Legitimasi
Jurnal Hukum Pidana dan Politik Hukum
Vol. 15, No. 1, January-June 2026

ISSN:
2088-8813 (Print)
2579-5104 (Online)

Law Enforcement Against Illegal Orphanage Managers in Sexual Violence Against Foster Children

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Submitted: December 8, 2025 Accepted: June 13, 2026 Published: June 23, 2026

Abstract: *Illegal orphanages operating without permits often pose environmental risks that are vulnerable to various forms of abuse, including sexual violence against the children they are supposed to protect. This study examines the legal enforcement against illegal orphanage managers in Gubeng, Surabaya, who are suspected of being involved in sexual violence against foster children and child abduction, as well as regulations related to the establishment of social institutions. Using a normative legal approach and qualitative analysis methods, data was obtained through legal literature studies, court decisions, and case reports in the Surabaya area. The results of the study show that law enforcement efforts are still hampered by weak supervision, a lack of synergy between agencies such as the Ministry of Social Affairs, the Police, and the Social Services Agency, as well as legal loopholes that allow illegal orphanages to operate without adequate control. Obstacles in coordination also affect the process of proving cases, so that even though the Child Protection Law has established severe sanctions, its implementation in the field is often not optimal. These findings emphasize the need to strengthen the monitoring system, improve inter-agency cooperation, and strengthen commitment to law enforcement to prevent similar cases from recurring.*
Keywords: *Criminal Law Enforcement, Illegal Orphanages, Child Sexual Abuse*

Abstrak: Panti asuhan ilegal yang beroperasi tanpa izin sering kali menimbulkan risiko sosial dan rentan terhadap berbagai bentuk pelanggaran, termasuk kekerasan seksual terhadap anak-anak yang seharusnya mereka lindungi. Penelitian ini mengkaji penegakan hukum terhadap pengelola panti asuhan ilegal di Gubeng, Surabaya, yang diduga terlibat dalam tindak kekerasan seksual terhadap anak asuh dan penculikan anak, serta menelaah regulasi yang berkaitan dengan pendirian lembaga kesejahteraan sosial. Dengan menggunakan pendekatan hukum normatif dan metode analisis kualitatif, data diperoleh melalui studi kepustakaan hukum, putusan pengadilan, dan laporan kasus di wilayah Surabaya. Hasil penelitian menunjukkan bahwa upaya penegakan hukum masih menghadapi berbagai hambatan, seperti lemahnya pengawasan, kurangnya sinergi antarinstansi seperti Kementerian Sosial, Kepolisian, dan Dinas Sosial, serta adanya celah hukum yang memungkinkan panti asuhan ilegal beroperasi tanpa pengendalian yang memadai. Kendala koordinasi juga memengaruhi proses pembuktian perkara, sehingga meskipun Undang-Undang Perlindungan Anak telah mengatur sanksi yang berat, implementasinya di lapangan sering kali belum optimal. Temuan ini menegaskan perlunya penguatan sistem pengawasan, peningkatan kerja sama antarinstansi, serta penguatan komitmen penegakan hukum guna mencegah terulangnya kasus serupa di masa mendatang.
Kata Kunci: Penegakan Hukum Pidana, Panti Asuhan Ilegal, Kekerasan Seksual terhadap Anak

Introduction

Children are a very vulnerable group that requires comprehensive protection from various forms of violence, including sexual acts, as affirmed in child protection regulations and the Convention on the Rights of the Child. In the Indonesian context, orphanages ideally function as a place that ensures the safety and welfare of orphans and children who do not receive care. However, the operational practice of orphanages without permission and without government supervision actually opens up opportunities for violations of children's rights. The Indonesian National Commission for Child Protection (Komnas Perlindungan Anak) data in 2022 recorded an increase of around 15% in cases of sexual violence in social institutions, with the majority of perpetrators coming from the internal environment. This condition shows that the lack of supervision in illegal orphanages opens up opportunities for serious violations, including in cases that emerged in Surabaya.

