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The Authority Of The Public Prosecutor In Proving The Crime Of Indecent Acts Through The Testimony Of Victim Witnesses

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ABSTRACT

Proving the crime of sexual abuse often encounters obstacles, especially because the criminal event is generally only known or experienced directly by the victim. The victim's witness statement has an important role in revealing the occurrence of the crime, but in the proof it must still be linked to other evidence in accordance with the provisions of criminal procedure law. This study aims to analyze the Public Prosecutor (JPU) in proving the crime of sexual abuse through the testimony of the victim's witness, as well as to examine the obstacles faced in the proof process. The study uses an empirical juridical method with a qualitative approach through interviews with the Public Prosecutor at the Medan District Attorney's Office and literature studies through laws and regulations, books, and scientific journals relevant to proving the crime of sexual abuse and the testimony of the victim's witness. The results of the study indicate that the Public Prosecutor has the authority to present, obtain, test, and link the victim's witness statement with other evidence to prove the elements of the crime charged. The victim's statement cannot stand alone, but must be correlated with other valid evidence, such as witness statements, expert statements, letters or results of field and forensic examinations, and electronic evidence. In practice, prosecutors face a number of obstacles, including inconsistent victim testimony, the absence of witnesses who directly witnessed the incident, the victim's psychological condition and trauma, the defendant's denial, and the victim's status as a child. Therefore, providing evidence through the victim requires careful prosecutors to assess the victim's testimony and connect it with other evidence, while still paying attention to the victim's protection and condition during the trial process.

Keywords: Molestation, Proof, Victim Witness, Public Prosecutor, Evidence

INTRODUCTION

The crime of indecent assault is a form of crime against morality that has serious consequences for the victim, both physically, psychologically, and socially. Handling this case is not solely oriented towards imposing a penalty on the perpetrator, but also demands that the criminal justice process uncover the material truth of the incident while providing adequate protection for the victim during the legal process. Therefore, evidence plays a central role in resolving indecent assault cases.

In criminal procedure, the burden of proof serves to determine whether the act charged against the defendant has been legally proven based on evidence that convinces the judge. Indecent

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assault cases have unique evidentiary characteristics, as these crimes generally occur in private settings without the presence of other parties. This situation makes the victim's testimony one of the primary sources of information regarding the sequence of events they experienced. However, this testimony must still be placed within the legal framework and supported by other valid evidence.

The status of victim testimony receives special attention in sexual violence cases. Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence emphasizes that witness and/or victim testimony can be used as the basis for proving the defendant's guilt if accompanied by at least one other valid piece of evidence, and the judge is convinced that the crime actually occurred and the defendant is the perpetrator (Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence). This provision demonstrates that victim testimony carries significant evidentiary weight, but its use remains subject to applicable evidentiary principles and systems.

In the court process, the Public Prosecutor plays a strategic role because he not only brings the case to trial, but also carries out the proof of the charges submitted. The enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHAP) since January 2, 2026, which replaced Law Number 8 of 1981, brought fundamental changes to the Indonesian criminal procedure law system, including the refinement of the authority of the public prosecutor, strengthening coordination between investigators and public prosecutors, and strengthening the rights of suspects, defendants, witnesses, and victims. (Law Number 20 of 2025 concerning the Criminal Procedure Code) Therefore, the study of the authority of the public prosecutor in providing evidence needs to refer to the new KUHAP as the basis for the current applicable procedural law.

The prosecutor's authority in the evidentiary process is also closely related to the process of presenting and obtaining witness testimony in court. In cases of sexual assault, the victim's witness testimony provides a firsthand account of the incident, so its use in evidence must be conducted carefully while prioritizing the victim's rights and protection. This is important because the victim is not only a source of information about the crime but also a direct victim of the incident.

