

**Legal Protection and Prevention of Violence Against Children in Family Relations:
a Comparative Study at the Religious Court and the Bandung City Police Department**

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ABSTRACT

Cases of domestic violence against children continue to increase over time, including within the family sphere. According to information derived from the PPA Symphony of the Ministry of Women's Empowerment and Child Protection, as of the initial quarter of 2023, Bandung City ranks third in terms of the highest incidence of violent cases in West Java. As many as 37 reports of acts of violence were recorded in the city of Bandung in approximately two months. So the focus regarding this matter must be paid more attention by the various parties concerned in terms of legal protection and prevention. This research uses a comparative method with the aim of comparing the Bandung Religious Court in its civil scope and the Bandung Police in terms of criminal acts. What are the preventive steps and resolution of domestic violence cases against children within the family in the city of Bandung? And the results, when compared between PA and Bandung Police, have varying data due to different absolute and relative competencies. However, in general, domestic violence cases against children in the city of Bandung are more often resolved criminally, rather than civilly, in terms of fighting over child custody after divorce.

Keywords: *Bandung Religious Court; Prevention of Child Domestic Violence; Child Domestic Violence Legal Protection; Bandung Police; Child Domestic Violence Crime*

ABSTRAK

Kasus Kekerasan dalam Rumah Tangga pada anak terus mengalami peningkatan dari waktu ke waktu, termasuk dalam lingkup keluarga. Menurut informasi yang diperoleh dari Simfoni PPA Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, pada trimester awal tahun 2023, Kota Bandung menempati posisi ketiga dalam hal jumlah kasus kekerasan tertinggi di Jawa Barat. Terdapat 37 laporan tindak kekerasan yang tercatat di Kota Bandung selama kurang lebih dua bulan. Sehingga fokus terkait hal ini harus lebih diperhatikan oleh berbagai pihak yang bersangkutan dalam hal perlindungan hukum dan pencegahannya. Penelitian ini

menggunakan metode komparatif dengan tujuan membandingkan Pengadilan Agama Bandung dalam lingkup perdatanya dan Polrestabes Bandung dalam hal tindak pidananya. Bagaimana langkah preventif hingga penyelesaian perkara KDRT pada anak dalam lingkup keluarga di Kota Bandung. Dan hasilnya, ketika dibandingkan antara PA dan Polrestabes Bandung memiliki data yang beragam karena kompetensi absolut dan relatif yang berbeda. Namun secara garis besar perkara KDRT pada anak di Kota Bandung lebih banyak diselesaikan secara pidana, dibandingkan perdata dalam hal perebutan hak asuh anak pasca perceraian.

Kata Kunci: *Pengadilan Agama Bandung; Pencegahan KDRT Anak; Perlindungan Hukum KDRT Anak ; Polrestabes Bandung; Tindak Pidana KDRT Anak*

A. INTRODUCTION

The sad phenomenon related to the problem of Domestic Violence (KDRT) is the imbalance in focus and awareness from various groups that domestic violence is not only between husband and wife, but violence against children is also a form of domestic violence that many people are often unaware of.

Although the definition of domestic violence often emphasizes "women", it is possible that women are both victims and perpetrators. Domestic violence can also affect children, and this is often overlooked. Article 2 of the Law on Prevention and Handling of Domestic Violence (PKDRT) stipulates that point 1 of domestic violence is between husband, wife, and child. So it's not just husband and wife, there are children in it.

Women and children are vulnerable to crimes and need to be protected.¹ Children are essential for the survival of individuals and nations. Children play a vital role in the Indonesian constitution, which emphasizes the right of every child to live, grow and develop, and be protected from discrimination and violence. Therefore, the interests of children must be prioritized over the interests of humanity as a whole. However, children's rights have not been fully realized. In fact, children continue to be exploited, both sexually and economically, as street children or laborers. We rarely protect children's rights, even though there are legal mechanisms.²

¹Arifin, R., & Lestari, LE (2019). Enforcement and Protection of Human Rights in Indonesia in the Context of Just and Civilized Implementation of Humanitarian Principles. *Journal of Legal Communication (JKH)*, 5(2).

²Aulia and Siah. (2021). Legal Protection for Child Victims of Sexual Violence. *TA'ZIR: Journal of Criminal Law* 121. Vol. 5 No. 2.

