
Case Study: Strength of Child Witness Testimony in Cases of Sexual Abuse in Decision No. IX: 135/Pid.Sus/2023/DPK

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ABSTRACT: In current criminal justice practice, there have been developments regarding the use of children's testimonies, with some judges in Indonesia admitting children's statements as evidence in cases involving minors, even though we know that children are not sworn in before giving testimony. Therefore, the aim of this study is to analyze the legal strength of children's testimonies as evidence in the criminal justice system, focusing on the case with the District Court Decision Number 135/Pid.Sus/2023/PN. Dpk. This research employs a normative legal research method with a legislative approach, conducted to explore legal issues. The primary data source supporting this research includes the District Court Decision from Depok Number: 282/Pid.Sus/2023/DPK, while secondary data consists of Law Number 35 Year 2014 concerning Amendments to Law Number 23 Year 2002 concerning Child Protection, Law Number 11 Year 2012 concerning Juvenile Justice System, and Law Number 8 Year 1981 concerning Criminal Procedure Code. The findings of this research indicate that the evidentiary strength of children's testimonies as witnesses in the Indonesian criminal justice system depends on the validity of the testimony presented in court. However, the truthfulness and probative value of such testimonies are subject to the judge's subjective assessment, and because the evaluation of witness evidence is generally non-binding, this also applies to child witnesses

Keywords: Child Testimony, Proof, Judge's Subjectivity.



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INTRODUCTION

The discourse on crime in every individual's life continues to evolve alongside human development. This is a persistent issue experienced by humans over time, as similarly articulated by Wirjono Prodjodikoro, who stated, "The more modern human civilization becomes, the greater the potential for crime in their lives, if humans do not have a strong foundation to

prevent such crimes.' Therefore, various efforts are always made to mitigate these crimes, although in reality, it is very difficult to completely eradicate crime because fundamentally, crime will continue to evolve with societal development (Prodjodikoro, 2002).

Children are highly vulnerable to crimes in the form of violence perpetrated by those around them, whether in public spaces or in closed environments such as their own homes. In general, violence against children often occurs within the household, which should ideally provide a sense of security. This is deeply regrettable, as some communities perceive violence against children as a norm and not a criminal act. It is common for acts of violence against children to be accompanied by sexual abuse crimes. Child abuse is a troubling act within society, often occurring between individuals who have familial or close personal relationships with the victim. It can have significant psychological impacts on the growth and development of children. For children, this can lead to excessive trauma development, which in turn may result in unhealthy attitudes such as low self-esteem.

According to R. Sughandhi, regarding sexual assault (Marpuang, 2004): 'A man who coerces a woman who is not his wife into sexual intercourse through threats of violence, wherein the man's genitals must enter the woman's genitals and ejaculation occurs, constitutes sexual assault. This involves the man's attempt at coercion, threats, and violent intercourse with a woman who is not his wife, resulting in ejaculation. Therefore, the elements include not only violence and intercourse, but also the element of ejaculation, meaning the man has completed the act. If a man does not ejaculate, it cannot be classified as sexual assault. The criminal act of sexual assault is regulated in the Indonesian Criminal Code (KUHP) under Chapter XIV of Book II, specifically from Articles 285 to 296, categorized as crimes against decency. Sexual assault is a type of crime with extremely negative impacts, particularly on its victims, as it violates human rights and can damage human dignity, especially regarding one's soul, mind, and offspring. Cases of sexual assault are currently prevalent in Indonesia, with victims often being children (Umpel, 2015).

Considering the case in Decision Number: 135/Pid.Sus/2023/PN Dpk, two children experienced sexual abuse by an unknown person working as a builder. This occurred once at the same time and place, involving kissing the victims' cheeks and the defendant placing his hand inside one victim's trousers, identified as AL K and S M H. The Public Prosecutor has charged the defendant under Article 82 paragraph (4) in conjunction with Article 76 E of Law Number 17 of 2016 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 on the Second Amendmen. In criminal proceedings, the judge will hear all witness testimonies, including those of child victims. According to Article 185 paragraph (7) of the Indonesian Criminal Procedure Code (KUHAP), witness testimony becomes evidence if given under oath, whereas testimony without oath is only considered valid as supplementary evidence. Article 171 KUHAP stipulates that a person must be at least 15 years old to be sworn in. Similarly, the position of an underage victim witness can serve as an indication or additional evidence alongside other proofs. If the child wishes to be sworn in, even if they are under fifteen years old and they are the only victim witness present, they can be sworn in to provide their testimony. Before giving their testimony, there are mandatory conditions to be fulfilled under

Article 160 paragraph (3) of KUHAP, where the witness must swear according to their religious beliefs with the understanding that they will speak the truth. However, if the child wishes to be sworn in, only the victim witness themselves should be present, regardless of their age being under fifteen years old. (Nada Samyra, 2023).

