GIJLSS
Greenation International Journal of Law and Social Sciences
+62 81210467572 https://research.e-greenation.org/GIJLSS greenation.info@gmail.com
GREENATION RESEARCH

DOI: https://doi.org/10.38035/gijlss.v4i2

Normative Analysis of Prevention of Re-Traumatization of Child Victims in Criminal Justice Proceedings on Standards of Examination and Protection of Children's Rights

Yusuf Hanafi Pasaribu
Universitas Pembinaan Masyarakat Indonesia, Medan, Indonesia, yusufhanafipsb2@upmi.ac.id

Corresponding Author: yusufhanafipsb2@upmi.ac.id

Abstract: This study examines the Prevention of re-traumatization (re-trauma) in child victims in the criminal justice process. Re-Trauma arises when the child is forced to repeat events, face pressing or entangling questions, meet the perpetrator, or his identity is exposed. The research uses normative legal methods with legislation, conceptual, and case approaches. Primary legal materials include the SPPA law, the child protection law, the Criminal Procedure Code, The Witness and Victim Protection Law, and the TPKS law, with illustrations of the verdict the results of the study show that Indonesian law already contains minimum standards: confidentiality of identity, assistance, Prohibition of entangling questions, as well as the option of electronic recording and audiovisual examination to reduce repeated examinations. The main obstacle is the lack of uniform technical guidelines and coordination between officials, so that protection can vary between cases. Research confirms the Prevention of re-trauma is not an issue of psychology alone, but rather a standard procedure that can be measured clearly.

Keywords: Child-friendly justice, Child victims, Juvenile justice system, Legal protection standards, Re-traumatization prevention.

INTRODUCTION

In the criminal justice process, the child of the victim (or the child of the witness) is not only faced with an injurious criminal event, but is also at risk of re-traumatization (repeated trauma) when it comes to "reliving" that experience through repeated examinations, overly detailed/pressing questions, a frightening formal atmosphere, to the possibility of coming face to face with the perpetrator. At this point, Justice that is supposed to restore justice can turn into an experience that triggers fear, shame, and prolonged stress and even makes children choose silence, withhold information, or find it difficult to tell the facts in full. In the victimology literature, the situation is often associated with revictimization/secondary victimization. The victim is again "injured " by procedures and ways of handling that are not sensitive to the psychological condition of the victim.(Yustiningsih, 2020)

Illustrative examples include a child victim of sexual assault reporting, then being interviewed by several different officers, with similar but repeated questions, sometimes using

trick questions. After that, the child is again asked to repeat the story at the stage of prosecution and trial, while psychosocial support is not always available. If the procedure is not designed to be child-friendly, the child may feel "judged" rather than protected. In the context of evidence, the challenge is to maintain a balance on the one hand, the disclosure of the truth and the defendant's right to a fair trial on the other hand, the obligation of the state to protect the child from re-traumatization.

An example of a real decision that is often used as a comparative reference is S.N. v. Sweden (European Court of Human Rights, 16 January 2001, Application No. 34209/96). The case involves allegations of sexual assault against a child; a police interview of the child is recorded (video/ audio), then the recording is played at the trial so that the child does not have to be constantly present and repeat statements in the courtroom. The ruling affirms the importance of high standards in child screening, while demonstrating the logic of child protection can be more "protected" if not forced to undergo examination in a potentially more psychologically burdensome court setting.(Handyside et al., 1976)

Normatively, Indonesia actually already has "signs " to prevent re-traumatization, especially through the SPPA law and the Child Protection Law. Act No. 11 of 2012 on juvenile criminal justice system (UU SPPA) ordered the authorities to prioritize the best interests of children: "shall pay attention to the best interests of children and strive to maintain a family atmosphere" (Article 18).[3] the SPPA law also closes the gap of stigma and shame by requiring confidentiality of identity: "the identity of the child, the victim's child, and/or the witness's child must be kept secret..." (Article 19 paragraph (1)).[3] in the aspect of the examination atmosphere, the SPPA law confirms that the examiner "does not wear a toga or official attributes" (Article 22), as well as requiring assistance for Child Victims/child witnesses by parents/trusted persons or social workers (Article 23 paragraph (2).[3] in fact, to reduce the psychological burden, the judge may order that the child's testimony be heard outside the hearing through electronic recording or audiovisual remote examination (Article 58 paragraph (3).(Republic of Indonesia, 2012)

