 10 (2024).

between both parties. Second, incest is categorized as a sexual offense, involving sexual acts carried out through coercion, force, or threats by the perpetrator.¹⁸

In Indonesia, the crime of incest is regulated implicitly in several statutory provisions. First, with regard to incest, Indonesian Criminal Code (KUHP) Article 294 provides that “any person who commits an indecent act with his or her child shall be subject to a maximum imprisonment of seven years.” The elements of the offense under this provision include acts of indecency committed against one’s biological child, stepchild, adopted child, or a child under one’s supervision who is still a minor, with a maximum penalty of seven years’ imprisonment. This article can be applied to cases of incest involving children. However, there remains an ongoing debate regarding the interpretation of what constitutes an “indecent act” within the meaning of the provision.¹⁹ Some scholars argue that indecent acts are limited to conduct that is sexually stimulating and primarily relate to violations of norms of morality or propriety, or, more simply, acts associated with pornographic behavior.²⁰ Other scholars argue that this act of indecency also includes sexual intercourse, which is viewed as an action that stimulates sexual desire.²¹

Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT) stipulates in Article 46 that: “Any person who commits sexual violence as referred to in Article 8 letter a shall be subject to a maximum imprisonment of 12 (twelve) years or a maximum fine of IDR 36,000,000.00 (thirty-six million rupiah).” Article 8 letter (a) of the same law further specifies that such sexual violence occurs against a person residing within the scope of the household. Furthermore, Law No. 12 of 2022 concerning Sexual Violence Crimes, in Article 6, stipulates that a person shall be criminally liable for committing physical sexual harassment:

- a. Any person who engages in physical sexual acts directed at another person’s body, sexual desire, and/or reproductive organs with the intention of degrading a person’s dignity and worth based on sexuality and/or morality, and which does not fall under other more severe criminal provisions, shall be subject to a maximum imprisonment of 4 (four) years and/or a maximum fine of IDR 50,000,000 (fifty million rupiah).
- b. Any person who engages in physical sexual acts directed at another person’s body, sexual desire, and/or reproductive organs with the intention of placing the person under their unlawful control, whether within or outside of marriage, shall be

¹⁸Ani Purwanti And Rian Prabowo, “Women Rights Fulfillment As The Victim Of Gross Human Rights Violation: Urgency For The Sexual Violence Eradication Bill,” *Indonesia Law Review* 8, no. 3 (2018).

¹⁹Miodrag Simović and Mile Šikman, “The Impact Of Digital Environment On Children And Respond To Socially Unacceptable Behavior,” *Journal of Criminology and Criminal Law* 61, no. 1 (2023).

²⁰Fatin Hamamah et al., “Early Childhood Sexual Abuse and the Criminal Justice System: Challenges, Legal Reform, and Victim Rehabilitation in Indonesia,” *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 14, no. 1 (2025).

²¹Rahmad Dwi Putra Santosa, “Analisis Yuridis Tindak Pidana Inses/Incest Menurut Peraturan Perundang-Undangan Nasional,” *Dinamika* 26, no. 7 (2020): 882–904.

subject to a maximum imprisonment of 12 (twelve) years and/or a maximum fine of IDR 300,000,000 (three hundred million rupiah).

- c. Any person who abuses a position, authority, trust, influence arising from deception or a relationship of circumstance, or who exploits a person's vulnerability, inequality, or dependency, and coerces or fraudulently induces that person to engage in or permit sexual intercourse or obscene acts with themselves or another person, shall be subject to a maximum imprisonment of 12 (twelve) years and/or a maximum fine of IDR 300,000,000 (three hundred million rupiah).

Article 15, paragraph (1) of the Law on the Crime of Sexual Violence (UU TPKS) stipulates an additional penalty of one-third if the offense is committed against a child. In Aceh, the legal regulation concerning the crime of incest is specifically governed by Qanun Number 6 of 2014 on Jinayat Law. As stated in Article 49 of the Jinayat Qanun, "Any person who intentionally commits the crime of rape against a person with whom he has a mahram relationship shall be subject to 'uqubat ta'zir of flogging of not less than 150 (one hundred and fifty) lashes and not more than 200 (two hundred) lashes, or a fine of not less than 1,500 (one thousand five hundred) grams of pure gold and not more than 2,000 (two thousand) grams of pure gold, or imprisonment of not less than 150 (one hundred and fifty) months and not more than 200 (two hundred) months." This provision applies to perpetrators of incest in Aceh and functions as a *lex specialis* that may override prior national regulations.