Protection of witnesses and victims is an integral part of a just criminal justice system. At the time this research was written, the protection of witnesses and victims was regulated in Law Number 3 of 2026 concerning the Protection of Witnesses and Victims, which came into effect on May 20, 2026, and revoked Law Number 31 of 2014. This law not only regulates the

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mechanisms of protection, restitution, and compensation, but also strengthens the Witness and Victim Protection Agency (LPSK) and introduces the authority in the form of a Victim Impact Statement (VIS) facility, which provides a space for victims to convey the impact of the crime they experienced before the court as part of fulfilling access to justice. (Law No. 3 of 2026 concerning the Protection of Witnesses and Victims).

Based on this description, the authority of the public prosecutor in proving the crime of sexual abuse through the testimony of victim witnesses is a relevant and important topic to study, especially to understand how this authority is implemented in law enforcement practices after the enactment of the new Criminal Procedure Code and the new Witness and Victim Protection Law. This study also aims to identify various obstacles that the Public Prosecutor may face in utilizing victim witness testimony as part of the evidentiary process.

This research was conducted by connecting the normative provisions regarding the authority of the Public Prosecutor and evidence with the practice of handling cases of sexual abuse, so that it not only reviews the legal aspects textually, but also its application in the field. Based on this description, this research raises the title "The Authority of the Public Prosecutor in Proving the Crime of Sexual Abuse through the Testimony of the Victim Witness." The author will discuss only 1. The Authority of the Public Prosecutor in Proving the Crime of Sexual Abuse through the Testimony of the Victim Witness and the obstacles faced by the Public Prosecutor in proving the crime of sexual abuse through the testimony of the victim witness.

METHODS

This study uses a normative legal research approach to legislation, chosen to gain a deeper understanding of the handling of sexual assault crimes. Qualitative methods allow researchers to explore rich and in-depth data through direct interaction with research subjects and relevant documents. The research location is the Medan District Attorney's Office, North Sumatra. Research subjects include staff involved in the general criminal unit and the handling of sexual assault cases, as well as relevant sources such as prosecutors who handle general crimes, particularly sexual assault crimes.

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RESULTS AND DISCUSSION

The Authority of the Public Prosecutor in Proving the Crime of Indecent Acts through the Testimony of Victim Witnesses

The Public Prosecutor's authority in proving the crime of indecent assault is implemented through the process of presenting and examining victim witnesses in court and connecting the victim's testimony in court with other evidence. The victim's testimony is used to provide a picture of the criminal incident she experienced and is one part of building the construction of evidence against the defendant. (Mr. Dr. Asepte Gaulle Ginting, as functional prosecutor for the datun division, personal interview, September 28, 2026).

This authority is in line with Article 65 of Law No. 20 of 2025 concerning the Criminal Procedure Code, which grants the Public Prosecutor authority, among others, to prepare an indictment, transfer the case and conduct prosecution in court, and convey summons to the defendant and witnesses to attend the trial. (Article 65 of Law No. 20 of 2025 concerning the Criminal Procedure Code) Thus, the authority of the Public Prosecutor in providing evidence cannot be separated from the prosecutorial function carried out in court.

In the context of evidence, Article 235 paragraph (1) of Law No. 20 of 2025 stipulates that evidence consists of witness statements, expert statements, letters, defendant statements, evidence, electronic evidence, judge observations, and everything that can be used for evidentiary purposes as long as it is obtained in a lawful manner. (Article 235 paragraph (1) of Law No. 20 of 2025 concerning the Criminal Procedure Code) Witness statements are thus firmly placed as one of the pieces of evidence in the evidentiary system based on the applicable Criminal Procedure Code.

Dr. Asepte Gaulle Ginting,. SH,MH is of the opinion that in cases of indecency, the victim's witness statement is not placed as the sole basis of evidence, but is connected with other evidence. (Mr. Dr. Asepte Gaulle Ginting, personal interview, September 28, 2026) This is in accordance with Article 237 of Law No. 20 of 2025, which in principle states that the statement of one witness is not enough to prove the guilt of the defendant, unless the statement is supported by other evidence.

