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The Urgency of Setting Guidelines For Forensic Interviews of Child Victims of Sexual Violence Based On Electronic Recordings At The Investigation Stage To Prevent Victimization

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Abstract

Children are vulnerable to revictimization throughout the criminal justice process, largely because they have to recount the traumatic events they experienced at each stage of the lengthy judicial process, not to mention the still conventional nature of investigations in Indonesia, which leads to repeated and intimidating interview sessions. Electronic recording at the investigation stage serves as a solution if the child victim experiences conditions that prevent them from attending the examination up to the trial due to certain circumstances, and the recording is considered equally valuable as if they were to testify in court. However, there are no adequate protocols that demonstrate that electronic recordings are suitable to be used as evidence in court, so these electronic recordings are still minimally used as an alternative for examining child victims. This study examines to minimalize the risk of revictimization, the proposal for forensic interviews based on electronic recording needs to be considered. This research uses a normative legal research method with a legislative, conceptual, and comparative approach. The legal materials analyzed include legislation and relevant literature. The results show that to minimise the risk of revictimization, forensic interviews with specific protocols can be applied, in this case compared to the NICHD protocol implemented by Barnahus in Norway. This interview serves to strengthen the position of the electronic recording results if the option of electronic recording is chosen in the effort to protect children.

Keywords: Child Victim, Sexual Violence, Investigation, Forensic Interview, Electronic Recording, Revictimization

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Introduction

Sexual violence against children is a form of child abuse where an adult uses the child as a sexual stimulus (Tessa et al, 2024:20). Sexual violence certainly leaves a deep psychological impact on child victims, which, if not properly addressed, has the potential to affect their development. Therefore, Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) was created to consider the conditions of children, not only child offenders but also child witnesses and child victims. Their specificity requires special actions as well, different from adults in general.

Although a child-friendly justice system and procedures prioritising the comfort and interests of child victims have been established, as provided under the Juvenile Protection System Law (UU SPPA), practically, the judicial proceedings tend to be protracted because sexual violence is not eligible for diversion. However, the child hold status as a victim, in which they play a role in the judicial process. This position requires the child to remain involved in accordance with the specific provisions applicable in SPPA. The involvement of several parties in the juvenile criminal justice process necessitates the victimised child to continuously participate by providing their testimony at every stage of the trial (Martahan and Indra, 2025:119). At the investigation stage, for example, where the child must provide their testimony which will later be used as evidence, the child has to face conventional investigative procedures. The repetition of interview sessions with different parties may occur, and the use of questioning techniques that are coercive or leading may put pressure on the child, as they have to recall the traumatic events that happened to them. Not to mention if the child has to move from place to place depending on who will be interviewing them.

The child's obligation to repeatedly recount their testimony at every stage of the judicial process and the still conventional investigation standards allows the child to experience revictimization. Revictimization means becoming a victim again or repeatedly. This occurs when a victim receives questions or statements that blame or belittle them, considering them the cause of the incident that befell them, or when the victim has to recount the incident repeatedly, making them uncomfortable, or receives cynical looks and unpleasant treatment from their surroundings, as well as discrimination (Nur, 2021:10). There is a need for efforts to minimise the risk of revictimization, such as evaluating the process of providing protection to child victims.

An example of the issue regarding a child who has to repeatedly recount their testimony about the traumatic event they experienced, which ultimately affects the judicial process itself, occurred in Majene, West Sulawesi (Yura, 2026). The child victim experienced severe trauma during the trial, making them reluctant to provide testimony. The child victim and the witness child had difficulty conveying their testimonies, and according to the Social Research Report from their accompanying social worker, the victim's child became withdrawn and unwilling to speak. According to the Chief Justice of the Majene District Court, child victims of sexual violence often experience revictimization when they have to repeat their story in a courtroom that feels foreign and

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tense (Yura, 2026). Similar incidents can also occur in other places in Indonesia.

The existence of situations where child victims of sexual violence are reluctant to provide their testimony due to mental health reasons or other reasons that prevent them from repeating their testimony, Indonesia has offered alternatives for child victims or child witnesses. This alternative method is found in Article 52 of Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS), which states that at the investigation stage, based on certain reasons, a child can be examined through electronic recording. The results of the electronic recording can then be used as evidence based on Article 48 paragraph (2) of the TPKS Law and hold the same value as the testimony given in court.

The regulation regarding electronic recording for child victims of sexual violence in Article 52 of the TPKS Law is evidence that Indonesia has made efforts to prioritise the best interests of the child by not forcing them to provide testimony up to the court trial stage.