The occurrence of incest is influenced by several factors, which can be categorized into internal and external factors. Internal factors refer to causes related to the perpetrator's individual characteristics, while external factors encompass conditions beyond the perpetrator's direct control. Internal factors include: (1) biological aspects, where the perpetrator experiences strong sexual urges and an inability to control sexual desire; and (2) psychological or personality factors, where the perpetrator exhibits negative traits such as low self-esteem, social isolation from peers, feelings of insecurity, and poor socialization.²²

External factors are factors that originate outside the offender. These include the following components: 1) Economic factors: low income may influence the occurrence of criminal acts. This is associated with a low standard of living, which also reflects a low level of education. Limited education can affect an individual's ability to think rationally. When a person is unable to think rationally, it creates opportunities for sexual violence against their own biological child. 2) Environmental factors: these are influenced by a closed or restrictive environment, which makes it difficult for others to become aware when such acts are committed by the perpetrator.²³

²²Salsabila, "Kebijakan Kriminal Perlindungan Anak Korban Inses Di Indonesia."

²³Annisa Ismail, Fiolita Indah Psupitasari, and Rohila Chindy Maghrivani, "Perilaku Tak Senonoh: Incest Dan Dampak Trauma Inner Child," *Temu Ilmiah Nasional (Temilnas)XXI Asosiasi Psikologi Forensik* 3, no. 5 (2023): 5.

In addition to the factors mentioned above, there are other external factors that contribute to the occurrence of violence against children.²⁴

- a. Factor of access to pornography. As is generally known, in the era of technological advancement, individuals have increasingly easy access to various forms of information, including pornography. Similar to narcotics, pornography can also lead to addictive behavior, causing individuals to continuously seek such content. According to various previous studies, access to pornographic content may increase sexual desire. Therefore, when such conditions occur, and the perpetrator is unable to control sexual urges, there is a high possibility that these urges may be directed toward the closest individuals, particularly children within the family environment.
- b. Critical condition factors, one example of which is termination of employment (layoffs). In such situations, there is often a shift in household economic responsibilities. The wife may frequently work outside the home to fulfill family needs, while the husband, due to unemployment, tends to stay at home. This condition creates an environment that may increase the risk of incest, where the child becomes the target of the father's sexual abuse.

In line with the above description, other research findings also indicate that the factors contributing to incestuous relationships are associated with sexual disorders in the perpetrator, family mobility conditions in which family members sleep in the same room, and a quiet or unmonitored household environment.²⁵ Incest, or sexual relations between blood relatives, is a highly serious form of criminal behavior because it occurs within the family environment, which is supposed to serve as a place of protection and safety. Therefore, incest is categorized as family abuse or domestic violence occurring within the household.²⁶ The impacts experienced by victims after the incident are highly dangerous, particularly for children. They may suffer from psychological trauma, depression, the risk of early pregnancy, and even the potential for congenital disabilities in offspring due to genetic abnormalities in the baby. In addition, such experiences can also lead to a loss of trust in the family environment.²⁷

Finkelhor and Browne, there are several experiences commonly faced by victims following sexual violence or incest. This condition is often referred to as Post-Traumatic Stress Disorder (PTSD), which includes:²⁸

²⁴Botagoz Abulkairova, "Modern Criminological Measures to Counteract Child Substitution in Accordance with Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 25, no. 2 (2025).

²⁵Rohmawati and Syahril Siddik, "Legal Protection for Children Born out of Wedlock: Ensuring the Best Interests of Children through Judge Decisions," *Al-'Adalah* 19, no. 2 (2022).

²⁶Elsya Ikhsani Azzahra, "Tindak Pidana Kekerasan Seksual Inses Pada Anak Dalam Hukum Positif Indonesia," *Journal of Contemporary Law Studies* 2, no. 1 (2024): 64–74.

