



**The P2TP2A's Effort to Cope with the Intensification of Sexual Abuse of Children in Perspective of the Islamic Family Law
(A Case Study at the City of Banda Aceh)**

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Abstract

Law Number 35 of 2014 Article 1 Paragraph (2) Regarding Child Protection includes all activities designed to guarantee and protect children and their rights so that they can live, grow, and develop in accordance with human dignity, and receive protection from violence and discrimination. However, sexual violence against minors continues to be a reality in our society. According to data from P2TP2A Banda Aceh, there were 13 cases in 2018 and 19 cases in 2019. The author wishes to know how effective P2TP2A Banda Aceh's efforts are in combating sexual violence against minors and what obstacles this particular institution faces in this regard. This is a qualitative case study research investigating strategies used to cope with abuses against minors. The results indicate providing guidance and education are two important strategies used in its effort to cope it sexual abuse against minors. In addition, legal assistance services, health and psychological services, safe housing services (shelter), social rehab services are also provided for this cause. The obstacles that P2TP2A Banda Aceh faces in combating sexual violence against children are familial disgrace, trauma victims, infrastructure, and facilities. In addition to P2TP2A Banda Aceh, the Banda Aceh Police and LBH (Legal Aid Institute) of Banda Aceh participated in combating the rising incidence of sexual violence against minors in the city of Banda Aceh. This study also suggests that the Banda Aceh Police conducted investigations after receiving complaints from the public. Research conducted by LBH Banda Aceh indicates that the efforts made include providing legal assistance to victims.

Keywords: P2T2A, Sexual Violence, Islamic Law

Abstrak

Undang-Undang Nomor 35 Tahun 2014 Pasal 1 Ayat (2) Tentang Perlindungan Anak adalah segala kegiatan untuk menjamin dan melindungi anak dan hak-haknya agar dapat hidup, tumbuh, dan berkembang sesuai dengan harkat dan martabat kemanusiaan, serta mendapat perlindungan dari kekerasan dan diskriminasi. Namun, kekerasan seksual terhadap anak di bawah umur masih

menjadi kenyataan di masyarakat. Menurut data dari P2TP2A Banda Aceh, terdapat 13 kasus di tahun 2018 dan 19 kasus di tahun 2019. Penulis ingin mengetahui seberapa efektif upaya P2TP2A Banda Aceh dalam memerangi kekerasan seksual terhadap anak di bawah umur dan apa saja hambatan yang dihadapi lembaga ini dalam hal tersebut. Penelitian ini merupakan penelitian studi kasus kualitatif yang menyelidiki strategi yang digunakan untuk mengatasi kekerasan terhadap anak di bawah umur. Hasil penelitian menunjukkan bahwa memberikan bimbingan dan pendidikan adalah dua strategi penting yang digunakan dalam upaya mengatasi kekerasan seksual terhadap anak di bawah umur. Selain itu, layanan bantuan hukum, layanan kesehatan dan psikologis, layanan rumah aman (shelter), layanan rehabilitasi sosial juga disediakan untuk tujuan ini. Kendala yang dihadapi P2TP2A Banda Aceh dalam menanggulangi kekerasan seksual terhadap anak adalah aib keluarga, trauma korban, sarana dan prasarana. Selain P2TP2A Banda Aceh, Polresta Banda Aceh dan LBH Banda Aceh turut serta dalam memerangi meningkatnya kasus kekerasan seksual terhadap anak di bawah umur di Kota Banda Aceh. Penelitian ini juga menunjukkan bahwa Polresta Banda Aceh melakukan investigasi.

Katakunci: P2T2A, Kekerasan Seksual, Hukum Islam

Introduction

Children are a particularly vulnerable group to sexual violence because they are typically viewed as weak or impotent and are highly dependent on adults. This renders minors helpless when threatened not to disclose their experiences.¹ In accordance with Law No. 35 of 2014 concerning Child Protection, a child is defined as anyone under the age of 18, including unborn children. Moreover, if we examine the conception of the child in accordance with the perfection of Islamic law, we find that the child is a dhaif and dignified creature, whose existence is the result of Allah SWT's will through the process of creation.²

Allah SWT commanded parents to defend their family from acts of violence committed by third parties, including acts of violence perpetrated against family members who are children or minors.³ Because infants up to a certain age require assistance with activities such as eating, dressing, cleaning themselves, and even getting up from sleep and falling asleep. Therefore, the person who cares for it must have compassion, patience, and the hope that the infant will grow up to be good (sholeh). Additionally, you parents should provide sufficient time to take succeed in