This protection is reinforced by law No. 35 of 2014 on amendments to law No. 23 of 2002 on Child Protection. For child victims of sexual crimes, article 69A states that special protection is carried out through: education, social rehabilitation, psychosocial assistance, and "providing protection and assistance at every level of examination ranging from investigation, prosecution, to examination in court hearings."(Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak, 2014). At the level of general procedural law, the principle of open hearings also has an important exception: "the presiding judge of the trial declares the trial open to the public except in cases of decency or the prosecution of children." (Code of criminal procedure Article 153 paragraph (3)). In addition, the law on the protection of witnesses and Victims (Law No. 31 of 2014) opens the LPSK protection mechanism for Witness/Victim children, including parental/guardian permission schemes and exceptions, even protection can be provided based on the determination of the chairman of the local District Court if permission is not possible (Article 29A).(Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak, 2014)

Departing from the framework, the introduction of this study confirms the urgency of a normative analysis of whether examination standards (questioning techniques, restriction of repetition, accompaniment, courtroom settings, confidentiality of identity, to the use of recording/audiovisual) have been coherent and operational to actually prevent the re-traumatization of child victims in any stage of the criminal justice process. The focus is not simply on "the rules already exist, " but on how they can be systematically read in order to become a standard of protection that is firm, measured, and in favor of the best interests of the child without compromising the principle of fair justice.

METHOD

This study is normative legal research (doctrinal) that examines the Prevention of re-traumatization of child victims through examination standards and protection of children's rights.(Soekanto, 2006) The approach used includes a legislative approach to test the alignment of norms in the SPPA law, Child Protection Law, Criminal Procedure Code, and witness and Victim Protection Law; (Marzuki, 2017) a conceptual approach to explain the concept of revictimization / secondary trauma; as well as the approach to the case by reviewing the relevant court decision as an illustration of the application of the norm. Legal materials are classified into primary, secondary, and tertiary, and then collected through library studies and tracing of official documents. To assess consistency, norms are tested with the principle of best interests for children and the principle of child-friendly Justice.(Liber Sonata, 2004) The analysis was carried out qualitatively with systematic interpretation, accompanied by deductive reasoning to draw conclusions and prescriptions in the form of recommendations for child-friendly examination standards. The results are expressed in descriptive-analytical descriptions and proposals for improving concrete norms.

RESULTS AND DISCUSSION

The Concept Of Re-Traumatization Of Child Victims In Criminal Justice Proceedings And Its Relation To Examination Standards

Re-traumatization of the child victim in a criminal justice process can be understood as a condition when the traumatic experience that the child has experienced is "triggered" again due to the situation, question, or treatment during the legal process, so that the Child re-feels fear, shame, helplessness, or other symptoms of trauma. In the trauma literature, the victim's recovery is strongly influenced by a sense of security; when that sense of security is lost, the victim may re-experience trauma reactions (e.g. severe anxiety, difficulty speaking, avoidance, or flashbacks).(Stubley, 2025) In the context of the legal system, this "re-injured" experience is also often discussed as secondary victimization, which is when the victim's interaction with the apparatus/system (examination, questioning, blaming attitude, repeated exposure to events) actually makes the victim feel "scraped" again and suffer more. (Campbell & Raja, 1999)

In criminal cases involving children as victims, the risk of retraumatization usually arises from some recurring pattern. First, it is repeated checks by many parties (investigators, prosecutors, judges, legal advisers) with the same questions, so the child is forced to remember the details of the events many times. Second, stressful examination models such as high notes, entangling questions, or questions that make the child feel guilty. The Criminal Procedure Code itself affirms the obligation of the presiding judge to " take care not to do things or ask questions that cause the defendant or witness to give answers freely" and prohibit "questions that are entangling".This norm is important to re-read in the perspective of the victim child to examine the examination standards not only pursue "information", but also prevent the birth of psychological pressure that triggers trauma.