²⁷Yusefri, Mu'adil Faizin, and Wahyu Abdul Jafar, "Protecting Child Labor Rights: Maqasid Sharia Framework and Policy Recommendations," *Samarah* 8, no. 2 (2024).

²⁸Dedy Sumardi, Mansari Mansari, and Maulana Fickry Albaba, "Restoratif Justice, Diversi Dan Peradilan Anak Pasca Putusan Mahkamah Konstitusi Nomor 110/Puu-X/2012," *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 11, no. 2 (2022): 248–65.

- a. Betrayal or illusion. In this context, the child who should have trust in their parents or family instead experiences that this trust becomes a factor that endangers the child's condition;
- b. Sexual trauma;
- c. Helplessness, where the child experiences fear, phobia, anxiety, and pain;
- d. Stigmatization, where feelings of guilt, shame, and anger arise in the child victim toward their own body.

This legal protection is an effort undertaken to provide a sense of security to child victims. According to Philipus M. Hadjon, legal protection refers to the protection of a person's reputation and the recognition of a person's rights under applicable laws and regulations, including various rules or norms that safeguard an individual from other forms of harm.²⁹ Therefore, legal protection is an absolute necessity that must be afforded to child victims, as it provides them with a sense of security, a controlled environment, legal certainty, and recovery efforts guaranteed by law. This aims to ensure that children who become victims of criminal acts and are involved in the criminal justice process feel protected and are not overshadowed by various forms of threats when seeking to assert their rights.³⁰

Legal protection for child victims of incest has been regulated both in international and national legal instruments. The international instrument governing child protection is the 1989 United Nations Convention on the Rights of the Child, which was ratified through Presidential Decree No. 36 of 1990. However, this Convention only regulates sexual crimes against children in general, while incest as a specific criminal offense has not been explicitly addressed. Therefore, several other statutory regulations exist to provide legal protection for child victims. These legal instruments include Law No. 23 of 2002 in conjunction with Law No. 35 of 2014 on Child Protection, and Law No. 13 of 2006 in conjunction with Law No. 31 of 2014 on Witness and Victim Protection.

Article 59 paragraph (1) of Law Number 35 of 2014 states: "The Government, regional governments, and other state institutions are obliged and responsible for providing special protection to children." Furthermore, Article 59 paragraph (2) stipulates that child victims of sexual violence are among those entitled to special protection. Such special protection includes, among others, the following:

- a. Prompt medical treatment and/or rehabilitation, including psychological, physical, and social rehabilitation, as well as the prevention of diseases and other health disorders;
- b. Psychosocial support during the treatment process until recovery;

²⁹Nur Afdhaliyah, Ismansyah Ismansyah, and Fadhilah Sabri, "Kepastian Hukum Dalam Memberikan Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Pencabulan," *Jurnal IUS Kajian Hukum Dan Keadilan* 6, no. 3 (2018).

³⁰Pratama, Rochaeti, and Lumbanraja, "Perlindungan Hukum Bagi Anak Korban Delik Inses Dalam Perspektif Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak (Studi Putusan Nomor 191/PID.SUS/2017/PN Temanggung)."

- c. Provision of social assistance for children from low-income families; and
- d. Provision of protection and assistance throughout every stage of the judicial process.

Article 69A of Law Number 35 of 2014 states: "Special protection for child victims of sexual violence, as referred to in Article 59 paragraph (2) letter j, shall be carried out through the following measures:"

- a. Education on reproductive health, religious values, and moral values;
- b. Social rehabilitation;
- c. Psychosocial assistance during treatment through to recovery;
- d. Provision of protection and accompaniment at every stage of examination, from investigation, prosecution, to trial proceedings in court.

Not only that, but child victims also have the right to file a restitution claim with the court. Restitution refers to compensation payments imposed on the perpetrator based on a court decision with permanent legal force for material and/or immaterial losses suffered by the victim or their heirs. Thus, restitution constitutes one form of responsibility that must be provided to the victim for the crime committed by the perpetrator.