¹ Ivo Noviana, *Kekerasan Seksual Terhadap Anak: Dampak dan Penanganannya*, Pusat Penelitian dan Pengembangan Kesejahteraan Sosial, Kementerian Sosial RI 1 Januari 2015. Accessed via melalui ejournal.kemsos.go.id. tanggal 23 Desember 2020

² Saifuddin dkk, *Ensiklopedia Islam Indonesia* (Jakarta: PT. Ichtiar Baru, 2000), p. 142

³ Fahrul Razi, *Pemahaman Hadits Memukul anak Yang Enggan Melaksanakan Shalat Secara Tekstual dan Konstektual*, Fakultas Syariah dan Hukum Universitas Islam Negeri Ar-Raniry Darussalam-Banda Aceh 2015 M. p. 3

taking these responsibilities. As Allah SWT declares in Al-Quran surah Al-Tahrim ayat 6

يَا أَيُّهَا الَّذِينَ ءَامَنُوا قُوا أَنفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ
غِلَاطٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ

“O you who believe, protect yourselves and your families from the fire of hell, whose fuel is people and stones; guardians of angels who are rough and harsh, who do not disobey Allah in what He commands them, and who always do what they are commanded.” (Qs. At-Tahrim:6).

O you who believe, protect yourselves and your families from the fire of hell, whose fuel is people and stones; guardians of angels who are rough and harsh, who do not disobey Allah in what He commands them, and who always do what they are commanded.⁴

Sexual violence is a kind of violence perpetrated by a person outside of the victim's family. In the patterns of sexual abuse outside the family, the perpetrator is typically an adult who has developed a relationship with the child, then lures the child into a situation where sexual abuse is committed, frequently by offering rewards that the child cannot receive elsewhere, such as within his/her residence.⁵ If we disregard cases of sexual violence against children, they will definitely experience both physical and psychological trauma. The effects of sexual violence on children are profound and difficult to forget.⁶

In this case, parents, the state, the federal government, and the local government are responsible for the fulfilment of children's rights and for ensuring their welfare by providing protection and guarantees for the non-discriminatory fulfilment of their rights,⁷ To produce high-quality, noble, and prosperous offspring. Article 15 of Law No. 30 of 2014 and Jo Law No. 23 of 2002 states that every child has the right to be protected.⁸

Considering that childhood is a period of physical and mental development, children should ideally avoid engaging in behaviors that hinder their growth.

⁴ *Ibid.* p. 177.

⁵ Ivo Noviana, *Kekerasan Seksual Terhadap Anak: Dampak dan Penanganannya*, Jurnal Sosio Informasi Vol. 01, No. 01, Januari April 2015, p. 16

⁶ Siti Hikmah, *Mengantisipasi Kejahatan Seksual Terhadap Anak Melalui Pembelajaran, Aku Anak Berani Melindungi Diri Sendiri: Studi di Yayasan al-Hikmah Grobo-ongan*. Jurnal Sawwa, Vol.12, No.02, April 2017. Di akses melalui, <https://journal.walisongo.ac.id/index.php/sawwa> pada tanggal 29 Januari 2021, p. 189.

⁷ Anggota IKAPI, *Perlindungan Anak Dibawah Umur*, (Bandung: PT Alumni, 2012), p. 64.

⁸ See explanation UU No.30 Tahun 2014 Tentang Perlindungan Anak Pada Pasal 15

Therefore, children's rights must be protected, including the right to health care, education, and recreation.⁹

However, according to data obtained from P2TP2A Banda Aceh, sexual violence against minors in the city of Banda Aceh is still prevalent and continues to rise from 2018 to 2019. The number of cases of violence against minors in the city of Banda increased from 13 in 2018 to 19 in 2019. The data suggests that 13 children were identified as victims of sexual violence in 2018, and 19 children were identified as sexual victims in 2019.

Sexual Violence against Children

Violence is an act perpetrated by one individual against another with the intent to cause suffering, involving both physical and psychological inhumanity. In addition to violating social norms, violence against minors also includes violations of religious and immoral norms. In addition, Jane Robert, the founder of the Center for Women's Policy, argued that violence against women and children has occurred in every country. According to research conducted in 90 countries, violence against women and children is the most prevalent occurrence.¹⁰

Violence derives from the Latin word *violence*, which is a combination of the words *vis* (power, strength) and "*latus*" (to convey), which is translated as bringing strength.¹¹ This definition in the Main Indonesian Dictionary refers to a harsh characteristic or substance; strength; coercion, whereas coercion means pressure, particularly strong pressure. These terms have the same meaning as rape, which is to subdue with violence; to dominate; to coerce with violence; and to violate with violence. Therefore, violence is the use of force, coercion, and duress.¹²