There is a lot of literature that has reviewed the legal protection and prevention of domestic violence against children who have close relationships. However, limitations are still seen in case studies and field comparisons to assess their effectiveness. Therefore, if the understanding and investigation of this aspect is expanded more comprehensively, it can be a reinforcement for conflict resolution and implementation of legal protection against cases of domestic violence against children which continue to increase. Previous research, such as Diana Yusyanti's research,³ entitled "Legal Protection of Children Victims from Criminal Actors of Sexual Violence". Then, Akbar and Johar's research,⁴ entitled "Legal Protection from Violence Against Children in the Family Circle in Indonesia" and research by Andhini and Arifin,⁵ entitled "Analysis of Legal Protection Against Violence Against Children in Indonesia". A comprehensive study of how legal protection and prevention of domestic violence against children in the context of family relationships, when viewed from its implementation in the field, is still limited to the concept of legal studies. Therefore, based on previous research, studies related to legal protection and prevention of domestic violence in the field, especially in Religious Courts and Police, still have limitations, and until now, researchers have not found a comprehensive study.

This paper aims to fill the gap in previous studies that tend to analyze legal protection and prevention of domestic violence against children in part, so that it is less comprehensive and its implementation in the field has not shown effectiveness, especially considering the increasing cases of domestic violence against children. Given the increase in cases of domestic violence against children that have an impact on long-term problems, a comprehensive and complete approach is needed.

Based on data collected from various sources. Cases of violence against children in the city of Bandung are quite high from year to year. So there are several questions in this study, namely; 1). How is the data on cases of violence against children in family relationships in the Religious Court & Bandung City Police? 2). How is the analysis of the factors causing violence

³Yusyanti. (2020). Legal Protection for Child Victims of Perpetrators of Sexual Violence. *De Jure Legal Research Journal*. Volume 20, Number 4.

⁴Akbar and Johar. Legal Protection from Violence Against Children Within the Family in Indonesia. *SENKIM: National Seminar on Multidisciplinary Scientific Work* Vol. 1, No. 1 August, pp. 308-319.

⁵Andhini and Arifin. (2019). Analysis of Legal Protection Against Violence Against Children in Indonesia. *ADJUDICATION: Journal of Legal Science*, Volume 3 Number 1., Pp. 41-52.

against children in family relationships in the Religious Court & Bandung City Police? 3). How is the analysis of legal protection for violence against children in family relationships in the Religious Court & Bandung City Police? 4). What are the preventive measures for acts of violence against children in family relationships in the Religious Court & Bandung City Police? 5). What are the obstacles and efforts of the Religious Court & City Police in enforcing the law against perpetrators & victims of domestic violence against children? By conducting this study, it is hoped that it can comprehensively address the problem of Domestic Violence (KDRT) experienced by children, by considering various aspects through a comparative study approach.

This paper argues that discussions on legal protection and prevention of domestic violence against children in the context of family relationships, if discussed separately, are unable to adequately assess their effectiveness in the field. If we only focus on theoretical or conceptual aspects without evaluating how law enforcers handle cases of domestic violence against children practically in the field, it is difficult to determine the extent of their effectiveness in suppressing or reducing the increasing number of domestic violence against children.

Therefore, the risk of increasing the number of children who become victims of domestic violence from their parents without parental awareness of the problem is increasing. For this reason, this study does not only focus on the aspects of criminal acts or legal protection and prevention theoretically, but also emphasizes case studies/comparatives in the field to clearly observe its effectiveness. Thus, this study aims to combine the perspectives of positive law and Islamic law and see its practice in the field in order to understand the problem of domestic violence against children from various perspectives, both in terms of concept and practice, with the aim of being able to present a comprehensive explanation in accordance with the complexity of the problem.