Musyawir Nurtan, Syamsuddin Pasamai & Zainuddin in the research on the Strength of Evidence of Child Witness Testimony in the Criminal Justice System , Here is the English translation of the text For example, in the District Court Decision of Ambon Number 519/Pid.B/2011/PN.AB regarding the criminal case of Murder, and the District Court Decision of Menggala Number 208/Pid.B/2010/PN.Mgl regarding the criminal case of Sexual Abuse, where in the Supreme Court's cassation appeal, the cassation was accepted and the District Court's decision in Supreme Court Decision No. 1180 K/Pid/2012 and Supreme Court Decision No. 979 K/Pid.Sus/2011 was annulled, which stated that the defendant was proven guilty of committing the criminal act. However, there are also several cases where judges accepted and considered the testimony given by child witnesses and issued criminal convictions against the defendants, as found in the District Court Decision of Pekanbaru Number 615/Pid.Sus/2016/PN.Pbr regarding the criminal case of Sexual Abuse, the District Court Decision of Padang Number 242/Pid.Sus/2015/PN.Pdg regarding the criminal case of Domestic Violence, and the District Court Decision of Central Jakarta Number 1591/Pid.B/2015/PN.JKT.PST regarding the criminal case of Negligence Causing Another Person's Death. In these cases, the defendants were found guilty of committing the criminal act. (Musyawir Nurtan, 2021)

From the examples above, it can be seen that testimony provided by children without oath is not always considered by judges, and sometimes this testimony is disregarded because it is deemed not to be valid evidence as it was not given under oath. In various legal cases in the country, this issue often becomes a topic of public discussion because court decisions are perceived to disregard the principles of justice that should be felt by the community and seekers of justice. The legal process within the Indonesian judicial system is currently perceived as not fully reflecting true principles of justice

The Variations in Judgments Rendered by Judges in Criminal Cases Regarding Testimonies Provided by Children Without Oath: Analysis of the Court Decision of the District Court of Depok Number: 135/Pid.Sus/2023/PN Dpk. Due to differences in judgments issued by judges in criminal cases concerning testimonies given by children without oath, the author is interested in analyzing the decision of the District Court of Depok with regard to Case Number: 135/Pid.Sus/2023/PN Dpk. In this case, there were two child witnesses named AL K and S M H, aged 5 and 7 respectively. Given that these witnesses were primary witnesses, it posed a challenge in the process of proving the case because their testimonies were not given under oath. In the a quo decision, six witnesses were presented, with two child witnesses being primary witnesses who witnessed, heard, and directly experienced the incident. Therefore, the testimonies of other witnesses only supplemented the testimonies of the child victims. This situation clearly contradicts Article 185 paragraph (7) of the Indonesian Criminal Procedure Code (KUHAP), which states that witnesses who are not sworn in only function as valid additional evidence.

Based on the background provided, the issues to be discussed in this writing are: 1) The Evidential Strength of Child Witness Testimony in the Criminal Justice System in Indonesia? 2) How is the implementation of the evidential strength of child testimony as witnesses in the District Court Decision Number: 135/Pid.Sus/2023/PN Dpk? 3) What are the ideal regulations regarding the evidential strength of child testimony as witnesses in the criminal justice system in Indonesia?