Third, exposure that makes the child feel threatened or humiliated, for example, face to face with the perpetrator, his identity is open, or the atmosphere of the trial is rigid and scary. At this point, the concept of "protection" is not sufficiently understood as physical protection, but also psychic protection and dignity of the child. The Juvenile Criminal Justice System Act (UU SPPA) recognizes this position by entitling the child victim/child witness to "protection of personal safety ... from physical, mental, and social threats" as well as protection of property. (Republic of Indonesia, 2012) The SPPA law also affirms the confidentiality of identity: "the identity of the child, the child of the victim, and/or the child of the witness must be kept secret in the news in print or electronic media." (Republic of Indonesia, 2012)] Openness of identity, especially in cases of sexual violence, can lead to shame, stigma, and fear that trigger further trauma.

Fourth, the examination environment is not child-friendly. The SPPA law tries to reduce the" fear "of children with a simple but impactful rule: the apparatus" does not wear a toga or official attributes " when examining cases of children, victims, and/or witnesses. (Republic of Indonesia, 2012) In addition, the victim Child/Witness child is "required to be accompanied" by a parent/trusted person or social worker at each level of the examination. This accompaniment can normatively be read as a mechanism for "safeguarding" the child's emotions: the child is not alone in facing an unfamiliar and stressful process.

An example of a real case that is often used as a reference in child victim protection discourse is the decision of the European Court of Human Rights S.N. v. Sweden. In this case, the testimony of the child victim was recorded by interview (video) and then played at the hearing; the court considered that the approach was relevant to reduce the burden on the child victim, as long as the defendant's right to test the evidence remained in consideration. The bottom line is that the justice system can look for evidentiary designs that do not necessarily "force" the child to attend repeated and re-experienced traumatic events. A similar idea is also seen in the SPPA law which opens the child victim/child witness examination room without face to face, the judge can order that the child "be heard through electronic recording" or "through remote examination with audiovisual communication devices". At the special protection level, the Child Protection Law (Law 35/2014) affirms that victims of sexual crimes are entitled to "the provision of protection and assistance at every level of examination ranging from investigation, prosecution, to examination in court hearings."

Thus, conceptually, retraumatization of the victim's child is not an issue of "mere psychology", but rather an issue of examination standards and procedural design in the code of Criminal Procedure. Its normative size becomes clear:

1. the examination shall guarantee a free answer without pressure,
2. minimize unnecessary repetition,
3. maintain the confidentiality and dignity of the child, and
4. ensure assistance and child-friendly screening mechanisms. (Marlina, Peradilan Pidana Anak Di Indonesia: Pengembangan Konsep Diversi Dan Restorative Justice, 2009)

Child Victims ' Rights and principles of Child-Friendly Justice

The Prevention of re-traumatization must start from the perspective of rights: the victim child is the subject of rights, not just a source of evidence. Therefore, criminal proceedings should not only pursue "as detailed a description as possible", but are obliged to weigh the child's sense of security, dignity, privacy and recovery. This framework is in line with the Convention on the Rights of the Child (CRC) passed by Indonesia through Presidential Decree No. 36 of 1990.(RI, 1990) CRC affirms that in all actions concerning children, "best interests of the child shall be a primary consideration". (Hanson et al., 2024) In the context of criminal justice, this principle means that every decision (mode of examination, courtroom, questioning model, to confrontation arrangement) must be directed to prevent secondary victimization, that is, new suffering that arises due to the legal process itself.