B. RESEARCH METHODS

This study uses a comparative study approach that describes and compares theory and practice related to legal protection and prevention of domestic violence against children in family relationships at the Religious Court and Bandung City Police. The data in this study were obtained through a collection method involving observation, interviews, and documentation. The data analysis process consists of three stages, namely data analysis before field research is

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conducted, data analysis while in the field, and data analysis after field research is completed. Data on cases of violence against children in family relationships in the Religious Court and Bandung City Police areas that were analyzed and compared for their effectiveness were data from 2022-2023, the aim of which was to make it more actual and relevant to current conditions. If there is data from previous years that is used, then it is only as a complement to strengthen the analysis. The following is a table of sources when collecting data for this study:

Table 2.0. Research Sources

No	Full name	Position	Place	Case Area Focus
1	M. Adli Hakim H, SH	Judicial Case Analyst	Bandung Religious Court	Civil
2	IPDA Cecep Suhendra, SH	Head of Sub-Nit PPA (Protection of Women and Children)	Bandung Police Criminal Investigation Unit	Criminal

C. RESULTS AND DISCUSSION

1. DATA ON CASES OF VIOLENCE AGAINST CHILDREN IN FAMILY RELATIONS IN THE RELIGIOUS COURT & BANDUNG CITY POLICE OFFICE

The Online Information System for the Protection of Women and Children (Simfoni PPA) managed by the Ministry of Women's Empowerment and Child Protection in Bandung recorded the third rank in the number of violent crimes in West Java until the first trimester of 2023. In the previous two months, there had been 37 criminal complaints. The city of Bandung has fewer reports of violent crimes than the city of Depok which has 179 cases, while the city of Bogor has 42 cases. Based on 2022 statistics, Bandung has the highest 423 cases of violence in West Java. There were 399 women who were victims of violence in West Java in 2023, out of a total of 433 documented incidents. Uum stated that in 2022, 0.17 percent (1,207 people) of the 710,000 children in the city of Bandung will be victims of various types of violence, whether physical, verbal, sexual, neglect, and other acts. The findings of the 2023 PPA Symphony research

covering 129 cases revealed that elementary school children (SD) in West Java were the most frequently harmed. Junior high and middle school students ranked second with 101 reports, while high school students ranked third with 96 reports.⁶

Children in Bandung experience many types of violence, including 35 cases of economic violence, 27 cases of violence related to child custody, 26 cases of child violence including child neglect, and 7 cases of child trafficking. Violence against children should not be ignored because it has a significant impact on their growth and development from infancy to adulthood. Suicide and criminal behavior are often the result of severe childhood trauma.⁷

In 2020, the Bandung City Women and Children Empowerment Service (DP3A) processed 431 complaints of violence against children in Bandung. This means that the total cases recorded in the previous year were 250 cases, an increase of 181 cases this year. Of the 431 incidents of violence against children reported in 2020, 155 were psychological, 69 were social, and 55 were physical.⁸

Based on the results of the author's interview with an interviewee from the Bandung Religious Court (M. Adli Hakim H, SH as a Judicial Case Analyst) on October 6, 2023. He said that, "the allusion to domestic violence in the PA is in the dispute over child custody rights, aka hadhanah. Custody rights can be revoked if proven to have committed domestic violence. So, if the goal is to get custody of the child, then it is submitted to the PA, but if the goal is to imprison it, then report it to the police. If the parents are no longer right, don't be with their parents anymore, for example, then their custody rights are revoked. If the goal is only to get rid of the perpetrator of domestic violence, then come to the PA. If you want to criminalize or imprison the goal is to go to the Police or District Court. For example, if our uncle sees that his nephew's parents are not right, are drunkards and commit domestic violence. So what is the goal, if it is only to get rid of child custody rights, then go to the PA, if you want to imprison it, then go to the police or criminal law. " And the hadhanah cases reported to the Bandung PA in 2022 were 7 cases.⁹

⁶ <https://news.republika.co.id/berita/rqqsgg423/kasus-kekerasan-di-kota-bandung-tertinggi-ketiga-di-jawa-barat>.

⁷ <https://databoks.katadata.co.id/datapublish/2021/12/05/anak-di-bandung-paling-banyak-alami-kekerasan-psikis-pada-2021>

⁸ <https://bandungbergerak.id/article/detail/988/data-kekerasan-terhadap-anak-di-kota-bandung-2020-terbanyak-berupa-kekerasan-psikis>

⁹ Author's interview with interviewee from Bandung Religious Court (M. Adli Hakim H, SH as Judicial Case Analyst). Date October 6, 2023.