The provision in Article 69A of Law Number 35 of 2014 emphasizes that legal protection for child victims of sexual violence, including incest, cannot be narrowly interpreted as protection limited to criminal justice proceedings alone. Legal protection must be understood comprehensively, with the victim's recovery as the primary orientation. In the context of incest crimes, special protection becomes highly essential, considering that the perpetrators are generally from the victim's closest family environment and hold a position of power over the victim, resulting in psychological and social impacts on the child that are far more complex and multilayered.

In relation to the role of the Aceh DP3A, the provisions of Article 69A serve as a legal basis for this institution to carry out integrated interventions encompassing preventive, curative, and rehabilitative aspects.³¹ The DP3A not only serves as a facilitator of recovery services but also acts as a liaison between victims and law enforcement officials, medical personnel, psychologists, and other supporting institutions. The assistance provided at every stage of the legal process aims to ensure that the rights of child victims remain protected and to prevent revictimization during the examination process.

The victim's right to file for restitution indicates a paradigm shift in legal protection, from a perpetrator-punishment-focused approach toward a victim-

³¹Matthew Hall, "Victims of Crime: Constructions, Governance and Policy," in *Victims of Crime*, 2017.

oriented justice approach that emphasizes victim recovery and restoration.³² In cases of incest, restitution has an important meaning as a form of state recognition of the victim's suffering, encompassing both material and immaterial losses, as well as a manifestation of the perpetrator's legal responsibility for the impact caused by the criminal act committed. However, perpetrators such as biological fathers or other family members of the victim may face economic constraints. This situation creates particular difficulties in fulfilling restitution payments for child victims of incest.³³

In practice, the implementation of restitution also frequently encounters various other obstacles, such as limited understanding on the part of victims and their families, the victim's economic dependence on the perpetrator, and the lack of proactive legal assistance. The role of the Aceh Women's Empowerment and Child Protection Agency (DP3A Aceh) is therefore crucial, not only in providing psychosocial support, but also in ensuring that the restitution rights of child victims of incest can be effectively accessed and advocated as an integral part of comprehensive legal protection.

Legal Protection and Fulfillment of the Rights of Victims of Incest Crimes by the Aceh Department of Women's Empowerment and Child Protection

The Department of Women's Empowerment and Child Protection of Aceh is a regional government apparatus functioning as an implementing element of governmental affairs and development in the fields of women's and family quality of life, fulfillment of children's rights, protection of women, special protection for children, population control, and family planning. The organizational structure of the DP3A Aceh consists of the Head of the Department, the Secretariat, the Division of Women's and Family Quality of Life, the Division of Special Protection for Children, the Division of Fulfillment of Children's Rights, the Division of Women's and Children's Protection, and the Technical Implementation Unit (UPTD).

The Regional Technical Implementation Unit, known as UPTD PPA, is a technical operational unit that provides services for women and children who are victims of violence, women and children in conflict with the law, discrimination, special protection cases, and other issues related to women and children. In carrying out its duties, the UPTD PPA performs service functions consisting of public complaint handling, victim outreach, case management, temporary shelter provision, mediation, and victim assistance.³⁴

Based on the results of interviews conducted by the researcher with the Aceh DP3A (Women's Empowerment and Child Protection Office), a general overview was obtained regarding how legal protection is empirically provided to child victims of

³²Tursilarini et al., "Examining Child Victims of Incest in Indonesia: Between the Legal System and Family Dysfunction."

³³Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara."

³⁴Zainuddin et al.

incest. The Aceh DP3A operates in accordance with institutional mechanisms in efforts to fulfill the rights of victims. Victims of incest are children who are entitled to special protection from the government. Therefore, the Aceh DP3A provides legal protection that includes physical recovery, psychological rehabilitation, social rehabilitation, education, legal assistance, and other necessary forms of support required by the victims.

In terms of psychological recovery, the Aceh DP3A has dedicated human resources or staff responsible for addressing the psychological aspects of child victims. These staff members are professionals with competence in psychology, commonly referred to as psychologists. The presence of psychologists reflects the approach used in handling victims of sexual violence, including incest cases. Incest cases are somewhat different because they have a highly significant impact on the psychological condition of the victims. This occurs due to the close relationship between the victim and the perpetrator, which often leads to deep trauma, emotional distress, and fear. Thus, psychological recovery is an essential aspect of victim protection efforts. Furthermore, the duration of psychological recovery provided to each victim varies depending on the severity of the trauma experienced and is also influenced by the age of the child victim.