It is at this point that the principle of child-friendly justice becomes relevant. The United Nations guidelines for child victims and witnesses (ECOSOC 2005/20; disseminated by UNODC) emphasize caring and sensitive treatment, respect for dignity, and adaptation of the process to the age and needs of the child. And should be equipped with practical standards such as the child should obtain information that is easy to understand, can participate meaningfully, his privacy is protected, and as much as possible not forced unnecessary contact with the perpetrator. (Hanson et al., 2024) In simple terms, the child should not be "strongly forced" by the system: the examination should be planned, not intimidating, and not make the child repeat the traumatic story many times in frightening situations.

In Indonesian law, the direction appears in several core norms. The SPPA law affirms the protection of privacy: "the identity of the child, the victim's child, and/or the witness's child must be kept confidential."Identity secrecy is important because identity leaks often lead to stigma, bullying, and even threats; all of which can lead to further trauma. The Child Protection Act affirms specific safeguards, including "protection and accompaniment at each level of the examination."(Republic of Indonesia, 2012) Normatively, accompaniment is not an accessory: it helps the child understand the process, feel safe and prevent questions/pressures that are not in accordance with child psychology. In addition, the witness and Victim Protection Law (LPSK law) provides a foundation for Victim/Witness rights and a relevant protection framework for victim children, especially related to security protection and assistance according to the needs of victims. That is, "child-friendly " should appear from the earliest stages, not just during the trial.

The right of children to be psychologically protected can be used as a compelling reason to adjust the method of giving information, as long as the judicial process remains fair. In Canada, R. v. Levogiannis (1993) accepts the use of screens so that witness children do not have to see the accused when testifying as a protection from fear and pressure, but the examination can still be carried out. In essence, adverbial testing remains, but the methods are adjusted so as not to spoil the child's condition.

The UK also opts for "special measures" through the Youth Justice and Criminal Evidence Act 1999, which gives courts the basis to issue special measures directives for vulnerable witnesses (including child witnesses), such as live links or specific courtroom arrangements. (Craig, 1990) This suggests one important idea: the state provides tools so that children can testify without having to go through a frightening experience.

The child-friendly dimension also does not stop at the hearing. Grand Chamber ECHR Others v. Bulgaria (2 February 2021) affirms the country's obligation to conduct an effective investigation into allegations of sexual violence against children; failure to take reasonable steps in the investigation may violate procedural protection obligations. (ECtHR, 2021) This means that delays, unplanned repetition of examinations or poor coordination are not only technical problems, but can harm the child and contradict the protection obligation.

On the basis of the above rights and principles, normative research can assess whether examination standards in criminal justice processes have truly operationalized best interests, privacy, mentoring, and safe participation, or still open the space for re-traumatization.

Standards of Examination of Judicial Proceedings and the Protection of the Rights of Child Victims to Prevent Re-Traumatization

Re-traumatization in the victim's child often arises not because of the event alone, but because of the legal process that makes the child "repeat" the bitter experience: asked repeatedly by many parties, forced to meet the perpetrator, cornering questions, a frightening examination atmosphere, as well as a trial that is not child-friendly. Therefore, a good examination standard must combine two goals, namely that the child's information remains qualified for proof, and the process does not hurt the child's psychological.

In Indonesian law, the main foundation is seen in the Juvenile Criminal Justice System Law (Law No. 11 of 2012). For example, Article 19 paragraph (1) states that the identity of the victim's child must be kept secret ("The Name, Address, face, or other thing that can reveal the identity of the victim's child must be kept secret").This is important because exposure to identity often exacerbates shame, fear, and social stigma that in children can turn into prolonged trauma. In the examination phase, Article 22 of the SPPA law also requires a non-pressing atmosphere, including the provision that the examiner does not wear a toga/official attribute, so that children do not feel they are being "judged" or intimidated. This standard is in line with the principle that the examination environment should be soothing, not frightening.