The background of this issue is increasingly relevant to the case at an orphanage in the Gubeng area, Surabaya, where the manager of an illegal orphanage allegedly committed sexual violence against foster children in 2023.[1] This case reflects the suboptimal implementation of law enforcement. Although the provisions in Articles 81-82 of the Criminal Code associated with Law Number 17 of 2016 have clearly regulated the mechanism for protecting children from violence, the process of taking action against orphanage managers still faces obstacles, especially because inter-agency coordination has not been effective. Theoretically, this research relies on Lawrence M. Friedman's concept of law enforcement, which highlights three main pillars, namely the substance of the law, the structure of law enforcement, and the culture of the law.[2] In this context, the substance of Indonesian law has been adequate, but the structure and culture of enforcement are still weak, especially against illegal entities such as unofficial orphanages, which leads to a gap between legal norms and social realities.

The fundamental research problem is how the juridical analysis of law enforcement against illegal orphanage managers in cases of sexual violence against foster children in Gubeng Surabaya, including the identification of legal obstacles and recommendations for improvement. The existing knowledge gap lies in the lack of specific case studies that integrate juridical perspectives with local empirical analysis, where previous research focused more on common cases of child abuse without highlighting the role of illegal orphanages. The urgency of this research lies in the

[1]Haris, "Press Release Of Consultation And Legal Aid Unit, Faculty Of Law, Universitas Airlangga Allegations Of Criminal Acts Of Sexual Intercourse And/Or Molestation Of Children Committed By Orphanage Owners In Surabaya," FH Unair, 2025, https://fh.unair.ac.id/ukbh-fh-unair-dugaan-tindak-pidana-persetubuhan-dan-pencabulan-terhadap-anak-yang-dilakukan-pemilik-panti-asuhan-di-surabaya/.

[2]Lawrence M. Friedman, *The Legal System of Social Science Perspective* (New York: Russel Sage Foundation, 1975); Alani Golanski, "A Structuralist Concept of the Rule of Law," *British Journal of American Legal Studies* 10, no. 1 (2021); Ratno Lukito, "The Enigma of National Law in Indonesia: The Supreme Court's Decisions on Gender-Neutral Inheritance," *Journal of Legal Pluralism and Unofficial Law* 38, no. 52 (2006).

urgent need to strengthen child protection amid the rise of illegal orphanages (estimated to reach 20% of the total orphanages in East Java based on 2022 Ministry of Social Affairs data), which not only violates children's rights but also undermines public trust in the social protection system. The relevance of the goal is to contribute to more effective legal reform, prevent the recurrence of similar cases, and support the national agenda of Sustainable Development Goals (SDGs) Goal 16 on justice and strong institutions.[3]

The specific objectives of this study are to examine the juridical basis of law enforcement against illegal orphanage managers in cases of sexual violence, identify obstacles and weaknesses in the enforcement process in the case study of Gubeng Surabaya, and formulate juridical recommendations to improve the effectiveness of law enforcement to protect foster children. Thus, the study aims to fill a knowledge gap through a normative-empirical approach, to provide in-depth insights into the intentions of justice-oriented legal reform for child victims, and to encourage more accountable law enforcement at the local and national levels. This study applies a normative juridical method through a legislative approach and case study analysis, by combining primary and secondary data as the basis for [4]The study of petep. Then analyze the case by referring to relevant legislation and literature.

Illegal Orphanage Operations as a Supporting Factor for Abuse of Power by Orphanage Managers

The case of the Budi Kencana Foundation in Baratajaya Village, Gubeng District, Surabaya, illustrates how illegal orphanages can operate without formal supervision, thus facilitating irregularities by their managers. According to the Surabaya City Social Service, this foundation is not registered as a Child Social Welfare Institution (Lembaga Kesejahteraan Sosial Anak or LKSA) in accordance with Law Number 23 of 2014 concerning Regional Government and Regulation of the Minister of Social Affairs Number 110 of 2009 concerning LKSA, which requires operational permits, facility standards, and routine reporting.[5] The orphanage is based in Nurherwanto Kamaril's

[3]Surya Oktaviandra and Putri Aulia Arza, "From International Regulation to Local Implementation: Gender Equality for Sustainable Development Goals," *Journal of Southeast Asian Human Rights* 8, no. 1 (2024), https://doi.org/10.19184/jseahr.v8i1.44031; Winahyu Erwiningsih and Mahrus Ali, "Environmental Law for Sustainable Palm Oil Development to Combat Deforestation and Climate Change Impact," *Journal of Law and Sustainable Development* 11, no. 8 (2023), https://doi.org/10.55908/sdgs.v11i8.1444; Saprida Saprida et al., "Cash Waqf: An Analysis of the Legality of Productive Waqf Management for Sustainable Development (SDGs)," *Profetika: Jurnal Studi Islam* 25, no. 02 (2025), https://doi.org/10.23917/profetika.v25i02.7203.