The DP3A Aceh also provides protection in the aspect of social rehabilitation.³⁵ Rehabilitation refers to efforts to restore an individual to their original condition or to correct deviant behavior, enabling them to readjust to their social environment and fulfill their role as a citizen.³⁶ In this context, the Aceh DP3A (Department of Women's Empowerment and Child Protection) implements a social reintegration process to enable child victims to restore their social functioning within society. In addition to providing social rehabilitation for victims, DP3A Aceh also conducts social outreach activities for communities living around the victims' residences. This is carried out to prevent the phenomenon of victim blaming, in which the community may potentially stigmatize or blame the victim, thereby positioning the victim as the party at fault.³⁷

This legal assistance aims to ensure the fulfillment of the rights of child victims during participation in the criminal justice process. In this context, the child receives legal accompaniment throughout the criminal proceedings involving them, starting from the investigation stage through to the trial phase in court.³⁸ The DP3A Aceh has legal specialists assigned to ensure that legal proceedings are conducted properly. Their duties include ensuring that every legal process is carried out fairly and that victims' rights are not violated during legal proceedings.

³⁵Sri Utami, Hepy Krisman Laia, and Muhammad Arif Sahlepi, "Legal Protection of Child Victims of Sexual Crimes in the Perspective of Criminal Law."

³⁶Jeanne Gubbels et al., "What Works in School-Based Programs for Child Abuse Prevention? The Perspectives of Young Child Abuse Survivors," *Social Sciences* 10, no. 10 (2021).

³⁷Budi Sastra Panjaitan, *Viktimologi Pandangan Advokat Terhadap Perbuatan Pidana Dan Korban* (Banyumas: Amerta Media, 2022), 29.

³⁸Sri Utami, Hepy Krisman Laia, and Muhammad Arif Sahlepi, "Legal Protection of Child Victims of Sexual Crimes in the Perspective of Criminal Law."

Legally, existing legislation has not yet distinguished between incest as a criminal offense and ordinary cases of rape.³⁹ Thus, in the existing legal regulatory framework, there is no distinction between legal protection for child victims of incest and victims of ordinary rape. However, the DP3A has its own specific procedures in handling incest cases, which differ slightly from those applied in ordinary rape cases. In this regard, the Aceh DP3A conducts more intensive coordination with various relevant institutions, such as investigators, social services, healthcare professionals, and other related parties required to fulfill the rights of the victims.

Various protection efforts have been undertaken by the Aceh DP3A (Department of Women Empowerment and Child Protection) and other relevant parties. However, in their implementation, there are several inhibiting factors in the process of providing legal assistance to child victims. One of these obstacles is interference by the perpetrator or the victim's family, which may hinder the fulfillment of the victim's rights. This interference typically takes the form of threats or pressure to discontinue legal proceedings, withdraw reports, or characterize the case as resolved through familial settlement, thereby encouraging the termination of legal action to preserve the family's reputation. This situation illustrates the existence of a power relation between the victim and the perpetrator, which has the potential to harm the victim by obstructing the fulfillment of rights that should be obtained by the victim.

The results of interviews with the DP3A of Aceh indicate that legal protection efforts for child victims of incest have been implemented through a comprehensive approach, including psychological support, social rehabilitation, legal assistance, and other rights required by the victims. However, in terms of the effectiveness of legal protection for victims, structural and cultural challenges remain, particularly related to interference by perpetrators or family members. Considering these issues, it is necessary to improve the process of providing legal protection for child victims and to ensure continuous public education so that the rights of victims of incest crimes can be fully fulfilled.