In addition, from a terminological standpoint, violence is the condition and essence of destroying human existence. As intelligent and noble beings, humans have become ensnared in animalistic characteristics. The actions of causing harm, exerting pressure, blackmailing, raping, terrorizing, stealing, murdering, and destroying diminish and destroy the grandeur of humans as God's creations.¹³

Sexual violence is comprised of two words: violence and sexual, which in English is referred to as sexual abrasion. Hardness is a violent, disagreeable, and unfree quality. Sex and sexuality are inseparable from the word sexual. Sex is the biological distinction between women and males, also known as gender. In the

⁹ Hardius Usman, Nachrowi, *Pekerja Anak di Indonesia: kondisi determinan dan eksploitasi*, (Jakarta: PT Gramedia Widiasarana Indonesia, 2004), p. 185

¹⁰ Achie Sudiarti Luhulima, *Pemahan Bentuk-Bentuk Tindak Kekerasan Terhadap Perempuan dan Alternatif Pemecahannya* (Jakarta: Pusat Kajian Wanita dan Gender UI, 2000), p. 78.

¹¹ Marsana Windu, *Kekuasaan dan Kekerasan Menurut Johan Galtung*, (Bandung: Kanisius, 1971), p. 62.

¹² *Ibid.* p. 123

¹³ Haidar Nashir, *Agama dan Krisis Kemanusiaan Modern*, cet. II, (Yogyakarta: Pustaka Pelajar, Juni 1999), p. 66.

meantime, sexuality involves a variety of broad dimensions, including the biological, social, psychological, and cultural dimensions. In general, sexuality can be categorized into the following categories:

1. Biological: Sexuality is regarded in terms of physical pleasure and offspring. Maintaining reproductive organ health and optimal function, including sexuality from a biological perspective.
2. Social: Sexuality is viewed through the lens of the influence of social relations on sexuality perceptions, which in turn affect sexual behavior.
3. Psychological: Sexuality is closely related to the function of humans as social creatures, roles or types, identities, and the dynamics of the psychological aspects of sexuality itself from a psychological standpoint.
4. Cultural: A cultural perspective on sexuality reveals that sexual behavior is a component of a society's culture.

Sexual violence is behavior or actions of a sexual nature that are unwanted and unwelcome by the recipient or victim and have disquieting and self-destructive effects on the recipient. The behavior and actions can be classified as acts of sexual violence, including sexual activities being imposed upon the victim and sexually-oriented demeaning statements. Sexuality, sexually oriented quips, and sexually oriented speech or behavior can be communicated either explicitly or implicitly.¹⁴

Article 8 of (Law Number 23 Concerning Child Protection, 2002) defines sexual violence as coerced sexual relations perpetrated against household members. In addition, sexual violence refers to compelling sexual relations between a household member and an outsider for commercial or other purposes.¹⁵ According to End Child Prostitution in Asia Tourism (ECPAT) International, sexual violence against children is the interaction between a child and an adult, such as a stranger, sibling, or even a parent, who uses the child to satisfy their own sexual demands. The crime was committed through coercion, intimidation, bribery, and deceit. Sexual violence against children does not exclusively entail physical contact between the perpetrator and the victim.¹⁶

In the meantime, there is a family parenting pattern that develops a comprehension of religion as the basis of the pattern, and is sometimes implemented through the use of violence. Aside from that, it cannot be denied that Islamic teachings contain roots and forms of violence, which are the basis for some communities and have an impact on family parenting patterns, which can have

¹⁴ N.K Endah Trwijati, *Pelecehan Seksual, Tinjauan Psikologis*, (Fakultas Psikologi Universitas Surabaya, Savy Amira Women's Crisis Center, 2008), p.1.

¹⁵ Kusuma Ambarwati, *Efektivitas Booklet Sebagai Media Promosi Terhadap Peningkatan Pengetahuan Tentang Kekerasan Seksual Pada Anak (Studi Kasus Di Madrasah Ibtidaiyah Swasta Nahdatul Ulama (MIS NU) II Pontianak Dan Di SD Muhammadiyah 1 Pontianak*, (Fakultas Ilmu Kesehatan, Universitas Muhammadiyah Pontianak 2018), p. 14

¹⁶ Ivo Noviana, *Kekerasan Seksual Terhadap Anak: Dampak dan Penanganannya*. *Jurnal Sosio Informa*, Vol. 1, No.01, Januari-April 2015, p. 15

repercussions for the husband's attitude toward educating his wife and children, as well as wives' attitudes toward children, or husband and wife's attitudes toward family members in the household. As explained in Surah An-Nisa verse 34 of the Al-Quran, namely:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَأَلْصَلِحَتْ
فَنِتَدَّتْ حَفِظَتْ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَأَهْجُرُوهُنَّ فِي الْمَضَاجِعِ
وَأَضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

Men are women's leaders because Allah has favored some of them (men) over others (women) and because they have expended a portion of their wealth. Therefore, a devout woman is one who obeys Allah and takes care of herself when her spouse is absent, since Allah has already provided for them. Women whose nusyuz you are concerned about should be counseled, separated in their beds, and beaten. Then, if they obey you, avoid looking for methods to annoy them. Indeed, Allah is the Highest and Greatest (QS. An-Nisa [4]:34).