Then the author took data at the Bandung Police. Directed to the Sat Reskrim (Criminal Investigation Unit) PPA (Women and Children Protection) unit according to IPDA Cecep Suhendra, SH as Head of SubNit PPA on October 18, 2023, he said that, "Cases of domestic violence against children within the family are not as many as cases of domestic violence against couples. And most of the reported types of violence are physical and sexual violence. If psychological, it is rarely reported. And the one who reports it is usually the guardian (father or mother or closest family). The reported limit is the child's age up to 18 years, and most of those who report are in junior high school and high school, if the child is still young, it is very rare except for cases of sexual violence."¹⁰

Types of Violence Against Children¹¹

Children who witness violence may have long-term consequences, including changes in their views later in life. Violence against children is more than just sexual and physical violence. Without realizing it, parents abuse their children by not providing for them.

The following are examples of violence directed at minors:

a) Emotional Abuse

Among the signs of emotional abuse in children are:

- Decreased self-confidence
- Looks melancholic and gloomy
- Acute headache or nausea
- Withdrawing from friends, family, or social events
- Delayed emotional growth
- Frequent absence from school, which reduces achievement and weakens enthusiasm
- Avoid certain circumstances
- Loss of ability

¹⁰Interview with the author with the interviewee of the PPA (Women and Children Protection) Unit of the Bandung Police Criminal Investigation Unit (IPDA Cecep Suhendra, SH as Head of the PPA Sub-Nit). Date October 18, 2023.

¹¹Fathurrahman and Kasmarani. (2022). Legal Protection and Prevention of Violence Against Adopted Children in Family Relationships. *Ta'zir: Journal of Criminal Law*. Vol. 6 No. 1. 24-37.

b) Neglect

Victims of child abuse include parents who are unable or unwilling to meet all of their children's needs.

Signs of child neglect include the following:

- Young people show poor hygiene
- Feeling uninterested in life
- Insufficient height and weight growth
- Inadequate clothing or other essential supplies for children
- Academic results below standard
- Inadequate medical or psychological support
- Emotional disturbance, agitation, or irritation
- Sensation of anxiety or terror
- Unexplained weight loss

c) Physical Violence

Physical abuse is one of the most common types of violence that parents perpetrate against their children. Parents may intentionally hurt their children physically in an attempt to discipline them. However, there are other ways to punish children besides physical violence, including not yelling at them all the time, which is painful for them. Rather than traumatizing children or leaving them with physical scars, there are many other parenting methods that are more beneficial. Children who are victims of physical abuse may have scars, bruises, or marks on their bodies.

According to the law, committing violence means “making someone unconscious or helpless (weak)”. Violence is described as the use of physical force, such as hitting with fists or weapons, kicking, and so on.¹²

d) Sexual violence

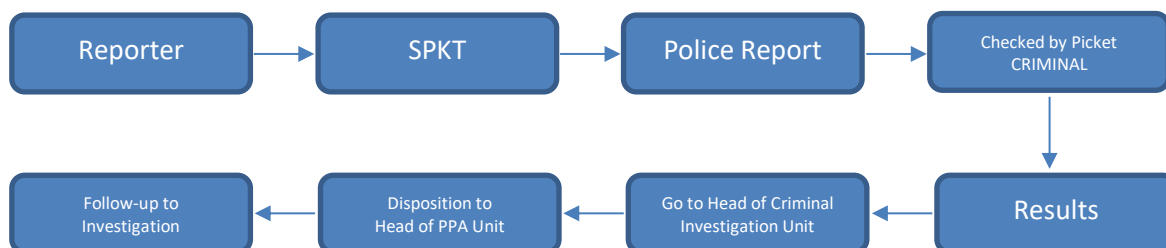
Sexual abuse can cause trauma beyond physical contact. Even if the child is not touched, sexually inappropriate information can be considered child sexual abuse or violence. For example, a parent who teases a child because her breasts are larger than the average for her age group, especially in public, is considered child sexual abuse. It is your responsibility as a parent

¹²Jamaa, La, Hadidjah. Islamic Law and the Law Against Domestic Violence. Surabaya: PT Bina Ilmu, 2007.

to teach your child how to be safe from sexual abuse outside the home. However, showing pornography to children is a form of sexual abuse.