Empirically, the legal protection practices carried out by the Aceh DP3A indicate conformity with the normative mandate of the Child Protection Law, particularly in the aspect of special protection for child victims of sexual violence. However, this normative conformity does not fully guarantee the substantive effectiveness of legal protection, especially in the context of incest offenses, which possess particular characteristics.⁴⁰

Incest is not only a sexual offense but also a form of structural violence within the domestic sphere characterized by power relations, economic dependency, and

³⁹Helminsyah Helminsyah et al., "Integrating Project Citizen and Qanun Jinayat in Civic Education to Prevent Sexual Violence in Acehnese Higher Education," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 3 (2025): 1863–82.

⁴⁰Supriyandi Widodo Eddyono, *Tindak Pidana Inses Dalam RKUHP, Institute for Criminal Justice Reform* (Jakarta Selatan, 2016), 17.

psychological control. Therefore, the legal protection afforded to child victims of incest should not, in practical terms, be equated with the handling of general rape cases, even though there is currently no explicit regulatory differentiation in positive law. In this context, the internal policy (rules of practice) of the Aceh Office of Women's Empowerment and Child Protection (DP3A), which treats incest cases with greater intensity through cross-sectoral coordination, constitutes a progressive form of institutional discretion. However, such discretion remains dependent on institutional capacity and lacks a binding regional policy framework, thereby potentially leading to inconsistencies in protection practices across cases.

From a psychological assistance perspective, the presence of psychologists within the Aceh Regional Office of Women's Empowerment and Child Protection (DP3A Aceh) reflects a victim-centered approach. However, the psychological recovery of child victims of incest inherently requires long-term and sustained intervention. Limitations in human resources, high caseloads, and restricted duration of assistance may reduce the effectiveness of trauma recovery processes for victims.

In terms of social rehabilitation, DP3A Aceh's efforts to conduct community outreach and education represent an important strategy to prevent victim blaming. Nevertheless, this approach remains largely reactive, often involving spontaneous responses that are sometimes insufficiently structured and do not fully address the root causes of patriarchal culture and social taboos. These factors contribute to the frequent resolution of incest cases through familial settlements, which place victims in a subordinate position.

Legal assistance provided by DP3A Aceh has ensured victims' involvement in the criminal justice process. However, the dominance of family members or perpetrators in decision-making often weakens the position of child victims, particularly when there is pressure to withdraw reports or discontinue legal proceedings. This condition indicates that formal legal protection has not fully penetrated private power relations, thereby hindering the comprehensive fulfillment of victims' rights. Family and perpetrator interventions that obstruct legal processes further demonstrate the limitations of the state in controlling the domestic sphere as the primary locus of incest cases. In this situation, DP3A Aceh is placed in a dilemma between respecting family social dynamics and ensuring the fulfillment of children's rights as victims of sexual violence.

Thus, legal protection for child victims of incest provided by DP3A Aceh still requires strengthening at the structural policy level, including the establishment of specific regulations on handling incest cases, mechanisms to protect victims from family intervention, and reinforcement of DP3A's mandate to ensure stronger authority in guaranteeing the continuity of legal proceedings and victim recovery. Without regulatory strengthening and a transformation of social awareness, legal protection for child victims of incest risks remaining merely procedural in nature and has not fully ensured substantive justice and long-term recovery for victims.

Conclusion

This study emphasizes that the criminal act of incest constitutes a highly complex form of sexual violence due to its occurrence within familial relationships characterized by power imbalance, dependency, and psychological control over the child victim. Its impacts are not only physical but also psychological, social, and long-term, affecting the victim's future well-being. Therefore, legal protection for child victims of incest must be understood comprehensively, not limited to criminal justice proceedings, but also prioritizing victim recovery as the primary objective at every stage of case handling. Although various legal instruments regulating child protection are already available at the normative level, their implementation still faces challenges due to the absence of specific regulations distinguishing incest cases from other forms of sexual violence. Empirically, the Aceh Office of Women's Empowerment and Child Protection (DP3A) has implemented a relatively comprehensive, victim-oriented approach; however, its effectiveness remains constrained by structural and cultural factors, including family intervention, social stigma, and a culture of silence. Therefore, there is a need to strengthen policies, establish specific regulations, and enhance institutional authority so that legal protection does not remain merely procedural but can ensure substantive justice and long-term recovery for child victims of incest.

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