However, until now, the implementation of electronic recordings has been minimally found in law enforcement. Based on the research held by The Dandapala Litbang, court decisions on the registration of sexual violence cases in 2023 and 2024 revealed 50 cases, 44 of which are accessible, and 42 cases were prosecuted under the TPKS Law. Among this collection of court decisions, none included testimony recorded electronically (Yura, 2025) Although the TPKS Law has outlined the licensing process and recognised the existence of electronic recordings as evidence, the reality is that the legal culture in Indonesia involves presenting the child victim directly in every judicial process. Due to the different authorities and documentation requirements at each stage of the juvenile criminal justice system, children must provide statements repeatedly. Therefore, in order for electronic recording to be conducted and considered credible, there needs to be guidelines on how the electronic recording is carried out, so that the effectiveness of the purpose of electronic recording is achieved.

Guidelines on how electronic recording is conducted need to be regulated. Therefore, the existence of electronic recording-based examinations is of high quality and does not become a subject of debate when presented in the courtroom. Moreover, the method used must also be scientifically tested. To compile an electronic-based examination guideline, it can be done by looking at similar countries that also implement electronic recording. One of the successful implementations of electronic recording with its examination method is in the European Union, namely The Nordic Barnahus. The Nordic Barnahus applies forensic interviews based on electronic recording from the Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD) (Susanna et al, 2018:104).

The Nordic Barnahus or Barnahus is a child protection service center owned by Scandinavian countries. In the effort to protect children, Barnahus is a one-stop center, which means the integration of all parts of the juvenile criminal justice system. Law enforcement and child rehabilitation occur under one roof (Anna Markina et al, 2019:7). In terms of investigation, the main method of Barnahus is to implement forensic

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interviews with the NICHD protocol based on electronic recording, which are then used as evidence in court, so the child does not need to attend the trial and can focus solely on their recovery (Susanna et al, 2018:239). The existence of forensic interviews aims to protect children from the risk of victimisation by having them repeatedly recount their traumatic experiences to different people. The NICHD protocol forensic interview differs from general investigative interviews, so by using this forensic interview, the testimony given by the child victim is more accurate and does not disturb their psychological well-being.

Indonesia is expected to adopt the values of Barnahus, which has already established a cohesive electronic recording-based forensic interview protocol, particularly from the NICHD protocol, while considering the conditions in Indonesia, given its successful implementation. By adapting it to the conditions in Indonesia, there is great hope that it can support the implementation of existing regulations in Indonesia regarding child protection, so that these child protection efforts can be maximally effective.

Research Method

The type of research used is normative legal research. Normative legal research conceptualises law as rules or norms that serve as guidelines for human behaviour deemed appropriate (Amiruddin and Zainal, 2012:18). The normative legal research in this writing aims to explore and analyse the protection of child victims of sexual violence in Indonesia. The legal materials used are primary legal materials and secondary legal materials. The primary legal materials include Law No. 12 of 2022 on Sexual Violence Crimes (Law No. 12 of 2022), Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection (Law No. 35 of 2014), and Law No. 11 of 2012 on the Juvenile Criminal Justice System (Law No. 11 of 2012). The secondary legal materials include books, scientific journal articles, and other materials related to the protection of child victims of sexual violence. The approaches used are the statute approach, the conceptual approach, and the comparative approach. The analysis technique used is qualitative descriptive, which aims to narratively describe the research results. This method is carried out through the interpretation or analysis of the legal materials that have been obtained and studied. Legal interpretation in this research is conducted using the grammatical interpretation method, which is an interpretative method that emphasises the importance of language in providing meaning to an object (Wiwik, 2024:132).

Result And Discussion

1. Forensic Interview Based on Electronic Recording

According to the explanation of Article 235 paragraph (1) of Law No. 20 of 2025 concerning the Code of Criminal Procedure (KUHAP), information that is spoken, sent, received, or stored through optical devices or similar means is referred to as electronic evidence and includes all forms of recordings/data information that can be seen, read, or

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heard, which can be displayed with or without the aid of tools, in physical form or recorded electronically, in the form of writing, images, maps, designs, photos, letters, signs, numbers, or perforations that contain meaning. Electronic recording refers to the process of creating an electronic document.

Electronic recording at the investigation stage is generally conducted as a medium during the examination. At the examination stage, the person concerned will be interviewed by the investigator to obtain a statement, which will then be compiled into an Investigation Report (BAP). To obtain accurate information, the investigator must interview the person concerned using the appropriate method. If it is necessary to interview a child victim whose condition is vulnerable, the method used must not be arbitrary because it will not only affect the victim but also the continuity of the investigation.