METHOD

The type of legal research conducted by the author employs the normative juridical research method. (Sunggono, 2009), This method involves a process of identifying legal rules, principles, and doctrines to address legal issues. In this study, the focus is on the evidential strength of testimony from child witnesses in cases of child sexual abuse in the District Court of Depok. The approach aims to examine and determine the legal relationship and status of the parties in a legal event, providing legal assessments of such events. This research utilizes several approaches, including the statute approach. Primary legal sources consist of authoritative materials such as Law No. 8 of 1981 on Criminal Procedure Law, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 on Child Protection, Constitutional Court Decision No. 65/PUU-VIII/2010 dated April 28, 2010, and District Court Decision No. 135/Pid.Sus/2023/PN Dpk dated September 6, 2023. Secondary legal data, which explain primary legal materials found in libraries, include books, scholarly works (theses, dissertations, journals, articles) in the field of law, and relevant research findings Data collection is conducted through library research, a crucial phase where theoretical foundations related to the research problem are sought. Research tools in normative legal research include literature studies. Analysis involves critical examination, support, or commentary on the findings, culminating in conclusions drawn from personal insights and literature reviews. The prescriptive method, a type of normative legal research, is employed to provide evaluations (justifications) regarding the subject under study—assessing its correctness according to the law or what should be the legal perspective.

RESULTS AND DISCUSSION

1. The Evidential Strength Of Child Witness Testimony In The Criminal Justice System In Indonesia

A child who witnesses, hears, or experiences a criminal act and provides testimony based on their knowledge of the incident during court proceedings is not prohibited by law. They are allowed to testify without taking an oath, as regulated in Article 171 letter a of the Criminal Procedure Code (KUHAP). The issue that arises is to what extent the testimony of child witnesses in court can be considered as valid evidence, comparable to testimony given by adults. This is crucial in shedding light on the criminal act that occurred. Meanwhile, Article 1 paragraph (5) of Law No. 11 of 2012 concerning the Juvenile Justice System states that children under 18 years old may provide testimony for investigative, prosecutorial, and trial purposes. However,

this provision does not significantly clarify the age limit for children who can be sworn in to provide valid testimony (Loegman, 2002).

It is not uncommon for judges to consider and set aside testimonies provided by children in court proceedings. Several cases illustrate instances where judges acquitted defendants due to the child's testimony being deemed lacking in credible proof and insufficient corroborating evidence. For example, in the rulings of the Ambon District Court Number 519/Pid.B/2011/PN.AB concerning a murder case, and the Menggala District Court Number 208/Pid.B/2010/PN.Mgl regarding a sexual abuse case, the Supreme Court accepted appeals and annulled the District Court's decisions in Supreme Court Decision No. 1180 K/Pid/2012 and Supreme Court Decision No. 979 K/Pid.Sus/2011, which initially found the defendants guilty of the crimes. However, there are also cases where judges accepted and considered the testimony given by child witnesses, resulting in convictions against the defendants. This is evident in the rulings of the Pekanbaru District Court Number 615/Pid.Sus/2016/PN.Pbr for a case of sexual abuse, the Padang District Court Number 242/Pid.Sus/2015/PN.Pdg for a domestic violence case, and the Central Jakarta District Court Number 1591/Pid.B/2015/PN.JKT.PST for a criminal negligence resulting in death case. In these instances, the defendants were found guilty of committing the crimes. (Anwar, 2022)

Children under age who serve as witnesses in criminal court proceedings should be specially considered and can be taken into account by judges in determining whether someone is proven guilty of a crime, provided there is consistency with other valid evidence. Materially, children cannot be considered witnesses in court due to their legal incapacity. However, in the practice of examining criminal cases, children can be used as both witnesses and victim witnesses. Therefore, cases should proceed and be considered by judges in deciding such criminal matters even in the absence of adult witnesses, as long as there are victim witnesses and other supporting evidence. The probative value inherent in the testimony read in court is not evidence per se but can strengthen the judge's conviction or be considered and used as additional valid evidence as long as the testimony aligns with existing valid evidence and meets the minimum threshold of proof.

Based on the explanation above, minors who act as witnesses in criminal proceedings should be given special attention and considered by judges in evaluating the validity of their testimony to prove someone has committed a criminal act, provided there is consistency with other valid evidence. In substance, children cannot be legally considered competent witnesses in court, but in the practice of criminal proceedings, they are still called upon as witnesses or victims due to the lack of evidence (Yenni Maya Sari, 2022). Therefore, a child's testimony is a primary consideration for judges in deciding criminal cases, even in the absence of adult witnesses, as long as there are victim testimonies and other supporting evidence. Thus, the probative value inherent in the testimony of child witnesses presented in court does not constitute direct evidence, but rather represents a probative value that can strengthen the judge's conviction or be considered as supplementary valid evidence alongside existing evidence, meeting the minimum requirement of at least two valid pieces of evidence (Mohamad Ismail Bin Mohamad Yunus, 2021).