[4]Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2014); Ahmad Sutedi, *Metodologi Penelitian Hukum: Pendekatan Normatif Dan Socio-Legal* (Bandung: Refika Aditama, 2020); Soerjono Soekanto, *Beberapa Permasalahan Hukum Dalam Kerangka Pembangunan Di Indonesia* (Jakarta: Universitas Indonesia, 1976).

[5]Ambrosius Harto Manumoyoso, "The manager of an illegal orphanage in Surabaya was named as a suspect for molesting his foster children. The act was committed by the suspect since 2022," Kompas.id, 2025, https://www.kompas.id/artikel/pengelola-panti-asuhan-ilegal-di-surabaya-tersangka-pencabulan.

private home without a signboard or legal documents, which was originally planned as a health clinic but changed function unilaterally.[6] This condition allowed Nurherwanto Kamaril to adopt children from poor families from infancy without background verification, creating a closed environment that was vulnerable to abuse.[7]

Orphanage operations that do not have a permit and do not meet the standards of the Children's Social Welfare Institution (LKSA) are categorized as illegal because they are contrary to the provisions of the law. Article 42 paragraphs (1) and (2) of Law 23/2014 emphasize that social affairs are the responsibility of the local government as part of basic services, so that every LKSA or orphanage must be under the guidance and supervision of the local government. This obligation is clarified through the Regulation of the Minister of Social Affairs No. 30/HUK/2011 jo. Permensos 110 of 2009 concerning National Standards for Child Care, which stipulates a number of requirements for the implementation of childcare services:

a. Operational Permits
b. Identity verification and management competencies
c. Feasibility of infrastructure
d. Periodic reporting obligations at the Social Service

The above provisions are a framework that must be regulated in Article 6 jo. Article 9 jo. Article 13 of Permensos 110/2009, which explains that LKSA that is not registered or does not obtain an operational permit, cannot carry out the function of childcare, so that in its management it is illegal.[8]

Illegality is a direct violation that is contrary to the law, including child protection standards in Indonesia. Orphanages that are independent with the absence of registration automatically lose three instruments for the state to carry out protection in the form of due *diligence* mechanisms, in the form of background checks, track records, and competencies, based on Article 69, letter c of Law 35/2014 concerning child protection, it is explained that the state is obliged to ensure care based on decent and capable people.[9] Then, in evaluating the feasibility of facilities such as

[6]Haris, "Press Release Of Consultation And Legal Aid Unit, Faculty Of Law, Universitas Airlangga Allegations Of Criminal Acts Of Sexual Intercourse And/Or Molestation Of Children Committed By Orphanage Owners In Surabaya," FH Unair, 2025, https://fh.unair.ac.id/ukbh-fh-unair-dugaan-tindak-pidana-persetubuhan-dan-pencabulan-terhadap-anak-yang-dilakukan-pemilik-panti-asuhan-di-surabaya/.

[7]Manumoyoso, "The manager of an illegal orphanage in Surabaya was named as a suspect for molesting his foster child. The act was carried out by the suspect since 2022."

[8]A P Rachmalia and H Harisman, "Law Enforcement of Orphanages That Exploit Children as Beggars through the TikTok Application in Medan City," *UNES Law Review* 6, no. 3 (2024): 8457–62, https://www.review-unes.com/index.php/law/article/view/1734%0Ahttps://www.review-unes.com/index.php/law/article/download/1734/1418.

[9]Yusefri, Mu'adil Faizin, and Wahyu Abdul Jafar, "Protecting Child Labor Rights: Maqasid Sharia Framework and Policy Recommendations," *Samarah* 8, no. 2 (2024), https://doi.org/https://doi.org/10.22373/sjhk.v8i2.24559; Wikan Sinatrio, "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia," *Journal of Indonesian Legal Studies* 4, no. 1 (2019); Lisnawaty W. Badu and Julisa Aprilia Kaluku, "Restorative Justice in The Perspective of Customary Law: A Solution to The Settlement of Narcotics Crimes

the separation of rooms between boys and girls, supervision is carried out for 24 hours, and it meets physical security standards.[10] Furthermore, the social service reports and monitors orphanages, as stipulated in Article 47 jo. Article 48 of Permessos 110/2009, which is the basis for public accountability.