According to this verse, males are superior to women, and Allah has appointed men as leaders for women. So, in this instance, a married male becomes a leader for his wife and children. Therefore, because he is the head of the family, the male (husband) is obligated to provide nonviolent care and protection for the family, particularly the children.¹⁷

Sexual violence can be categorized as sexual harassment or sexual assault based on its severity. Sexual harassment is low-intensity sexual violence, whereas sexual assault is high-intensity sexual violence.¹⁸ There are varying degrees of sexual harassment, ranging from mild to moderate, such as naughty whistling, winking, staring at the body, jokes and teasing that lead to sex, comments about the body or physical appearance, using sexually connotative sign language, and displaying sexually explicit images. pornographic images, displaying sex organs, poking, groping or pinching.¹⁹

¹⁷ Cucu Solihah, Prototype Pola Asuh Keluarga dan Dampaknya (Suatu Kajian Pendidikan Hukum Anti Kekerasan dalam Islam". *Res Nullius Law Journal*, Vol. 1, No. 1, Januari 2019, diakses melalui <https://ojs.unikom.ac.id/index.php/law> pada tanggal 17 Maret p. 19.

¹⁸ Dzuhayatin, Siti Ruhaini, *Fiqh dan Permasalahan Perempuan Kontemporer, Rekonstruksi Fiqh Perempuan*, (Yogyakarta: Pusat Studi Islam UII,1996) , p. 6-7

¹⁹ Neng Helmi Siti Halimah dan Zainal Muttaqin, *Proses Bimbingan Sosial dalam Penanganan Kekerasan Seksual pada Anak. Jurnal Bimbingan, Penyuluhan, Konseling, dan Psikoterapi Islam*, Vol. 5, No.1, Tahun 2017, di akses melalui <https://jurnal.fdk.uinsgd.ac.id/index.php/irsyad> pada tanggal 28 januari 2021, p. 61.

Dangerous and threatening to the integrity of the society, promiscuous relationships and all other forms not sanctioned by religion are extremely reprehensible behaviors. Allah SWT affirms:

وَلَا تَقْرُبُوا الزَّانِيَةَ إِنَّهُ كَانَ فَحِشَةً وَسَاءَ سَبِيلًا

And avoid adultery; in fact, adultery is a grievous crime and astray. (QS Al-Israa' [17]:32).

Linguistically, adultery is derived from the Arabic word adultery-yazni-zinan, which means committing adultery, prostitution, and forbidden acts. Literally, adultery means fahisyah, which is a heinous crime; in Dutch, it is known as overspel.²⁰

The main Indonesian Dictionary defines adultery as the following:

1. The act of sexual contact between a man and a woman who are not married (as opposed to Marriage).
2. A man who engaged in sexual intercourse to a woman who is not his wife, or a woman who engaged in sexual intercourse to a man who is not her husband, having sexual relations with others rather than their spouses.²¹

Adultery is considered a crime under Islamic law regardless of whether or not the perpetrator is already married, since any relationship between a man and a woman without a valid marriage contract constitutes adultery.²²

There are seven categories regarding the explanations for the factual existence of sexual violence against minors within the communities:²³

1. Rape

According to the definitions of several experts, including Soetandyo Wignjosoebroto, a rape is an attempt by a man to vent sexual desire against a woman in a manner that violates the applicable law and/or principles.²⁴ In addition, R. Sugandhi also expressed another opinion that the definition of rape is a man who coerces a woman who is not his wife to engage in sexual activity with him under the

²⁰ S. Wojowasito, *Kamus Umum Belanda Indonesia*, (Jakarta: Ichtiar Baru Van Hoeve, 1992), p. 479.

²¹ Tim Penyusun Kamus Pusat Bahasa, p. 1136.

²² Sayyid Sabiq. *Fiqh Sunnah*, jld. 3, (Kairo: Dar al Fath, 1995), p. 90.

²³ Ismantoro Dwi Yuwono, S.H, *Penerapan Hukum Dalam Kasus Kekerasan Seksual Terhadap Anak*, Cet-1 (Yogyakarta: Penerbit Medpress Digital, 2015) p. 07.