Forensic interviews with child victim witnesses are a method of collecting factual information that is sensitive to the developmental aspects of children and has a legal basis regarding the suspicion that the child has directly experienced violence or has been exposed to a violent experience. (Nathanael et al, 2023: 52). This interview is conducted by a competent and neutral professional, using special techniques. Forensic interviews aim to obtain high-quality information from child victim witnesses that can provide clues for ongoing case investigations. There are several aspects that must be discussed in a forensic interview to maximise the quality of information from the child and reduce the risk of harm to them, including:

1. Forensic interviews need to be sensitive to the characteristics and uniqueness of child development, such as the child's age at the time of the interview, language ability, intellectual ability, information processing skills, and the presence of developmental disorders.
2. Factors in forensic interviews that need to be considered include the time gap between the child's experience of the event and the interview, the number of interviews the child has undergone, and the type of questions asked, where open-ended and non-suggestive questions should be used.
3. Characteristics of the interview involved when conducting a forensic interview. The interviewer must possess technical knowledge, have undergone adequate training and supervision (for example, in best evidence-based interview practices and trauma-informed care), and ensure a supportive and responsive attitude towards children, taking into account their developmental levels (Michael, 2018, 205).

Forensic interviews are used to elicit and obtain quality information from child victim witnesses, which can provide clues for ongoing case investigations. This interview technique is important, especially when used in the investigation process, as investigators strive to obtain statements due to its structured, objective, and neutral nature. In several countries, such as the United States and European Union countries, forensic interviews have been implemented at the investigation stage and subsequently recorded electronically in cases of sexual violence with children as victims.

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Barnahus, which is an integrated child protection service center, is one of those that adopts forensic interviews based on electronic recording for child victims of sexual violence. Barnahus is a child protection model implemented since 1998. Barnahus is implemented in the European Union, specifically in Scandinavian countries such as Norway, Sweden, Iceland, Denmark, and Finland. Barnahus means "children's house" in Icelandic. The main objective of Barnahus is to provide children with a systematic response and to protect them from revictimization during the judicial process (Martahan and Indra, 2025:122).

The main method of Barnahus is structured interviews or questioning by a facilitator with the child victim (Khairil and Rusmilawati, 2024:250). This is regulated in Article 239 of the Criminal Procedure Act (CPA) Norway Criminal Procedure Act *(Straffeprosessloven),* which explains that child victims of sexual violence must be examined through structured interviews. This interview is conducted specifically by police officers trained in child forensic science. This approach is used to minimise further trauma experienced by the child due to having to recount their experience repeatedly. The child will only recount their story once during the investigation period in the form of a video, and this video will later be used as valid evidence in court (Susanna et al, 2018:100).

Barnahus, in conducting forensic interviews with child victims, has standards that must be met. Firstly, the forensic interview is carried out recording to an evidence-based protocol. Secondly, the evidentiary validity of the child's statement respects due process, whilst avoiding a need for the child to repeat her/his statement during court proceedings if and indictment is made. Thirdly, a medical evaluation is carried out for forensic investigative purposes and to ensure the child's physical well-being and recovery. Fourthly, psychological support is available, including short and long-term therapeutic services addressing the trauma of the child and non-offending family members and caretakers. Lastly, an assessment of protection needs is carried out and followed up concerning the child victim and siblings in the family (Anna Markina et al, 2019:7). Barnahus conducts forensic interviews using evidence-based forensic interview protocols such as the Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD).

The NICHD is a structured forensic interview protocol scientifically designed to elicit testimony from children who are witnesses or victims in sensitive cases such as sexual violence. The NICHD interview protocol was developed on the basis of scientific findings concerning children's memory capabilities, particularly in revealing a traumatic experience (retrieval), understanding social influences, and the best efforts to create conditions that maximise the child's productivity in providing testimony by increasing the likelihood of accurate information, such as the opportunity to express everything freely (free-recall) and avoiding suggestive questions (Nathanael et al, 2023: 54). The core of this protocol is to ensure that children are interviewed using questions and responses that facilitate the accurate recall of events in a clear sequence or episodic (episodic memory

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recall) as relevant information in law enforcement. Another key feature is that the interview begins with efforts to build rapport, so that the child feels comfortable, along with explanations and training on basic rules, as well as narrative and episodic memory exercises that can facilitate the child in recalling information stored in memory about the experienced event (Saywitz et al, 2015:5).