Article 12, paragraph (3), letter c of Law 23/2014 emphasizes that local governments are obliged to provide guidance and supervision of social welfare institutions. When an orphanage is not registered, the supervisory function cannot be carried out, so that the state normatively loses the legal ability to ensure the protection of children. It is in this context that the existence of illegal orphanages is considered to violate the state's obligation to protect, as affirmed in Article 72 of Law 35/2014, which states that the state is responsible for ensuring that children are free from violence in the foster care environment. Thus, the operation of illegal orphanages is not only not compliant with administrative procedures, but also substantially creates conditions that are contrary to the law because it places children in a situation of parenting outside the formal protection of the state, which ultimately opens up opportunities for sexual violence, as in the case of the Budi Kencana Foundation.[11]

From the perspective of legal sociology, the operation of illegal orphanages reflects the formation of foster care institutions that operate outside the state structure, so that they are not touched by formal supervision mechanisms or social control of the community. This condition is in line with Soerjono Soekanto's view of weak supervision as a factor causing ineffective law enforcement, where the absence of a supervisory structure creates space for deviant behavior without control.[12]

KPAI data in 2023 shows that around 20–30% of orphanages in urban areas do not have operational permits, which are generally influenced by personal motives, ignorance of regulations, or efforts to exploit the vulnerability of poor families. In the context of the Budi Kencana Foundation case, Nurherwanto Kamaril's post-2022

Committed by Children," *Jambura Law Review* 4, no. 2 (2022); Barbara Hudson, "Restorative Justice and Gendered Violence: Diversion or Effective Justice?," *British Journal of Criminology*, 2002; Luhut M.P. Pangaribuan, *Restorative Justice Dan Penegakan Hukum Pidana Di Indonesia* (Jakarta: Rajawali- Pers, 2020).Firman Zakaria, Chepi Ali Mahmud, and Ade Mulyana, "Legal Protection for Child Victims of Sexual Assault in a Restorative Justice Perspective," *Jurnal Penelitian Hukum De Jure* 23, no. 1 (2023), https://doi.org/https://doi.org/10.30641/dejure.2023.V23.59-70.

[10]Muslim 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 Hukum Islam* 8, no. 3 (2024): 1948–73; Asep Saepullah et al., "A Contemporary Socio-Legal Evaluation of Indonesia's Post-Reformation Child Marriage Policies," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025); Sri 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).

[11]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), https://doi.org/https://doi.org/10.31958/juris.v23i1.12341.

[12]Soerjono Soekanto, *Perspektif Teoritis Studi Hukum Dalam Masyarakat* (Jakarta: Rajawali Press, 1985); Soerjono Soekanto, *Sosiologi: Suatu Pengantar* (Jakarta: Raja Grafindo Persada, 2010); Michael Giudice and Brian Z. Tamanaha, "Socio-Legal Positivism and a General Jurisprudence," *The Methodology of Legal Theory* 21, no. 1 (2018): 457–88.

behavior change from a caregiver to a perpetrator of abuse was strengthened by the closure of the orphanage environment that did not have transparency standards, access to public supervision, or reporting mechanisms as required at the Children's Social Welfare Institution[13]. Of course, the illegality of orphanages is not only an administrative error, but it creates a foster care ecosystem that is outside the protection of the state, thus allowing for continuous sexual exploitation and violence for many years.

Perpetrator Mode and Psychosocial Impact on Victims of Sexual Violence

Heri's mode of treatment of five girls (under the age of 18) involves molestation and forced intercourse since January 2022, which began with grooming behaviors such as being completely naked in front of the victim and emotional seduction. The first victim, IF (15 years old), reported to the Legal Aid Consultation Unit (UKBH) FH Unair on January 30, 2025, after running away from the orphanage, accompanied by relatives. Key witnesses, such as RA (23 years old), a senior foster child, confirmed a systematic pattern of violence, in which children were treated like family but sexually exploited. The police (East Java Regional Police Directorate) suspect more victims, with preliminary evidence from medical examinations and witnesses.[14]

Psychosocial analysis shows that this mode takes advantage of the dynamics of the caregiver's dependence on the caregiver, who is often considered a parental figure. In illegal orphanages, the absence of safeguarding protocols such as gender segregation and anti-abuse training exacerbates trauma. The impact on victims includes long-term mental disorders, such as PTSD and distrust of institutions, as seen from the coordination of the Surabaya City Government for psychological protection. The case is in line with a global study of child sexual abuse in care institutions, where the perpetrator is often the closest person, and the institution's illegality hinders early detection. In Indonesia, a survey on KPPA (KemenPPPA, 2022) noted that 70% of child sexual violence cases occur in informal parenting settings, emphasizing the urgency of reform.