²⁴ Soetandyo Wignjosoebroto dalam Suparman Marzuki *Pelecehan Seksual*, (Yogyakarta: Fakultas Hukum Universitas Islam Indonesia, 1997), p. 25.

threat of violence, which requires that the male genitalia has penetrated the vaginal opening of a woman, who then releases sperm.²⁵

2. Sexual Perversion

Sodomy is a deviant sexual behavior carried out through the anus by unmarried men with other men and by married men with unmarried women. Therefore, religion views sodomy as an act that must necessarily be punished. Then it was stated that sodomy was a direct cause of the spread of extremely deadly diseases.²⁶ In addition, sodomy led to the ruin of the family and the destruction of human dignity as a noble creation of God.²⁷

3. Oral sex

This pattern of sexual behavior is not only observed among married couples, but also among some adolescents. Oral intercourse is the stimulation of a partner's genitalia by means of the mouth. Oral intercourse is the sexual act of inserting one's genitalia into one's mouth. Oral sex is stimulation of the partner's sex organs with the mouth; if the male performs it, it is known as cunnilingus, and if the female performs it, it is known as fellatio.²⁸

4. Sexual gestures

Sexual hand gestures as signals are culturally determined hand gestures or gesticulations that are conventional symbols. Sexual gestures are interpreted based on a culture-based ideology. According to Umberto Eco, the concept of signs and their cultural context is human behavior, such as gestural behavior, that conveys signals. In some instances, the cultural context of a behavior can be determined because the behavior has a distinct connotation.²⁹

5. Sexual misconduct

Sexual hand gestures as signals are culturally determined hand gestures or gesticulations that are conventional symbols. Sexual gestures are interpreted based on a culture-based ideology. According to Umberto Eco, the concept of signs and their cultural context is human behavior, such as gestural behavior, that conveys signals. In some instances, the cultural context of a behavior can be determined because the behavior has a distinct connotation.³⁰

Children have "special privileges" under the law. In an endeavor to legitimize, generalize, and systematically rule over children, children serve as both

²⁵ Abdul Wahid dan Muhammad Irfan, *Perlindungan Terhadap Korban Kekerasan Seksual*, (Bandung: Refika Aditama, 2011), p. 41.

²⁶ Departemen Agama RI, *al-Qur'an dan Terjemahnya*, (Jakarta: Bulan Bintang, 1997). P. 99.

²⁷ Siti Musdah Mulia, *Islam dan Inspirasi Kesetaraan Gender*, (Yogyakarta: Kibar Press, 2007), P. 60.

²⁸ *Ibid*, p. 63.

²⁹ *Ibid*, p. 59.

³⁰ Bagong Suyanto, *Masalah Sosial Anak*, (Jakarta: Prenada Media Group, 2003), p 248.

the main object and subject.³¹ This legal protection provides the foundation and fortitude for the protection of children's rights. Because legal protection is an explanation of the description of legal work that serves to realize legal ideals, legal protection is an explanation of legal work.³²

a. Number 35 of the Law of the Republic of Indonesia for 2014

Sexual violence committed in order to have intercourse with minors is regulated by Law No. 23 of 2002 regarding Child Protection, which was revised into Law No. 35 of 2014. Article 76E of Law No. 35 of 2014 states: "Everyone who deliberately commits violence or threatens violence, coerces, commits deception, a series of lies, or induces a child to commit or allow obscene acts to be committed.

In addition, Article 82, it specifies that: (1) any person who violates the provisions as intended in Article 76E shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah); (2) if the criminal act as intended in paragraph 1 is committed by a parent, guardian, child caretaker, educator, or educational staff, the."³³

b. Government Regulation in Lieu of Law No. 1 of 2016 of the Republic of Indonesia 6

The Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2016 Concerning the Second Amendment to Law Number 23 of 2002 Concerning Child Protection, the provisions of Article 81 Paragraph 2 are amended to read as follows: "In the case of criminal acts as intended in paragraph (1) committed by parents, guardians, people who are related, child caretakers, educators, educational staff, officials in charge of child protection, or committed by more than one person, the offender shall be punished by imprisonment for not less than one year." The text of Paragraph 1 is as follows: "Anyone who violates the provisions of Article 76D shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years, as well as a maximum fine of IDR 5,000,000,000.00 (five billion rupiah)."³⁴

c. Aceh Qanun No. 6 of 2014 pertaining to Jinayat Law, prohibiting sexual violence and sexual harassment.

³¹Maulana Hasan Wadong, *Advokasi dan Hukum Perlindungan Anak*, (Jakarta: Grasind, 2000), p. 5.