This is in line with Constitutional Court Decision No. 65/PUU-VIII/2010 dated April 28, 2010, which expands the definition of witnesses in the Criminal Procedure Code (KUHAP) to include those who provide testimony during investigation, prosecution, and trial, even if they did not directly witness or experience the incident. The enactment of Law No. 11 of 2012 concerning the Juvenile Justice System (SPPA) introduces a new framework for handling cases involving children (Pramesti, 2017). One aspect concerns the treatment of children as witnesses in criminal cases, where child witnesses can be subjects in the Juvenile Justice System (SPPA). Thus, it can be concluded that crimes and violence against children are serious issues requiring strong legal protection and proper handling from various parties, including the state and judicial institutions.

To strengthen the evidence involving child testimony to optimal levels: (1). Protection for testimonial evidence without oath should be fully implemented according to applicable regulations, aiming to safeguard children who act as witnesses in criminal cases; (2). Legislators, especially the Government and Parliament, need to repeal specific provisions in legislation by providing regulations and limitations related to child witness testimony, thereby granting it the same probative value as sworn testimony.

Judges handling cases requiring child testimony in evidence must pay greater attention to such testimony and should not disregard it outright, as child witnesses can support existing evidence and valid proofs if consistent with other elements. Therefore, judges are required to be judicious and comprehensive in evaluating the probative strength of non-sworn child testimony (Amrizal Siagian, 2020).

2. The Implementation of the Evidential Strength of Child Witness Testimony in the Criminal Justice System in Indonesia

The purpose of evidence is to serve as the foundation for a judge's decision regarding whether the defendant is guilty or not, in accordance with the charges filed by the Public Prosecutor. The law of evidence is part of the criminal procedural law process that regulates types of evidence recognized as valid under the law, including the systems used in proving cases, requirements and procedures for presenting evidence, and the judge's decisions in accepting, rejecting, and evaluating such evidence (Kamri Ahmad, 2017).

The aim of criminal procedural law, as outlined in the Guidelines for Implementing the Criminal Procedure Code (KUHAP) issued by the Ministry of Justice, is to seek and obtain material truth, or at least approximate it. This refers to achieving the most complete truth possible in a criminal case by applying procedural law provisions honestly and accurately. The objective is to ascertain who committed a legal offense, and subsequently request examination and judgment from the Court to determine whether it is proven that a criminal act was committed and whether the accused can be held accountable (Hari Sasangka, 2003). Meanwhile, the objectives and purposes of evidence for the parties involved in the trial examination process, according to Hari Sasangka and Lily Rosita, are as follows:

- 1) For the Public Prosecutor, evidence serves as an effort to convince the Judge based on the available evidence, to declare a defendant guilty according to the charges filed.

- 2) For the defendant or legal counsel, evidence serves as an opposing effort to convince the Judge based on the available evidence, to declare the defendant innocent or to dismiss or mitigate their legal liability. Therefore, the defendant or legal counsel, if possible, must present evidence that favors their side, usually referred to as exculpatory evidence
- 3) For the Judge, based on this evidence, whether originating from the Public Prosecutor or the defendant's legal counsel, it forms the basis for making a decision in the trial (Fuady, 2006).

The provisions that must be fulfilled for a witness's testimony to be considered valid as evidence with probative value include: before giving testimony, a witness must first swear an oath as regulated in Article 160 paragraph (3) of the Criminal Procedure Code (KUHAP). According to M. Yahya Harahap, the probative value of a witness's testimony is assessed based on whether the testimony is valid as evidence. Valid testimony from a witness must meet certain criteria to be considered valid evidence, namely by meeting the following requirements (Harahap, 2012):

- 1) Formal requirement, which means a witness's testimony can only be considered valid if given under oath, thus unsworn testimony is merely additional to other valid testimonies.
- 2) Material requirement, which states that the testimony of one witness alone cannot be considered valid evidence ("unus testis nullus testis"), as it does not meet the material requirement. However, the testimony of one witness may suffice as evidence for one element of the alleged crime.

From the above explanation, unsworn testimony cannot be regarded as valid evidence, even if the consistency between such testimonies is maintained, and its invalidity as evidence does not affect the judge's decision. Its invalid nature also indicates that it lacks probative force, although it may be accepted as valid evidence, it does not hold strong probative value (Pratama, 2023). Generally, such testimony can only enhance the probative value of other valid evidence. Judges have the freedom to evaluate such testimony based on their perceived truth. The position of a child as a witness in criminal cases under the Criminal Procedure Code (KUHAP), in its application, involves three stages: pre-adjudication, adjudication, and post-adjudication. These stages are interconnected processes in criminal law enforcement to establish the truth of a criminal incident.