Criminal Responsibility of Illegal Orphanage Managers in Gubeng Surabaya for Acts of Sexual Violence Against Foster Children

Referring to the a quo case, Nurherwanto Kamaril, as the manager of an illegal orphanage in Gubeng, in his responsibility, must first meet the elements in the delicacy in the Child Protection Law and the TPKS Law, which provides a prohibition as a special law on obscene acts and forced intercourse with children. According to Article 76D jo. Article 81 of the Child Protection Law has elements, namely:[15]

[13]Manumoyoso, "The manager of an illegal orphanage in Surabaya was named as a suspect for molesting his foster child. The act was carried out by the suspect since 2022."

[14]Manumoyoso.

[15]Republic of Indonesia, "Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual [Law No. 12 of 2022 on Sexual Violence Crimes, State Gazette of the Republic of

(a) The existence of an act of intercourse committed;
(b) Carried out by violence, threats, or coercion; and
(c) The victim was a child.

Based on the existing legal facts, the victim is a foster child with a vulnerable average age of under 18 years old in the residential environment of the orphanage, so that the element of the child is fulfilled very clearly. Then Nurherwanto Kamaril had sexual intercourse by force and repeatedly in a closed room in the orphanage so that the element of intercourse was fulfilled due to involvement in sexual penetration. Meanwhile, the element of coercion can be seen from the victim's total dependence on the perpetrator, where there is a threat of expulsion and restrictions on basic needs used by the perpetrator to depress the child and fulfill the perpetrator's sexual desires. The dominance of power relations makes the fulfillment of the incriminating element as stipulated in Article 81 paragraph (3) because the law places the caregiver, guardian, and the party responsible for parenting as the category of perpetrators with the burden of punishment where the position of Nurherwanto Kamaril who is the manager of the orphanage gives absolute authority over the child's daily activities so as to refer to the legal facts and legal basis above, so Nurherwanto Kamaril meets the existing criteria and elements.[16]

The provisions in Article 76E jo. Article 82 of the Child Protection Law, which provides for the prohibition of obscene acts, has elements, namely:[17]
(a) The existence of sexual acts that violate morality;
(b) Done to children; and
(c) Accompanied by coercion or abuse of power

In this case, there is an act of groping, holding, and forcing the child to carry out sexual activities other than intercourse so that the elements of obscene acts are fulfilled. The incident that lasted for three years showed that the abuse of his position as an orphanage administrator became a means of psychological control over the victim, so that the element of abuse of power was fulfilled, and coercion was fulfilled as well. So both articles can be applied alternatively or cumulatively.[18]

Indonesia Year 2022 No. 120], State Gazette of the Republic of Indonesia No. 6792" (Jakarta: State Secretariat, 2022).

[16]Amrullah, "Perlindungan Hukum Terhadap Anak Yang Berkonflik Dengan Hukum Pidana Adat Di Aceh Selatan: Studi Terhadap Pelaksanaan Qanun Kemukiman Kuala Ba'u Kecamatan Kluet Utara Kab. Aceh Selatan," *Gender Equality: International Journal of Child and Gender Studies* 4, no. 1 (2019): 55–72, https://doi.org/http://dx.doi.org/10.22373/equality.v4i1.4481.

[17]Edhei Sulistyo, Pujiyono, and Nur Rochaeti, "Restorative Justice as a Resolution for the Crime of Rape with Child Perpetrators," *International Journal of Criminology and Sociology* 10 (2021).

[18]Republic of Indonesia, "Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual [Law No. 12 of 2022 on Sexual Violence Crimes, State Gazette of the Republic of Indonesia Year 2022 No. 120], State Gazette of the Republic of Indonesia No. 6792."