³² Purnama Rozak, *Kekerasan Terhadap Anak Dalam Rumah Tangga Perspektif Hukum Islam*, *Jurnal Sawwa* Vol. 9, No. 1, Oktober 2013, P. 69. Di akses melalui <https://journal.walisongo.ac.id/index.php/sawwa/article/view/665>

³³See Undang-Undang No. 23 Tahun 2002 Tentang Perlindungan Anak, di Akses melalui <https://pih.kemlu.go.id/files/UUNo23tahun2003PERLINDUNGANANAK.pdf>

³⁴ Peraturan Pemerintah Pengganti Undang-Undang Republik Indonesia Nomor 1 Tahun 2016 Tentang Perubahan Kedua atas Undang-undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak, Pasal 81 Ayat 3. Di akses melalui <https://jdih.kemenkopmk.go.id/sites/default/files/2019-01/Perpu-01-2016.pdf>

The President of the Republic of Indonesia, Joko Widodo, has also signed the PERPPU, which was designed to prevent recurrences of sexual violence against children by implementing the harshest punishments for perpetrators. The punishments specified in the PERPPU include the death penalty plus public disclosure of the perpetrator's identity, chemical castration, and life imprisonment.³⁵

d. Aceh Qanun No. 6 of 2014 pertaining to Jinayat Law, prohibiting sexual violence and sexual harassment

Sexual violence or sexual harassment in Islamic law may refer to the provisions of Article 1 Paragraph 27 of Qanun Aceh Number 6 of 2014 concerning Jinayat Law. In this article, sexual harassment is defined as an immoral or obscene act that is intentionally committed by someone in public or against another person as a victims of both men and women without the victim's consent.

In Articles 46 and 47 of Aceh Qanun no. 6 of 2014 pertaining to Jinayat Law, provisions have been made for the punishment of perpetrators of sexual violence. For sexual violence where the victim is an adult, the perpetrator is punished with a maximum of 45 (forty-five) lashes. If the victim is a minor, the penalty imposed is 90 (lashes of the whip).

Islam prohibits all communities from perpetrating sexual violence. Allah states in Al-Quran surah Al-Mu'minun verses 5-7, which reads:

وَالَّذِينَ هُمْ لِأُزْوَاجِهِمْ حَافِظُونَ إِلَّا عَلَىٰ أَزْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ فَمَنْ ابْتَغَىٰ
وَرَاءَ ذَلِكَ فَأُولَٰئِكَ هُمُ الْعَادُونَ

“Those who protect their private parts, with the exception of their wives or servants, are genuinely blameless. But whoever seeks behind it (adultery, etc.), they are those who exceed the limit” (QS Al-Mu'minun [23]:5-7).

Surah an-Nur verses 30-31 also contain a verse regarding the preservation of honor, which reads:

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَىٰ لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ وَقُلْ
لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ
بِحُمْرِهِنَّ عَلَىٰ جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ آبَاءِ بُعُولَتِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ
أَبْنَاؤِ بُعُولَتِهِنَّ أَوْ أَبْنَاءِ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوْ

³⁵ Zainuddin, “Hukuman Bagi Pelaku Perkosaan Anak”, *Isti'dal: Jurnal Studi Hukum Islam*, Vol. 4, No. 2, Juli Desember 2017, p. 134. Di akses melalui <https://ejournal.uni-snu.ac.id>

الْتَّبِعِينَ غَيْرَ أُولِي الْأَرْبَابَةِ مِنَ الرِّجَالِ أَوْ الرِّجَالِ الَّذِينَ لَمْ يَظْهَرُوا عَلَى عَوْرَاتِ النِّسَاءِ وَلَا يَضْرِبْنَ
بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنْ زِينَتِهِنَّ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهُ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ

“Say to the men who believe: 'Let them restrain their gaze and guard their private parts; that is purer for them. Indeed, Allah is All-Knowing of what they do.'” “Say to the women who believe: 'Let them restrain their gaze, and their private parts, and let them not reveal their jewelry, except what is (normally) visible from them.'” And let them cover their veils and not disclose their ornaments to anyone other than their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, or your sons. “Their men, or the sons of their sisters, or Muslim women, or the slaves they own, or male servants who have no desire (for women), or children who do not comprehend about women's private parts”. (QS.Al-Nūr [24]:30-31).