The flow of reporting cases of domestic violence against children can be seen in the chart below.¹³

Chart 3.0. Domestic Violence Case Reporting Flow at Bandung Police Headquarters



When the police receive a report, they must immediately respond by conducting an investigation; if the requirements for evidence and witnesses are met, the investigation will continue. In an effort to protect victims, investigators are allowed to detain and arrest perpetrators of domestic violence if proven guilty. Although the law mandates the issuance of an order to provide temporary protection to victims of domestic violence, victims of violence do not always receive temporary protection from the police.¹⁴

After the investigation is complete, the police will issue an official report and arrange mediation between the perpetrator and the victim, both of whom will be represented by a lawyer. Of course, the mediation method in this case is carried out witnessed by the prosecutor's office and investigators, with the aim of ultimately finding a promising solution to the problem. Police officers must be aware of criminal procedure law when handling domestic violence cases, especially those involving female police officers, because this shows the officers' concern for victims of domestic violence, which can be realized by providing special services. The RPK cannot be delegated to elderly officers. The National Police Headquarters demands special training in dealing with domestic violence situations for members of the Investigation Team

¹³Interview with the author with the interviewee of the PPA (Women and Children Protection) Unit of the Bandung Police Criminal Investigation Unit (IPDA Cecep Suhendra, SH as Head of the PPA Sub-Nit). Date October 18, 2023.

¹⁴Interview with the author with the interviewee of the PPA (Women and Children Protection) Unit of the Bandung Police Criminal Investigation Unit (IPDA Cecep Suhendra, SH as Head of the PPA Sub-Nit). Date October 18, 2023.

working in the RPK. Of course, the task of the RPK investigator is to help resolve domestic violence incidents in a good, pleasant, and honest way.¹⁵

Therefore, RPK administrators need to demonstrate creativity and ability as good communicators so that the reporter can smoothly follow the entire process that occurs. After the investigation is carried out and it is proven that the perpetrator is guilty, the victim is initially given protection for one year or until he states that he has fully recovered. After that, the investigator and the defendant together submit the case files to the prosecutor's office, so that the prosecutor can begin the process of examining witnesses and evidence, including the results of the post-mortem examination in court. The investigator begins the examination by reading the results of the mediation. The suspect's request for punishment will be read, followed by the reading of the plea and the judge's decision, if the witnesses and evidence are deemed sufficient.¹⁶

2. ANALYSIS OF FACTORS CAUSING VIOLENCE AGAINST CHILDREN IN FAMILY RELATIONS IN THE AREA OF THE RELIGIOUS COURT & BANDUNG CITY POLICE

Law enforcement is mostly carried out by law enforcement officers and legal entities. As a result, HR management must manage the machine effectively to improve organizational performance and efficiency. In order to prioritize the interests and welfare of the community, law enforcement must be separated from the functions of law enforcement officers and community involvement. The legal system and other components of the legal structure have a significant impact on the method of investigating violent crimes against children. Many people are dissatisfied with the performance of the Police in resolving criminal acts according to legal provisions, citing various factors such as slow speed, lack of responsiveness to community reports, and even the quality of officers in handling reported cases.¹⁷

Then if referring to what was conveyed by the resource person from the PPA (Women and Children Protection) unit at the Bandung Police, things like the above can happen because in

¹⁵Interview with the author with the interviewee of the PPA (Women and Children Protection) Unit of the Bandung Police Criminal Investigation Unit (IPDA Cecep Suhendra, SH as Head of the PPA Sub-Nit). Date October 18, 2023.

¹⁶Interview with the author with the interviewee of the PPA (Women and Children Protection) Unit of the Bandung Police Criminal Investigation Unit (IPDA Cecep Suhendra, SH as Head of the PPA Sub-Nit). Date October 18, 2023.

¹⁷Amran, et al. (2020). Effectiveness of Investigation of Victims of Violence Against Children. Journal of Lex Theory (JLT). Volume 1, Number 2.

cases of violence against children there are various troubles, including witnesses who do not come and are unclear, then the victim is also rather difficult to ask for information. Although of course such things must still be attempted so that by knowing the causal factors, preventive steps can be carried out properly.

There is justification for why this act is illegal. Suharto claimed that both internal and external causes contribute to violence against children. Here are his reasons:¹⁸

A. Economic variables such as family poverty, low income, large number of children, or unemployed parents.

A. The family is going through a divorce.

C. Early marriage or mentally immature families lead to a lack of knowledge about how to educate children or children born out of wedlock.