Article 6 letter b of the Law on the Crime of Sexual Violence (Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan or TPKS Law) provides provisions related to the elements of sexual violence as follows:

(a) Sexual acts without consent;
(b) Actions performed by coercion or manipulation; and
(c) Actions that exploit the victim's position of power or dependence

Based on the victim, it is a child who lives fully in the care of the perpetrator, does not have the opportunity to escape, and is in a relationship of economic and social dependence. Repetition of the act over the years. The TPKS Law adds elements of accountability in the form of restitution obligations and additional sanctions, such as the prohibition of approaching victims, so that the scope of accountability is wider.[19]

The aspect of the illegality of orphanages strengthens the construction of accountability. The provisions in the Permensos and regulations on social welfare services require LKSA registration, verification of management competence, feasibility of facilities, and reporting and supervision systems. The fact that this orphanage is not registered has led to the loss of the state control mechanism that is supposed to prevent incompetent people like Nurherwanto Kamaril from taking care of children in a closed situation. Non-compliance with this administrative obligation meets the elements of institutional negligence that cause vulnerability and can ensnare managers through administrative sanctions and additional criminal liability if such negligence allows violence to occur.

All elements of the crime in the Child Protection Law and the TPKS Law are fulfilled, so that criminal liability can be imposed cumulatively. The acts of molestation and forced intercourse committed by Nurherwanto Kamaril against his foster children met the elements of the provisions of the law. The provision regulates a criminal threat of 5-15 years in prison for obscene acts and 7-15 years in prison for sexual intercourse, each accompanied by a fine of up to Rp5 billion. Because the perpetrator is the caregiver as well as the party who has responsibility for the victim, the burden applies as stipulated in Article 81 paragraph (3) and Article 82 paragraph (3), which allows an increase in punishment of up to a third and makes the total criminal threat can reach 20 years in prison. In addition, based on Article 6 letter (b) of the TPKS Law, Heri is also responsible for sexual violence through coercion and abuse of power, which carries a criminal threat of 5-15 years in prison, the obligation to compensate the victim, as well as additional sanctions such as prohibition from approaching the victim or rehabilitation. With all these elements met, Nurherwanto Kamaril can be sentenced to severe punishment, reflecting the maximum protection provided by the law to children as the most vulnerable group.

[19]Henny Yuningsih et al., "Ratio Legis of Chemical Castration to the Perpetrators of Sexual Violence against Children," *Sriwijaya Law Review* 4, no. 2 (2020); Mursyid Djawas et al., "Restitution to Victims of Rape Crimes: Examination of Judicial Decision Number 06/JN/2019/MS.Lsm," *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 13, no. 2 (2024).

Legal Protection and Restoration for Child Victims of Sexual Violence in Illegal Orphanages in Gubeng Surabaya

The protection and restoration of the law for child victims of sexual violence in illegal orphanages in Gubeng shows that the child protection system works in layers according to the provisions in the existing legislation. The protection mechanism began when the first victim, IF (15 years old), reported to UKBH FH Unair on January 30, 2025. The defendant NK (61) is suspected of repeatedly committing sexual violence against three of his foster children at the former Budi Kencana Orphanage during the period 2022 to 2025. The victims consisted of IF (15), AP (14), and BF (15). Free legal assistance from UKBH is a form of implementation of the rights of child victims to obtain legal assistance as stipulated in Article 66 of the TPKS Law. The police, through the East Java Regional Police Directorate of Criminal Investigation, then conducted a child-friendly investigation with separate interviews, the presence of psychologists, and no confrontation with the perpetrator, in line with the principle of protecting the dignity of children in Article 20 of the TPKS Law.[20]

This step shows a responsive legal concept, as Satjipto Rahardjo argues, where the law must humanize human beings and protect vulnerable groups, not just implement positive laws.[21] Protection of the identity of the victims is carried out in accordance with the provisions of Article 43 of the TPKS Law, which prohibits the publication of children's personal data by the media, so that the confidentiality of the five victims has been maintained.

The relocation of victims to safe facilities by the Surabaya Social Service and the East Java Provincial Government showed the element of physical protection as mandated by Article 67 of the TPKS Law on the provision of safe places. Placement in an official LKSA with 24-hour supervision and security guarantees from AKBP Ali Purnomo, including medical examinations and *visum et repertum*, is a form of fulfilling medical and security needs that are elements of the state's mandatory follow-up.[22] This quick response reflects Soerjono Soekanto's theory of legal effectiveness, that law enforcement is only effective if the apparatus, supporting facilities, and the community are able to move in harmony.[23] In this case, the coordination between UKBH, the police, the Social Service, and psychologists shows this harmony.