A child victim is someone who has not yet reached the age of 18 and has suffered physical, mental, and/or economic harm due to a criminal act (Gultom, 2013). A child giving testimony in a criminal case, known as a Child Witness, is someone under the age of 18 who can provide statements during investigation, prosecution, and court proceedings concerning a criminal case they have experienced. According to Article 184 of the Criminal Procedure Code (KUHAP), there are five valid types of evidence, one of which is indication. Therefore, in this context, the testimony of a child as a victim witness cannot be used as direct evidence because such testimony only serves as supporting data or indication. Hence, this supporting data will be correlated with the testimony of witnesses and other evidence (Prodjohamidjojo, 1994).

The position of a child as a victim witness is to strengthen the verdict, as a child victim witness is a key witness whose testimony is considered crucial, not merely supplementary information but primary evidence, as only the victim witness personally saw, heard, and experienced the incident

(Vienna, 2015). However, under Law No. 11 of 2012 concerning the Juvenile Justice System, provisions facilitate child witnesses or child victims in giving testimony in court. Witnesses/victims who cannot appear in court to give testimony for any reason may provide testimony outside the courtroom through electronic recording conducted by the local Social Welfare Officer, attended by Investigators or Prosecutors, and Lawyers or other legal aid providers involved in the case. Child witnesses/victims are also allowed to testify remotely using audiovisual communication tools. When testifying in this manner, a child must be accompanied by a parent/legal guardian, Social Welfare Officer, or other support persons (Article 58 paragraph (3) of Law No. 11 of 2012 concerning the Juvenile Justice System) (Indonesia, 2020).

In the case ruling at the Depok District Court with Decision Number: 135/Pid.Sus/2023/PN Dpk dated 6 September 2023, involving defendant EF, the evidence presented by the Public Prosecutor consists of 6 (six) witnesses, namely witness RU under oath, victim child SMH without oath, witness SMS under oath, victim child AKNA without oath, child witness SSW not under oath, witness AR under oath, and documentary evidence in the form of a medical examination report (*visum et repertum*) from RS Bhayangkara Tk I Pusdokkes POLRI Number: R/341-342/VER-PPT-KSA/XI/2022 dated 30 November 2022. In criminal legal proceedings, information provided by a child can be considered testimony, especially when the child is a victim and falls under the age category of under 18 years, as defined in the Child Protection Law (Harefa, 2012). This is further supported by Article 1 numbers 4 and 5 of Law No. 11 of 2012 concerning the Juvenile Justice System, which states that a child who is a victim of a criminal act.

In the verdict of the Depok District Court Number 135/Pid.Sus./2023/PN Dpk, dated 6 September 2023, the assessment of child witnesses as valid evidence can hold probative value considered by the judge. However, the probative value ultimately depends on the judge's subjective evaluation because the assessment of witnesses in general, including child witnesses, is not binding. According to Article 185 paragraph (6) of the Criminal Procedure Code (KUHAP), testimony is considered valid evidence but not absolute, and its evaluation is entirely at the discretion of the judge. The judge has the freedom to assess the truthfulness and completeness of such testimony. There is no obligation for the judge to accept every testimony, including that of child witnesses. Therefore, the judge may accept or disregard the testimony of a child if there are absolute exceptions governing child testimony. Nevertheless, in previous rulings, the judge accepted the testimony of a child as evidence, despite the fact that technically, the child's testimony did not meet the qualifications of evidence.

3. Ideal Regulation of the Evidentiary Strength of Child Testimony in the Criminal Justice System in Indonesia

As stated in Article 184 of the Criminal Procedure Code (KUHAP), valid evidentiary tools in court proceedings can include: witness testimony, expert testimony, documents, indications, and defendant testimony. During trials, judges must assess the probative value of each of these evidentiary tools. Article 1, number 27 of the KUHAP defines witness testimony as follows: "Witness testimony is one of the evidentiary tools in criminal cases consisting of statements from witnesses regarding a criminal incident they personally heard, saw, and experienced, citing their reasons for such knowledge. Furthermore, Article 159, paragraph (2) of the KUHAP explains

that being a witness is a duty of every person. Therefore, something established by law as a duty must be fulfilled. Refusal of this obligation can constitute a criminal act as regulated in Article 224, number 1 of the Criminal Code (KUHP) and may result in penalties in criminal cases, with imprisonment for up to nine months, or in other cases, imprisonment for up to six months (Article 224, number 2 of the KUHP). Every person is obliged to act as a witness if they witness, hear, or personally experience a criminal act being examined in court (Bakri, 2009).