D. Parental mental illness can also contribute to child abuse.

e. When parents are neglected as children, they tend to behave inappropriately towards their children.

F. Poor environmental conditions.

Referring to what was conveyed by the resource person in PA, it stated that the case of domestic violence was only a cause and a reference to children regarding child custody. And indeed the issue of child custody is decided by anyone regarding domestic violence which is very influential. So the cause is indeed according to the theory conveyed above, and is very closely related to divorce.

3. ANALYSIS OF LEGAL PROTECTION OF VIOLENCE AGAINST CHILDREN IN FAMILY RELATIONS IN THE RELIGIOUS COURT & BANDUNG CITY POLICE OFFICE

Law Number 11 of 2012 which discusses the Juvenile Criminal Justice System (SPPA) provides protection for juvenile victims. In addition to the SPPA Law, there is also Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning

¹⁸ Andhini and Arifin. (2019). Analysis of Legal Protection Against Violence Against Children in Indonesia. ADJUDICATION: Journal of Legal Science, Volume 3 Number 1., Pp. 41-52.

Protection of Witnesses and Victims which provide protection for the rights of witnesses and victims who are still children.¹⁹

Criminal provisions, as explained by a source at the Polrestabas, are regulated in Article 8 of Law No. 35 of 2014 which is an amendment to Law No. 23 of 2002 concerning Child Protection. The article emphasizes the following:

1. Any violator of the provisions of Article 76C will be subject to a maximum prison sentence of 3 (three) years and 6 (six) months and/or a maximum fine of IDR 72,000,000.00 (seventy-two million rupiah).
2. If the violation results in serious injury, the perpetrator may be subject to imprisonment for a maximum duration of 5 (five) years and/or a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah).
3. If the child victim dies as a result of the violation as described in paragraph 2, the perpetrator may be subject to a maximum prison sentence of 15 (fifteen) years and/or a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah).
4. The penalty is increased by one third of the provisions as explained in paragraph 1, paragraph 2, and paragraph 3 if the abuse is carried out by the victim's parents.

Article 59 Paragraph 2 letter i in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 specifically regulates the protection of children who are victims of violence, both in physical and psychological forms. This provision emphasizes that this special protection is designed to be given to children who experience violence with the following characteristics:²⁰

1. Therapy includes physical, psychological and social rehabilitation, as well as preventive measures to prevent further health problems.
2. Psychosocial support will be provided during the therapy process until the victim fully recovers.
3. Providing social assistance to child victims, especially if they come from low-income families.

¹⁹Manihuruk and Rochaeti. (2016). Protection of the Rights of Child Victims of Pedophilia in the Juvenile Criminal Justice System (Study on Handling of Sexual Crime Cases Against Children at the Semarang Police. Law Reform Journal, Master of Law Study Program. Volume 12, Number 1.

²⁰Wahyudi and Suhartono. (2020). Legal Protection of the Rights of Children Who Are Victims of Domestic Violence in Connection with Law Number 35 of 2014 Concerning Amendments to Law Number 23 of 2002 Concerning Child Protection. Journal of Legal Dialectics Vol. 2 No.1.

4. Protection and assistance for children during the judicial process.

Child protection is regulated by providing legal provisions to prevent acts of violence and prohibit anyone from committing acts of violence. In accordance with the mandate of Law no. 23 of 2014 which is an amendment to Law no. 23 of 2002, Article 76c explains that every individual is prohibited from placing, ignoring, carrying out, ordering, or participating in committing acts of violence against children.²¹

The law plays a crucial role in maintaining control over individuals who are victims of illegal acts. Article 1 Paragraph 3 of the 1945 Constitution affirms that Indonesia is a country of law, indicating that Indonesia functions as a society governed by law. Legal protection, as an inevitable result of the supremacy of law, is an important element, and the state is obliged to ensure respect for the legal rights of its citizens.²²

Peter R. Baehr quotes Jack Donnelly's book "Human Rights, Individual Rights, and Collective Rights" which says that a person has rights simply because they are human. Because they are human, every individual has the same rights as everyone else. Human rights are intrinsic, personal, and autonomous; they exist in all human beings, regardless of their social ties. Therefore, human rights are personal. (In theory, isolated individuals enjoy human rights).²³

If the Religious Court because of its absolute competence in the case of domestic violence against children is only in the civil realm, then its legal protection is not too deep, it is only resolved in divorce cases or child custody. While the Criminal Investigation Unit of the PPA unit does have such absolute competence. As a result, it has more space and authority before the case finally enters the prosecutor's office if there is a settlement.