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[20]Republic of Indonesia, "Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual [Law No. 12 of 2022 on Sexual Violence Crimes, State Gazette of the Republic of Indonesia Year 2022 No. 120], State Gazette of the Republic of Indonesia No. 6792."

[21]Analiansyah and Ali Abubakar, "Children Handling Procedure in Islamic Criminal Offense in Aceh," *Ahkam: Jurnal Ilmu Syariah* 21, no. 1 (2021); Resty Shelya Pujiani, Mutia Azizah Aksan, and Maya Sinta, "Seeking Justice for Indonesian Children: The Juvenile Criminal Justice System in Indonesia in the Context of Criminal Justice Reform," *Indonesian Journal of Advocacy and Legal Services* 4, no. 2 (2022), https://doi.org/10.15294/ijals.v4i2.60033; Ralph J. Moore, "Criminal Procedure: Included Offenses," *California Law Review* 45, no. 4 (1957), https://doi.org/10.2307/3478604.

[22]Oktanti Nueke Sulistyani, "Evidence Using Visum Et Repertum Psychiatric Expert Psychiatrist For The Defendant And The Judge's Consideration In Deciding The Crime Of Class I Narcotics Abuse (Study Decision Number: 575/Pid.B/2013/PN-KIS)," *Vestek* 9, no. 2 (2021): 1–5;

[23]Soerjono Soekanto, "Antropologi Hukum Sebagai Penunjang Studi Hukum Adat," *Jurnal Hukum & Pembangunan* 15, no. 2 (2017), https://doi.org/10.21143/jhp.vol15.no2.1115; Devon Cass, "The

That at the time of the legal process, the victim has and is given the right to attend the trial without intimidation, with a closed trial mechanism, and is given psychological assistance as per the principle of child-sensitive justice.[24] The right to obtain legal representation and children's participation in the judicial process is based on Article 64 of the Child Protection Law, jo. 67 of the TPKS Law. Then the victim was also given facilities to apply for restitution based on Article 31 of the TPKS Law, including medical expenses, education, and trauma compensation. UKBH FH Unair plays a role in conducting negotiations and applications for restitution, which is affirmed in Article 98 of the Criminal Code, which requires judges to include compensation for victims in criminal decisions.[25] This is in accordance with Prasetyo's theory of justice that criminal law not only punishes the perpetrator but also restores social balance and restores the rights of victims.

Psychosocial and medical recovery is carried out through trauma therapy, PTSD counseling, HIV/STI examination, and social reintegration programs in collaboration between psychologists, the Ministry of PPPA, KPAI, and referral hospitals. This multidisciplinary approach is the application of the principle of the best interests of the child in the Child Protection Law. KPAI also conducts long-term monitoring through the Empowered Children program to ensure that victims do not experience retraumatization. Long-term assistance through the Integrated Child Protection (PAT) program of the Ministry of PPPA, in the form of scholarships and skills training, shows that recovery does not stop at the legal process alone but is aimed at until children are ready to return to social life.

Strategic Efforts to Prevent Recurrence of Cases of Sexual Violence in Illegal Orphanages in Gubeng Surabaya

These orphanages, which operate without official supervision, not only violate the Child Protection Act but also show systemic loopholes in the management of social institutions. To prevent similar incidents from recurring, a holistic strategic approach is needed, involving preventive aspects, law enforcement, and community

Priority of Liberty: An Argument from Social Equality," *Law and Philosophy* 40, no. 2 (2021), https://doi.org/10.1007/s10982-020-09393-4; Dedy Sumardi et al., "Transition of Civil Law to Public Law: Integration of Modern Punishment Theory in Criminal Apostasy," *Ahkam: Jurnal Ilmu Syariah* 22, no. 1 (June 30, 2022), https://doi.org/10.15408/ajis.v22i1.26359.; Widodo Dwi Putro and Adriaan W. Bedner, "Ecological Sustainability from a Legal Philosophy Perspective," *Journal of Indonesian Legal Studies* 8, no. 2 (2023), https://doi.org/10.15294/jils.v8i2.71127.