Nawal El Sadawi stated that the man who committed (sexual harassment) could be his brother, cousin, uncle, grandfather or even his own father. Apart from that, the perpetrator could also be from another party. Nawal El Sadawi further stated that incidents of sexual harassment may occur without significant violence. When a woman is an adult, she can fight the perpetrator.³⁶

The expression of sexual desires is only permitted between legal partners who are obtained through legal marriage in the Islamic religion. Therefore, every act, word, or other action that is related to sexuality towards people is truly forbidden. The Islamic religion has hinted in several Hadiths of the Prophet Muhammad SAW regarding the prohibition of approaching adultery and grooming genitals, as well as sexual violence activities.³⁷

Narrated by Abu Hurairah R.A that Prophet Muhammad SAW said:

إِنَّ اللَّهَ كَتَبَ عَلَى ابْنِ آدَمَ حَظَّهُ مِنَ الزَّيْنَاءِ أَدْرَكَ ذَلِكَ لَا مَحَالَةَ فَرَزْنَا الْعَيْنَ النَّظْرُ وَزَنَا اللِّسَانَ الْمُنْطِقُ وَالنَّفْسَ
تَمَنَّى وَتَشْتَهَى وَالْفَجْرُ يُصَدِّقُ ذَلِكَ كُلَّهُ وَيُكَذِّبُ

“Indeed, Allah has decreed a portion of adultery for Adam's offspring, which will be committed whether it is possible or not. The eyes commit adultery by seeing, the tongue by speaking, and the psyche fantasizes about and desires it. And it was all true, except for his crotch.” (*Shahih al-Bukhari* (No. 6243, 6612) dan *Shahih Muslim* (No. 2657) dari Abu Hurairah *radhiyallahu ‘anhu*)

³⁶ Nawal El Sadawi, *The Hidden Face of Eve*, ed. In, *Perempuan Dalam Budaya Patriarki*, (terj: Zuhilmiyasri), (Yogyakarta: Pustaka Pelajar, 2001), p. 29

³⁷ Nawal El Sadawi, *The Hidden Face of Eve*, ed. In, *Perempuan Dalam Budaya Patriarki*, (terj: Zuhilmiyasri), (Yogyakarta: Pustaka Pelajar, 2001), p. 29

In another narration:

وَالْيَدَانِ تَتَرْتَبَانِ فَرْنَا هُمَا الْبُطْشُ وَالرَّجْلَانِ تَتَرْتَبَانِ فَرْنَا هُمَا الْمَشْيُ وَالْفَمُ يَزْنِي فَرْنَاهُ الْقَبْلُ

“The two hands of adultery and their adultery are touching, the two feet of adultery and their adultery are stepping, and the mouth of adultery and their adultery are kissing” (H.R. Abu Dawud r.a)

In addition, if you examine the numerous Ijma 'ulama, one of them, according to Quraish Shihab, as cited by Zulfa Ahmad, is that the verse above confirms that Allah desires that believing men control their gaze, lower it, and protect their private parts. In the meantime, it also targets female adherents. Allah also commands Muslim women to conceal their private parts beyond what is ordinarily visible.³⁸

In Islam, provisions for sexual activity may only be carried out in accordance with Islamic provisions, namely through legal marriage and in accordance with Islamic law as Allah SWT explains in his word:

رُيِّنَ لِلنَّاسِ حُبُّ الشَّهَوَاتِ مِنَ النِّسَاءِ وَالْبَنِينَ وَالْقَنَاطِيرِ الْمُقَنْطَرَةِ مِنَ الذَّهَبِ وَالْفِضَّةِ وَالْخَيْلِ الْمُسَوَّمَةِ وَالْأَنْعَامِ وَالْحَرْثِ ذَلِكَ مَتَاعُ الْحَيَاةِ الدُّنْيَا وَاللَّهُ عِنْدَهُ حُسْنُ الْمَاءِ رَابِ

“It is beautiful in the eyes of humans to love what they desire, namely women, children, large amounts of wealth in the form of gold, silver, chosen horses, livestock, and paddy fields. That is the joy of life, and to Allah is the best return (heaven).” (Qs. Ali Imran [03]:14).

This verse explains that humans have sexual requirements and cannot be separated from the element of sexual desire, as only with this desire can they procreate.³⁹ Even though humans cannot be separated from their sexual nature, this does not mean that they can engage in sexual activities arbitrarily, as doing so constitutes infidelity.⁴⁰

P2TP2A Banda Aceh's Initiatives to Combat the Growing Incidence of Sexual Violence Against Children

As a government institution at the Banda Aceh city level, P2TP2A Banda Aceh in this case undoubtedly has various efforts to tackle the increasing number of sexual violence against children in the city of Banda Aceh. In order to combat the escalating rate of sexual violence against minors, the following steps are taken:

1. Counselling and Instruction

After P2TP2A Banda Aceh received a report from the victim's family, efforts were made to provide parents and victims (children) with guidance in the form of

³⁸ Zulfa Ahmad, Perlindungan Anak dalam Perspektif Islam. *Jurnal Islamica*. Vol. IV, No. 1, September 2009, p. 144.