4. PREVENTIVE STEPS AGAINST VIOLENCE AGAINST CHILDREN IN FAMILY RELATIONS IN THE RELIGIOUS COURT & BANDUNG CITY POLICE OFFICE

²¹Wahyudi and Suhartono. (2020). Legal Protection of the Rights of Children Who Are Victims of Domestic Violence in Connection with Law Number 35 of 2014 Concerning Amendments to Law Number 23 of 2002 Concerning Child Protection. *Journal of Legal Dialectics* Vol. 2 No.1.

²²Yusyanti. (2020). Legal Protection for Child Victims of Perpetrators of Sexual Violence. *De Jure Legal Research Journal*. Volume 20, Number 4.

²³Wibowo. (2020). Child Sexual Violence And The Violation Of Human Rights: The Darkest Side Of Law Enforcement In Indonesia. *The Indonesian Journal of International Clinical Legal Education*. <https://doi.org/10.15294/ijicle.v2i4.43152>

Penal (repressive) efforts are law enforcement actions carried out by law enforcement officers that focus on the use of criminal law to eliminate crimes committed after they occur, especially criminal sanctions that threaten the perpetrator in order to satisfy his feelings of guilt. Efficient and fair. Non-Penal Efforts (Prevention): are programs that do not explicitly include violations of the law or the use of criminal techniques, but rather focus on preventing crimes from occurring.²⁴

Law is a form of protection given to legal subjects through written and oral instruments that have repressive and preventive properties. In more detail, legal protection is a concrete implementation of the role of law in achieving the goals of justice, order, legal certainty, welfare, and peace. The preventive legal protection program aims to prevent crimes and violence against women and children.²⁵

The first step in providing anticipatory solutions is to treat this situation as a serious crime, and prevent children from becoming victims. If this is widely understood, steps to protect women and children will definitely change. Furthermore, I believe that from a legal perspective, the Criminal Code (KUHP) should be updated to improve the penalties imposed on violators and give more weight to the topic of victim compensation, making it easier for victims to obtain their real rights. Compensation without going through a long and expensive legal process.²⁶

According to sources at PA, he firmly stated that *“in accordance with the authority of the PA, no preventive measures are taken because the principle of justice is passive. Its nature is to wait. If there is a lawsuit, it is processed, and if there is, it is not allowed to add a lawsuit.”* Meanwhile, the PPA unit of the Bandung Police stated that, “there are preventive measures and usually work together with related parties to conduct socialization, counseling, and education related to violence against children, although of course there are obstacles that are often faced.”²⁷

²⁴Wahyudi and Suhartono. (2020). Legal Protection of the Rights of Children Who Are Victims of Domestic Violence in Connection with Law Number 35 of 2014 Concerning Amendments to Law Number 23 of 2002 Concerning Child Protection. *Journal of Legal Dialectics* Vol. 2 No.1.

²⁵Suryamizon. (2015). Preventive Legal Protection Against Violence Against Women and Children in the Perspective of Human Rights Law. *Marwah: Journal of Women, Religion and Gender*. Vol. 16, No. 2, 2017, pp. 112 – 126

²⁶Kobandaha. (2017). Legal Protection for Child Victims of Domestic Violence in the Legal System in Indonesia. *Unsrat Law Journal*. Vol. 23/No. 8.