Through the concept of the law of evidence put forward by Eddy OS Hiariej. In the Theory and Law of Evidence, the law of evidence includes evidence, evidence, how to obtain and present evidence in court, the strength of evidence, and the burden of proof. Which concept is relevant

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to the statement of Dr. Asepte Gaulle Ginting, SH, MH, because the authority of the Public Prosecutor in providing evidence is not only related to the existence of evidence, but also how the evidence is obtained, submitted, and linked in the trial process.

Specifically for cases involving sexual violence, Law No. 12 of 2022 concerning the Crime of Sexual Violence provides specific provisions. Article 24 stipulates that evidence in the TPKS (Criminal Investigation) trial consists of evidence based on criminal procedural law, information and/or electronic documents, and evidence used or related to the crime. (Article 24 of Law No. 12 of 2022 concerning the Crime of Sexual Violence) This provision also recognizes the results of witness and/or victim examinations during the investigation stage through electronic recording as part of the witness testimony evidence. In addition, certificates from clinical psychologists or psychiatrists, medical records, and forensic examination results can also be used as written evidence.

These regulations demonstrate that in sexual violence cases, evidence can be established through various interrelated forms of evidence. Therefore, testimony from other witnesses, expert testimony, documents or electronic evidence, medical records, forensic examination results, and other valid and relevant evidence are acceptable.

In addition to the evidentiary aspect, the Public Prosecutor also has an obligation to consider the victim's condition during the examination. Article 22 of Law No. 12 of 2022 requires investigators, public prosecutors, and judges to conduct examinations while upholding the victim's human rights, honor, and dignity, without intimidation or victimization, and to avoid questions that could ensnare or traumatize the victim.

Obstacles faced by the Public Prosecutor in proving the crime of indecent assault through the testimony of the victim's witness.

Proving the crime of sexual assault through victim testimony is not always straightforward. In practice, the Public Prosecutor may encounter various obstacles related to the victim's testimony, the presence of other witnesses, the victim's psychological condition, limited supporting evidence, and the defendant's denial of the charges.

This constraint is crucial because victim witness testimony in sexual assault cases often plays a significant role in uncovering the crime. However, such testimony must still be placed within the applicable evidentiary system. Article 237 of Law No. 20 of 2025 concerning the Criminal Procedure Code stipulates that the testimony of one witness is essentially insufficient to prove

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the defendant's guilt unless it is supported by other evidence. This provision also requires an assessment of the testimony of other witnesses, its consistency with other evidence, the reasons for giving the testimony, and the consistency of the testimony before and during the trial.

1. **Inconsistencies or Discrepancies in Victim Witness Statements**

   One of the challenges faced by the public prosecutor is the discrepancy between the victim's testimony during the previous examination and the testimony given during the trial. These discrepancies can relate to the time, place, sequence of events, or details of the victim's actions. (Dr. Asepte Gaulle Ginting, personal interview, September 28, 2026).

   From an evidentiary perspective, this situation requires attention because consistency is one aspect that must be considered in assessing witness testimony. Article 237 paragraph (5) of Law No. 20 of 2025 expressly states that judges are required to pay attention to the consistency of witness testimony during the trial, in addition to paying attention to its conformity with witness testimony and other evidence. (Article 237 paragraph (5) of Law No. 20 of 2025).

   However, discrepancies in testimony should not automatically be interpreted as inaccurate testimony from the victim. In cases involving sexual violence, the prosecutor must examine the substance of the discrepancies, namely whether they relate to the core events or merely to specific details. This is crucial because victims can experience psychological distress when having to recount their experiences.

   Noor Hamidah explained that the victim's witness statement required the support of other evidence or supporting evidence obtained from parties who had information related to the incident.

   Thus, inconsistencies in the victim's testimony pose a challenge to the prosecutor because they can affect the strength of the evidence. To address this, the prosecutor must compare the victim's testimony with other evidence so that the victim's testimony is not assessed in isolation.

2. **There were no witnesses who saw the incident directly**

   The absence of witnesses who directly witnessed the act of sexual assault can pose a challenge for prosecutors, as the victim is often the only person who directly experienced and knew about the incident.