The most strategic standard to prevent re-trauma is to minimize the repetition of examinations. The SPPA law gives a clear door through Article 58 paragraph (3): "in the event that the victim's child and/or the witness's child cannot attend, the victim's child and/or the witness's child's statement can be given through electronic recording and/or heard through a remote audio-visual communication device."That is, the legal system actually recognizes that" bringing up children repeatedly" is not an ideal standard that the ideal is a one-time examination that is quality, well recorded, then used lawfully at a later stage. The practice of other countries also points in the same direction. (Craig, 1990)

In Canada, R v. Levogiannis corroborated the use of visual barriers or remote means to protect children of witnesses from psychological pressure when testifying. From Europe, case S.N. v. Sweden points to the importance of screening mechanisms that do not force children to repeat traumatic stories over and over again; courts reassess how to obtain children's information and its impact (*CASE OF S*, n.d.) These examples reinforce the normative argument: electronic recording and remote checking are not a "luxury," but a need for protection.

For a one-time examination to be of Quality, Question standards are also crucial. Article 166 of the code of Criminal Procedure already gives a limit: "questions of an entangling nature should not be asked..."(Pemerintah Indonesia, 1981) In the context of the victim child, the Prohibition of entangling questions should be read more broadly: it not only protects the process of proof, but also protects the child's psychic state. UU TPKS (UU No. 12 of 2022) even asserted explicitly that the examination should be "without intimidation" and "non-traumatic for the victim," including a ban on irrelevant entangling questions. (UU RI, 2022) It enriches normative standards: victim-blaming and trauma-provoking questions are both violations of examination ethics as well as contrary to the direction of the law.

Another protection that must be present is accompaniment. Child Protection Law (Law No. 35 of 2014) through Article 69A letter d ordered "the provision of protection and assistance at every level of examination ranging from investigation, prosecution, to examination in court hearings."[9] the SPPA law also states that the victim's child "must be accompanied by a parent and/or a trusted person and/or companion."A companion is not just a" seatmate"; normatively, it serves to stabilize the child's emotions, help the child understand the questions, and prevent the examination from turning into psychological stress.

In the practice of child sexual abuse cases, the child's testimony is often the center of evidence. That is why the quality of the examination determines two things at once: justice and psychological protection. The legal literature in Indonesia indicates that there are rulings that still consider the testimony of child witnesses even though the strength of evidence is limited (for example because it is not sworn), as long as it is supported by other evidence; this confirms the need for special treatment in obtaining the child's testimony so that it is not "damaged" from the beginning due to the wrong examination process. (Muammar et al., 2024) At this point, Child-Friendly forensic interview standards such as investigative interview protocols that emphasize open-ended questions and minimal suggestion are often recommended to maintain accuracy while reducing child stress. (Lamb et al., 2007)

Finally, national standards should be read in harmony with international principles: the best interests of the child and protection from degrading treatment. The convention on the rights of the child affirms the principle of the best interests of the child as a primary consideration, and the international guidelines on justice for child victims/witnesses emphasize the Prevention of additional suffering resulting from the judicial process. (Hanson et al., 2024) Thus, the measure of the success of the examination of the victim's child is not only "the child gives information," but "the child gives information safely, with minimal repetition, questions that do not hurt, accompanied, identity protected, and if necessary using recordings and remote audio-visual means."

CONCLUSION

The study concluded that re-traumatization of child victims is primarily triggered by unfriendly judicial processes: repeated examinations, pressing or entangling questions, intimidating atmosphere, and identity leakage. Therefore, the Prevention of retraumatization should be understood as a matter of standard examination procedures, not just a matter of psychology. Normatively, Indonesia already has signs in the SPPA Law, Criminal Procedure Code, and Child Protection Law: confidentiality of identity, mandatory assistance, Prohibition of entangling questions, psychosocial support, and the option of electronic recording or remote examination so that children are not forced to attend repeatedly. However, the norm must be applied consistently from investigation to trial with the principle of best interests for the child.The key is uniform guidelines, apparatus training, and coordination of investigator prosecutor judge companion/LPSK so that a safe examination is used across stages. Thus, the child does not become a victim again, his rights are protected, and the evidence remains fair and can be properly accounted for.