²⁷The author's interview with an interviewee from the Bandung Religious Court (M. Adli Hakim H, SH as a Judicial Case Analyst). Date 6 October 2023. And the author's interview with an interviewee from the PPA (Women and Children

5. OBSTACLES AND EFFORTS OF RELIGIOUS COURTS & CITY POLICE OFFICES IN LAW ENFORCEMENT AGAINST PERPETRATORS & VICTIMS OF DOMESTIC VIOLENCE AGAINST CHILDREN

Obstacles in law enforcement against perpetrators and victims of domestic violence within the family as conveyed by the PA stated that, "the obstacles are only normative like other causes of divorce because domestic violence cases are rarely civil, mostly criminal. Because to minimize family relationships that are sometimes not good. How can society use legal means as well as possible. And access to it is easy to get. Because most people have less insight regarding domestic violence. That is still a shared homework."²⁸

Meanwhile, the PPA said that "the obstacles are very diverse, starting from the reporting process to the settlement. The reporting process, the victim or guardian comes to the police station and reports to the Criminal Investigation Unit. After reporting, they will be interviewed and asked for testimony. Then in the post-mortem, if the wound is still early the results will be very significant, if it has been a long time it is usually biased, the Criminal Investigation Unit only accepts reports from the medical field regarding the results. After an investigation is carried out, then there is an investigation, if there is sufficient evidence, the next step is to enter the criminal case resolution phase, which is the initial step to determine whether a crime has occurred in an incident or not. If proven, the police will submit the file to the prosecutor's office. Furthermore, the trial takes place at the prosecutor's office. The authority of the police station is only up to that point. *And the obstacles are in terms of witnesses and victims who are difficult to ask for information, especially if the child tends to be withdrawn and not easy to communicate with.*"²⁹

Although there is a legal instrument in the form of Law Number 23 of 2002 concerning Child Protection, its effectiveness is limited due to overlapping regulations and sectoral laws that define minors. Weaknesses in the effectiveness of this regulation are caused by obstacles in providing comprehensive and efficient protection. Obstacles in implementing protection for

Protection) Unit of the Bandung Police Criminal Investigation Unit (IPDA Cecep Suhendra, SH as Head of PPA Sub-Nit). Date 18 October 2023.

²⁸ Author's interview with interviewee from Bandung Religious Court (M. Adli Hakim H, SH as Judicial Case Analyst). Date October 6, 2023.

²⁹ Interview with the author with the interviewee of the PPA (Women and Children Protection) Unit of the Bandung Police Criminal Investigation Unit (IPDA Cecep Suhendra, SH as Head of the PPA Sub-Nit). Date October 18, 2023.

children who are victims of violence can be seen from various aspects, such as Facilities, Culture, Law Enforcement, and Socialization.³⁰

The Ministry of Women’s Empowerment and Child Protection is responsible for overseeing the implementation of the Three-Sided Initiative. The initiative aims to combat economic inequality, human trafficking, and abuse of women and children. Ending violence against women and children can be achieved through widespread education of all Indonesians about their rights, strengthening village-level institutions, establishing regional task forces to protect women and children, and gaining strong support from all parties involved, as explained in a 2016 source from the Ministry of Women’s Empowerment and Child Protection.³¹

D. CONCLUSION

The conclusion of this study is that with the phenomenon of domestic violence cases against children in the family sphere that continues to increase. So it is appropriate that various parties who are tasked with legal protection for children need to take preventive to curative steps so that cases of domestic violence against children in the family sphere experience a decrease. And when a comparative study was conducted by comparing the style of resolving domestic violence disputes in Bandung City. Most victims resolve it criminally through the Bandung Police Criminal Investigation Unit with various motives and obstacles that occur in resolving it to the prosecutor's realm. And for the civil realm resolved by the Bandung Religious Court, it is limited to one cause of divorce, namely domestic violence. And for domestic violence against children, the correlation is in terms of child custody rights where the perpetrator can have his child custody rights revoked if proven to have committed domestic violence against the child. And in terms of reporter/plaintiff data, it is relatively small compared to reports to the Bandung Police.

³⁰Wahyudi and Suhartono. (2020). Legal Protection of the Rights of Children Who Are Victims of Domestic Violence in Connection with Law Number 35 of 2014 Concerning Amendments to Law Number 23 of 2002 Concerning Child Protection. *Journal of Legal Dialectics* Vol. 2 No.1.

³¹Aiffah and Religion. (2020). Child Sexual Abuse Prevention Program: Reference to the Indonesian Government. *Promkes Journal: The Indonesian Journal of Health Promotion and Health Education*. Vol. 8 No. 2. <http://dx.doi.org/10.20473/jpk.V8.I2.2020.238-252>.

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