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


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

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

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

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\text{ياَبِيَّةَ الْدُّنِيَا عَامِنْاَمَا كَوْنَانَ أَنْفُسُكَمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا أَلْبَاتٌ وَأُحِياً عَلَيْهَا مُلْئِكَةٌ مُلْئِكَةٌ}
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“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).

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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.¹⁵ 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.¹⁶

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.

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¹⁴ Ibid. p. 177.
¹⁵ Ivo Noviana, Kekerasan Seksual Terhadap Anak: Dampak dan Penanganannya, Jurnal Sosio Informasi Vol. 01, No. 01, Januari April 2015, p. 16
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

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\(^12\) *Ibid.*, p. 123

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

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

¹⁸ Dzuhayatin, Siti Ruhaini, Fiqh dan Permasalahan Perempuan Kontemporer, Rekonstruksi Fiqh Perempuan, (Yogyakarta: Pusat Studi Islam UII,1996) , p. 6-7
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 تَقْرَبُوا أَلْثَانِيَّةٍ إِنَّهَا كَّانَ فَاحِشَةٗ وَسَيِّئَ سَبِيلٗ

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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{22}

There are seven categories regarding the explanations for the factual existence of sexual violence against minors within the communities:\textsuperscript{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.\textsuperscript{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

\textsuperscript{21} Tim Penyusun Kamus Pusat Bahasa, p. 1136.

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

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. In addition, sodomy led to the ruin of the family and the destruction of human dignity as a noble creation of God.

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.

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.

5. Sexual misconduct

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

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


the main object and subject. 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.


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 is 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.

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

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)."

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

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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 victim 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:

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:

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).

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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:

انَّ الله َ كَتَبَ عَلَ ابْنِ آدَمَ حَظَّهُ مِنَ الزِِّناَ اَدْرَكَ ذَلِكَ لاَ مَحاَلَةَ فَزِنَا الْعَيْنِ النَّظَرُ وَزِناَا للِّساَنِ الفَجْرُ يُصدِِّقُ ذَلِكَ كُلَّهُ وَيُكَذِِّبُ

“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)
In another narration:

واليدان تزنيان فَرَّاهما الباطِنُانَ وَالرِّجَالان تزنيان فَزِينَا هَما الباطِنُانَ وَالْفَمُ يَزِينيْ فَزِينَاهُ الفَتِيلُ

“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.  

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:

زَوْجُ لِلنَّاسِ حُبُّ الْشَجَّهِمُ مِنْ أَلْسَنَاهُ وَالْبَيْنِىْنِ وَالفَتْنِيْبِ المُؤَشَّةَ مِنَ الدَّحَّابِ وَالْفَحْصَةِ وَالْخَيْيِحِ

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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:

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.  

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.  

**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

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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'iyyah 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)

P2T2A 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**

Interviewed Siti Maisarah, Banda Aceh: The chair of P2TP2A Banda Aceh on 27 October 2021