After the child undergoes a forensic interview, which is then recorded using electronic recording, the recording is subsequently used as evidence in court, so the child no longer needs to be involved in other judicial processes and can focus on healing from traumatic and physical wounds if any. This is regulated in Section 239 of the Criminal Procedure Act applicable in Norway, one of the countries implementing the Barnahus model, which essentially states that the examination of child victims of sexual violence is conducted with electronic recording and carried out by professionals. By virtue of that article, Barnahus, as the national integrated service center that unites the criminal justice system and child protection, has guidelines for conducting examinations in the form of forensic interviews based on electronic recordings, grounded in the best interests of the child.

2. Current Electronic Recording Regulations in Indonesia

Electronic recording in Indonesia is present as an alternative method of obtaining information from the victim's child/witness if there are special circumstances. The result of the recording is then recognized as valid evidence, along with the evidence recognized in the Criminal Code. According to Article 24 paragraph (2) of the TPKS Law, "Including witness testimony evidence, namely the results of the examination of the Witness and/or Victim at the investigation stage through electronic recording." As for if the Witness and/or Victim is a child, then the recording can also be enforced as in Article 52 of the TPKS Law which basically states:

"In the event that the Witness and/or victim of the Crime of Sexual Violence is a Child, the investigator may conduct electronic recording or remote direct examination with audiovisual communication devices, with or without the consent of the parent or guardian, and while still having regard to the best interests of the Child."

The TPKS Law also regulates the special provisions in question, the provisions in which Witnesses or Victims can be examined through electronic recording, namely in Article 48 of the TPKS Law which stipulates:

(1) “In the event that the Witness and/or the Victim for health, security, safety, and/or other legitimate reasons cannot be present to be examined at the trial, the examination may be conducted by:

a. Reading of the minutes of the examination that has been given under oath/promise;
b. Inspection by electronic recording; and/or
c. Remote live inspection with audiovisual communication tools.

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(2) The testimony of the Witness and/or the Victim as intended in paragraph (1) has the same value as the testimony of the Witness given at the court hearing."

Both articles indicate that electronic recording is conducted during the investigation process and carried out by investigators, and after the recording is done, the recording containing the statements from witnesses/victims holds the same value as if they had given their testimony directly in court. More specifically, Article 49 of the TPKS Law explains the procedure for examination with electronic recording:

1) The investigator can conduct the examination of witnesses and/or victims through electronic recording in the presence of the public prosecutor, either directly or via electronic means from a distance.
2) The electronic recording as referred to in paragraph (1) is conducted based on the decree of the district court chairman.
3) The district court chairman issues the decree as referred to in paragraph (2) no later than 3 (three) days from receiving the decree request from the investigator.
4) If within the time period as referred to in paragraph (3) the district court chairman does not issue the decree, the investigator, based on their authority, can conduct the examination of witnesses and/or victims through electronic recording as referred to in paragraph (1).
5) The decree as referred to in paragraph (2) is issued with consideration of:
   a. The health, safety, and security conditions of the Witness and/or victim, and/or other valid reasons supported by a certificate issued by an authorised official or a competent authority;
   b. The decision of LPSK providing Protection to the Witness and/or Victim;
   c. The number of Witnesses and/or Victims; and/or
   d. The residence or dwelling place of the Witness and/or Victim.
6) In the event that the examination is conducted on a Witness and/or Victim residing or living abroad, the electronic recording is carried out in the presence of an official representative of the Republic of Indonesia abroad."

Then, in the explanation of Article 49 paragraph (1) of the TPKS Law, it is explained that the recording can be done using audio and/or audiovisual recording devices. After the electronic recording is completed, the next step is to create a report, as stated in Article 50 of the TPKS Law which reads:

(1) Electronic recording as referred to in Article 49 paragraph (1) is made:
   a. Minutes of witness examination;
   b. Minutes of electronic recording;
   c. Minutes of oath or promise for witnesses who can be sworn or take an oath.
(2) The minutes as referred to in paragraph (1) can be signed electronically.

In summary, electronic recording-based examinations can be applied to child

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victims/witnesses of sexual violence if certain conditions are found that prevent the child from providing testimony directly. This is reasonable because children are vulnerable to revictimization as they have to recount the events they experienced repeatedly at every stage of the criminal justice process.

Articles 24, 49 to 52 of the TPKS Law regulate electronic recording, which is also applicable to children. Electronic recording conducted during the investigation by the investigator is recognised as evidence and is considered equivalent to direct examination in court. At the time of recording, the investigator, together with the public prosecutor and based on the decree from the local district court chief, will be present. If the head of the district court does not issue a decree within a maximum of 3 (three) days after receiving the investigator's request, the investigator may still conduct the examination through electronic recording.