If a person giving testimony as a witness is legally an adult and meets the requirements set forth in the KUHP for the validity of witness testimony as evidence, this does not pose an issue in proving criminal cases. However, situations can become complex when a suspected criminal act is witnessed or experienced only by a child. A child who acts as a witness in criminal cases has an age limitation regulated by Law No. 11 of 2012 concerning the Juvenile Justice System, Article 1, number 5, which defines a child as someone under 18 years old who can provide testimony for the purposes of investigation, prosecution, and trial regarding a criminal case they experienced.

Children who witness, hear, or experience a criminal act are not prohibited from becoming witnesses in court according to the law. They are allowed to provide testimony without taking an oath, as stipulated in Article 171, letter a of the KUHP. This is based on the understanding that a child's knowledge of the criminal act can be crucial in the investigation and court processes, thus they have the right to give their testimony.

In addition to the Criminal Procedure Code (KUHP), there are other regulations governing the protection and validity of child testimony as witnesses in the criminal justice system in Indonesia, such as the Law on the Juvenile Justice System based on Article 1 number 5 of Law No. 11 of 2012 concerning the Juvenile Justice System, which states: "A child who acts as a witness to a criminal act, hereinafter referred to as a child witness, is a child under the age of 18 who can provide testimony for the purposes of investigation, prosecution, and trial in court regarding a criminal case they heard, saw, and/or personally experienced"

Several regulations related to child witness testimony include:

- 1) The Convention on the Rights of the Child of 1989;
- 2) The Criminal Procedure Code (KUHP) Number 8 of 1981;
- 3) Law No. 11 of 2012 concerning the Juvenile Justice System;
- 4) Law No. 35 of 2014 Amendment to Law No. 23 of 2002 concerning Child Protection.

The limitations provided by the law regarding testimony given by a child are not detailed. A child naturally has a fragile psyche, so their actions, deeds, or experiences are sometimes inadequately responded to by those around them due to their status, as their legal capacity is not yet recognized. Formally, under juridical (legal) terms, a child's testimony as a victim or witness of a crime is not strong enough to be considered as evidence. Specifically, a child who witnesses, hears, or personally experiences a criminal act and states the reasons for their knowledge about the crime being investigated is not prohibited by law from being a witness in a court hearing. They may provide testimony without taking an oath, as stipulated in Article 171 letter a of the Criminal Procedure Code (KUHP).

CONCLUSION

Based on the discussions in the preceding chapters, the following conclusions can be drawn:

1. Testimony given by a child without oath is not considered as evidence. However, such testimony can carry evidentiary value if it aligns with other evidence. The implementation of the evidentiary strength of child testimony as witnesses in the criminal justice system in Indonesia is that testimony given by a child as a witness holds valid evidentiary value in court, but the truthfulness and probative strength of such testimony depend on the judge's subjective assessment. Therefore, evidence in the form of witness testimony, including child witnesses, is not absolute or binding. For example, in the case of Depok District Court Decision Number 135/Pid.Sus/2023/PN.
2. Meanwhile, the ideal regulation regarding the evidentiary strength of child testimony as witnesses in the Indonesian criminal justice system is found in Law Number 11 Year 2012 concerning the Juvenile Justice System, which replaces Law Number 3 Year 1997 concerning Child Justice as stated in Article 58 paragraph (2). During the examination of child victims and/or child witnesses as referred to in paragraph (1), parents/legal guardians, lawyers or other legal assistance providers, and social welfare guides must be present. In case the child victim and/or child witness cannot be present to provide testimony in front of the court, the judge may order that their testimony be heard: (a) outside the court through electronic recording conducted by a social welfare guide in the local jurisdiction, attended by investigators or prosecutors and lawyers or other legal assistance providers; or (b) through remote direct examination via audiovisual communication devices, accompanied by parents/legal guardians, social welfare guides, or other companions.

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