³⁹ Jalaludin, *Pengantar Ilmu Jiwa Agama*, Cet ke- 1 (Jakarta: Pustaka, 1989) p. 11.

⁴⁰ Topo Santoso, *Menggagas Hukum Pidana Islam (Penerapan Syari'at dalam Konteks Modernitas)*, (Bandung: Al-Syamil, 2001), p. 185.

sexual violence prevention education. Then, parents should be advised to pay close attention to their children, to educate them, and victims' (children's) parents must demonstrate effective parenting techniques. Because children are a trust or entrustment from God Almighty, they must always be cared for and safeguarded, given that they are still innocent and immature and do not yet know which actions should be avoided and which can be undertaken.⁴¹

2. Legal Aid Service

The next step is to provide victims (children) with assistance and legal aid so that they may receive protection and justice. This assistance is provided from the time the report is submitted to the P2TP2A Banda Aceh office until it reaches the District Court or what is known in Aceh as the Syar'iyah Court.

This assistance and legal aid is also used to examine the Sharia Court's trial procedure and the panel of judges' decision. Then, this assistance takes the form of education on the illegality of sexual violence, particularly when the victims are juveniles.

3. Health and Psychological Services

When a child is the victim of sexual violence, the child's body is inevitably harmed, particularly his intimate areas. P2TP2A Banda Aceh is attempting to provide this health service to minors who have been sexually abused. Health services are provided in the form of an examination of the child's physical condition as well as an examination of the child's mental state, as the victim (child) must have experienced trauma as a result of sexual violence, which disturbs the victim's (child's) mental state.

4. Home Security Services (*shelter*)

P2TP2A Banda Aceh's next initiative for minors who are sexual abuse victims in the city of Banda Aceh is a safe house service. This effort is obviously intended to comfort victims (children), as there are some parents of victims (children) who do not care about their biological children and who do not believe that their child has experienced sexual violence, as the perpetrators of sexual violence are the closest people to the child victim.

5. Social Preventive Services

The next initiative undertaken by P2TP2A Banda Aceh seeks to aid in the rehabilitation of child sexual abuse victims so that they can rejoin society. Those who are sexually victimized are afraid to socialize and congregate with their families and playmates, so the protection of women and children strives to alleviate this fear.

P2TP2A Banda Aceh's difficulties in combating the rise in sexual violence against minors

1. Shame on the Family

P2TP2A Banda Aceh is hampered in its efforts to combat sexual violence against children by the fact that the parents of the child (victim) do not always

⁴¹ Interviewed with Siti Maisarah, P2TP2A Chair of Banda Aceh on 27 October 2021

disclose the crime directly to the police, making it difficult for P2TP2A Banda Aceh to obtain case-specific information. Because the majority of perpetrators of sexual violence are members of the victim's immediate family, such as fathers, uncles, grandfathers, and brothers, victims' parents are hesitant to report the abuse because they wish to protect their reputation. Therefore, the child's parents (victims) are hesitant to disclose the incident to P2TP2A because it is a family disgrace

2. Trauma of the Survivors

In addition, P2TP2A Banda Aceh faces difficulty in addressing cases of sexual violence against children due to the fact that the child as a sexual victim does not want to disclose what he has experienced because he is threatened by the perpetrator not to tell his parents. Because he had previously been threatened by the perpetrator, this is what causes the child (victim) to be traumatized and hesitant to disclose the incident. Therefore, it is challenging for P2TP2A to investigate what the child is experiencing, which is a barrier to combating sexual violence.

3. Facilities

In order to satisfy the needs of a child (actor), the next challenge lies in the budget and infrastructure fields. Because some families, particularly the parents of the child (victims), no longer care about their biological children after becoming sexual victims, the budget in this instance consists of the child's education expenses. Moreover, the costs for children's health and other expenses are still minimal in the budget, and the Banda Aceh city government must of course contribute to the budget and infrastructure.⁴²

Conclusion

P2TP2A's efforts to combat the rising incidence of sexual violence against minors in Banda Aceh consist of counseling and education, legal assistance and assistance services, health and psychological services, and shelter services. In the city of Banda Aceh, social rehabilitation services face numerous P2TP2A obstacles in overcoming the rising incidence of sexual violence against children. These obstacles stem from a number of factors, including the parents of victims' reluctance to report because they view it as a family disgrace, the traumatized state of victims, and the lack of facilities and infrastructure.

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⁴² Interviewed with Siti Maisarah Chair of P2TP2A Banda Aceh on 27 October 2021

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Interview

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