The conditions during the examination are also regulated in the TPKS Law. This law states that the examination is conducted in a special service room at the police station or can also be conducted at the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) under certain conditions (Article 53 of the TPKS Law). Before conducting the examination, investigators are also required to coordinate with the victim's companion regarding the victim's readiness and needs (Article 54 of the TPKS Law). In other words, electronic recording-based examinations also apply the provisions of these two articles, only the medium is different.

3. The Concept of Regulating Forensic Interviews Based on Electronic Recording in Indonesia

The Concept of Regulating Forensic Interviews Based on Electronic Recording in Indonesia has recognised electronic evidence as stated in Article 5 of the ITE Law, which is also acknowledged in Article 24 of the TPKS Law. Although electronic evidence is legally recognised as evidence, it must still meet certain requirements. In the case of electronic recordings, such as audio, video, or digital conversations, these electronic recordings can serve as evidence with probative value if they meet the requirements of authenticity, integrity, and reliability (Adhi, 2018:478).

Article 52 of the TPKS Law, which states that children can be examined through electronic recording, is an effort in the spirit of the principle of the best interest of the child. However, the status of these electronic guidelines, although alternative, must be strengthened so that their existence is not merely a regular article, but can be utilised. In order to be used effectively, the quality of this electronic recording must be standardised and equivalent to direct examination in the form of a protocol. The main benefit of using protocols is to promote practical procedures based on a multidisciplinary approach that can reduce the number of interview sessions with children, prevent children from experiencing stress due to the interview process, and improve the quality of children's testimonies (M.Cheung, 2010:25). Therefore, a specific standard or protocol is needed for conducting examinations through electronic recording.

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The forensic interview guidelines applied in Indonesia can be based on the NICHD forensic interview protocol standards used in the Barnahus forensic interview guidelines. Research in several countries shows that forensic interviews using the NICHD protocol are effective in obtaining detailed and accurate information from children (Otgaar et al, 2018:15). Several countries also show that the use of this protocol will yield three to four times more detailed information beneficial for law enforcement purposes compared to other interview protocols.

The NICHD forensic interview protocol was once tested by several investigators from the Women and Children Service Unit (UPPA) at the East Jakarta Police and the Tangerang Regency Police as part of a study on the use of this protocol (Nathanael et al, 2023: 57). The results showed that the participants, in this case the investigators, found the NICHD interview protocol training very beneficial due to its applicative nature and its applicability in their work. The investigators involved admitted that they had never received similar training before that focused on interview skills because they usually concentrated on the legal aspects related to the reported cases. This forensic interview is beneficial in providing a clear structure in interviews and assisting investigators in performing their duties as witnesses who hear about the facts conveyed by the victim's witness during the investigation process in court (Nathanael et al, 2023:57).

Seeing how effective the NICHD forensic interview is in investigations, there is a need to develop forensic interviews in Indonesia that can enhance the strength of electronic recording evidence. The development of forensic interview guidelines based on electronic recording needs to be carried out by considering three aspects which are the methodological aspect, the substantive aspect, and the validity aspect.

1. Methodological aspect: The rationale for choosing the NICHD protocol and its relevance to the conditions in Indonesia.
2. Substantive aspect: The minimum standards that must be met for the recording to be considered a forensic interview, not a regular interrogation.
3. Validity aspect: The way to ensure that the resulting recording is guaranteed to withstand scrutiny in court (the stage of electronic evidence authentication).

After considering these aspects, the forensic interview guidelines for child victims of sexual violence based on NICHD can be formulated. The formulation of these guidelines can be adjusted to align with other investigation SOPs, as typically regulated in the Regulation of the Chief of the Criminal Investigation Agency of the National Police of Indonesia (Perkapol). Thus, this guideline can be used for electronic recording, and the results of such recording have high evidentiary value because they follow international standard protocols.

Conclusion

The implementation of electronic recording-based forensic interviews can minimise the risk of revictimization for child victims of sexual violence because they do

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not need to repeatedly attend every court proceeding to recount their testimony. On the other hand, even though this electronic recording-based forensic interview is implemented, the defendant's rights to due process of law are still respected because the interview process conducted with the child victim has been standardised with applicable and transparent protocols.

The adoption of the NICHD forensic interview protocol standards integrated through the Barnahus model is a step towards legal reform. This model offers a solution through a one-time interview mechanism based on electronic recording, which not only protects the child's mental condition from further psychological pressure but is also credible and scientifically tested as evidence in court. Thus, by implementing this standard, law enforcement can be realised in accordance with the principle of the best interest of the child. ***

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