REFERENCES

Campbell, R., & Raja, S. (1999). Secondary victimization of rape victims: insights from mental health professionals who treat survivors of violence. *Violence and Victims*, *14*(3), 261–275.

CASE OF S. (n.d.).

Craig, M. (1990). *MARYLAND v. CRAIG*.

ECtHR. (2021). *X and others v Bulgaria [GC]*.

Handyside, C. O. F., Kingdom, T. H. E. U., & Strasbourg, J. (1976). *Conseil De L ' Europe of Europe Cour Européenne Des Droits De L ' Homme European Court of Human Rights*. *5493*.

Hanson, K., Liefaard, T., Ruggiero, R., Patrizi, E., Klep, K., & Opoka, L. (2024). United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime. *International Children's Rights Instruments*, 564–575. https://doi.org/10.1163/9789004681224_045

Lamb, M. E., Orbach, Y., Hershkowitz, I., Esplin, P. W., & Horowitz, D. (2007). A structured forensic interview protocol improves the quality and informativeness of investigative interviews with children: a review of research using the NICHD Investigative Interview Protocol. *Child Abuse & Neglect*, *31*(11–12), 1201–1231. https://doi.org/10.1016/j.chiabu.2007.03.021

Liber Sonata, D. (2004). Metode Penelitian Hukum Normatif dan Empiris: Karakteristik khas dari Metode Meneliti Hukum. *Jurnal Ilmu Hukum*, *8*(1), hlm. 28.

Marzuki, P. D. M. (2017). *Penelitian Hukum: Edisi Revisi*. Prenada Media. https://books.google.co.id/books?id=CKZADwAAQBAJ

Muammar, M., Meldandy, M., & Sardari, A. (2024). Kelemahan Kedudukan Pembuktian Keterangan Anak Korban Dalam Perkara Asusila: *Al-Mizan*, *20*, 441–460. https://doi.org/10.30603/am.v20i2.4622

Pemerintah Indonesia. (1981). Kitab Undang-Undang Hukum Acara Pidana (KUHAP) No. 8 Tahun 1981. *Kuhap*, 871.

Peradilan pidana anak di Indonesia: pengembangan konsep diversi dan restorative justice. (2009). Refika Aditama. https://books.google.co.id/books?id=63a7YgEACAAJ

Republic of Indonesia. (2012). *Law No. 11 of 2012 concerning the Juvenile Criminal Justice System*. State Gazette of the Republic of Indonesia Year 2012 No. 153. https://peraturan.go.id/peraturan/index-lembaran-negara.html?LembaranNegaraSearch%5Bjenis_peraturan_id%5D=11e449f35c25e4d0b

18e313231373039&LembaranNegaraSearch%5Bnomor%5D=11&LembaranNegaraSearch%5Btahun%5D=2012

RI, P. (1990). *Keputusan Presiden Nomor 36 Tahun 1990 tentang Konvensi Hak-Hak Anak*. *1*. http://ditjenpp.kemenkumham.go.id/arsip/ln/1990/kp36-1990.pdf

Soekanto, S. (2006). *Pengantar penelitian hukum*. Penerbit Universitas Indonesia (UI-Press). https://books.google.co.id/books?id=M3b3NAAACAAJ

Stubley, J. (2025). Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror, by Judith Herman. *BJPsych Advances*, 1–3. https://doi.org/10.1192/bja.2025.10171

Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak. (2014). Undang - Undang Nomor 35 Tahun 2014 tentang Perubahan Atas Undang – Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak. *UU Perlindungan Anak*, 48. https://peraturan.bpk.go.id/Home/Details/38723/uu-no-35-tahun-2014

UU RI. (2022). Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. *Kementerian Sekretariat Negara Republik Indonesia*, *1*(69), 1–84.

Yustiningsih, I. (2020). Perlindungan Hukum Anak Korban Kekerasan Seksual dari Reviktimisasi dalam Sistem Peradilan Pidana. *Jurnal Lex Renaissance*, *5*(2), 287–306. https://doi.org/10.20885/jlr.vol5.iss2.art3