[24]Analiansyah and Abubakar, "Children Handling Procedure in Islamic Criminal Offense in Aceh."; Reni Yuvita Amanda, Mizaj Iskandar, and Boihaqi Adnan, "Hukum Adat Aceh Dan Perlindungan Anak Penyelesaian Kasus Kekerasan Di Gampong Deah Raya Banda Aceh," *Jarima: Jurnal Ilmiah Mahasiswa Hukum Pidana Islam* 1, no. 2 (2025): 181–95, https://doi.org/https://doi.org/10.22373/jarima.v1i2.767.

[25]Republic of Indonesia, "Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual [Law No. 12 of 2022 on Sexual Violence Crimes, State Gazette of the Republic of Indonesia Year 2022 No. 120], State Gazette of the Republic of Indonesia No. 6792."; Republic of Indonesia, "Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana [Law No. 1 of 2023 Concerning the Criminal Code, State Gazette of the Republic of Indonesia Year 2023 No. 1, State Gazette No. 6842" (Jakarta: State Secretariat, 2023).

empowerment. First, strengthening regulations and supervision by local governments is the main foundation. In Surabaya, the East Java Social Service (Dinsos) must be more proactive in conducting an inventory of orphanages, both official and illegal. The concrete strategy is to implement a digital-based mandatory registration system, such as a monitoring application that is integrated with the Ministry of Social Affairs. This is similar to the model already implemented in some areas, such as Jakarta, where each orphanage must report monthly on the number of children, staff, and activities.

If an illegal orphanage is detected, immediately conduct a raid with the police and relocate the children to an accredited institution. Gubeng's case shows that delays in supervision can be fatal, so target regular audits at least every six months to prevent "ghost homes" from popping up. Second, education and training for social business actors and the surrounding community should not be neglected. Many cases of sexual violence stem from a lack of awareness about children's rights. The strategy here is to hold a mandatory workshop for prospective orphanage managers, including modules on abuse prevention, parenting ethics, and recognition of signs of trauma in children.

Collaboration with NGOs such as Komnas Perempuan or the Sayangi Tunas Cilik Foundation can enrich this program. At the community level, awareness campaigns through mosques, schools, and RT/RW in Gubeng need to be intensified. The experience of this case teaches that neighbors are often suspicious but hesitant to report; So, create an anonymous hotline that is easily accessible to encourage community participation. Third, firm and restorative law enforcement must be a priority. Our law already has a strong umbrella through the Child Protection Law and Criminal Code Articles 81-82 on sexual violence against children, but its implementation is often weak. The strategy is to establish a special task force at the city level, consisting of police, prosecutors, and child psychologists, to deal with these kinds of cases quickly. For perpetrators in the Gubeng orphanage, the maximum punishment must be enforced without mercy, as well as rehabilitation of the victim through a free counseling program from the PPA (Women's Empowerment and Child Protection) Office. Furthermore, integrate case data into a national database for pattern analysis, so that prevention can be more predictive—for example, the identification of vulnerable areas such as slums in Surabaya.

The central government can allocate a special budget for monitoring orphanages, while the private sector and philanthropy, such as CSR companies in East Java, take part in building safe model orphanages. Gubeng's case is not just a local tragedy, but a national mirror; If this strategy is applied consistently, perhaps we can reduce similar risks by up to 70% in five years, as seen in a similar study in Bandung. In essence, this prevention requires a joint commitment, not just post-case reactivity.

Conclusion

Based on the analysis of sexual violence cases at the Budi Kencana Foundation Orphanage, Gubeng, Surabaya, it can be seen that law enforcement against illegal orphanage managers such as Nurherwanto Kamaril already has a strong basis through

Law Number 17 of 2016 concerning Child Protection, Law Number 12 of 2022 concerning Sexual Violence, and Articles 81-82 of the Criminal Code. The threatened punishment could be up to 20 years in prison plus a fine, mainly because the perpetrator played the role of the child's caregiver. However, implementation is still difficult because illegal institutions are difficult to supervise, cooperation between institutions is not good, and the legal culture is not yet strong. Protection for victims has begun to run with a child-friendly approach, such as transfer to an official home, counseling to overcome trauma, and compensation from the perpetrator through restorative justice. Nonetheless, long-term impacts such as post-traumatic stress disorder still require ongoing support. To prevent similar cases, strategic measures are needed, such as the creation of digital databases to monitor orphanages, abuse prevention training, and the formation of special teams in the police.

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