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This situation is closely related to the characteristics of sexual assault, which can occur in private or unobserved places. Consequently, prosecutors are not always able to present witnesses who directly witnessed the defendant's actions. (Dr. Asepte Gaulle Ginting, personal interview, September 28, 2026).

Therefore, there is a special provision in Article 25 of Law No. 12 of 2022 concerning Crimes of Sexual Violence, which stipulates that witness and/or victim testimony can be sufficient to prove the defendant's guilt if accompanied by at least one valid piece of evidence and the judge is convinced that the crime actually occurred and that the defendant committed it. This provision provides a special mechanism to address situations where the victim has direct knowledge of the crime.

Thus, the absence of witnesses who saw the incident directly cannot be seen as the end of the evidence process, the challenge for the Public Prosecutor is to find supporting evidence that is related to the victim's statement, for example, statements from parties who knew the situation after the incident, expert statements, medical records, forensic examination results, and electronic evidence if available.

3. Psychological Conditions and Trauma Experienced by Victims

Victims of sexual assault can experience fear, shame, psychological distress, and even trauma when having to provide information about their experiences. This can be a challenge for prosecutors, as the evidentiary process requires clear testimony from the victim, while simultaneously protecting the victim from actions that could cause further distress or trauma.

This issue has received special attention in Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence. Article 22 of the TPKS Law stipulates that the examination of witnesses and/or victims shall be conducted with respect for human rights, honor, and dignity, and without intimidation, victimization, or questions that could ensnare or traumatize the victim. (Article 22 of the TPKS Law) Therefore, the need for evidence cannot be used as an excuse to ignore the victim's condition. The public prosecutor must obtain the information necessary for the case while still paying attention to the victim's protection and condition.

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4. Defendant's Denial of Victim's Statement

During the trial, the defendant may provide testimony that differs from the victim's, including denying having committed the alleged offense. This situation requires the public prosecutor to provide evidence for each element of the crime contained in the indictment. The prosecutor is not sufficient to simply demonstrate discrepancies between the victim's and the defendant's statements; they must also present facts and evidence that can link the defendant to the alleged offense. (Dr. Asepte Gaulle Ginting, personal interview, September 28, 2026)

In this case, the provisions of Article 237 of Law No. 20 of 2025 concerning the compatibility of witnesses with other evidence are relevant. The assessment of testimony is not carried out in isolation, but rather by examining the relationship between the witness's testimony and other evidence.

5. If the victim is a minor

The age of the victim, as a child, is a crucial factor in establishing evidence for sexual assault. This condition impacts the child's ability to remember, understand, and describe an incident. When providing information, children may have difficulty systematically explaining the time, place, sequence of events, and nature of the act. Therefore, the Public Prosecutor must adapt the method of obtaining information to the child's condition and developmental level.

Article 1 number 1 of Law No. 35 of 2014 concerning Child Protection stipulates that a child is a person under 18 years of age, including children who are still in the womb. (Article 1 Number 1 of Law No. 35 of 2014 concerning Child Protection) The law also provides special protection for children who are victims of sexual crimes. This protection is related to the evidentiary process. Child victims are not only positioned as a source of information about the crime, but also as individuals who have the right to receive protection. This is important because an inappropriate examination process can affect the child's ability to provide information freely and clearly.

Article 22 of Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence stipulates that the examination of witnesses and/or victims must be conducted with respect for human rights, honor, dignity, and anything that could cause trauma to the victim or witness. In practice, the Public Prosecutor must be careful in asking questions

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to ensure that the child does not feel pressured, afraid, embarrassed, or provide answers based on direction from the examiner. Therefore, the challenge faced by the Public Prosecutor is not solely the age of the victim, but also how to obtain information that still objectively describes the victim's experience without causing pressure on the child.

The victim's age, as a child, cannot automatically be used as a reason to deem their testimony untrue or of no evidentiary value. The key issue is how the testimony was obtained and then linked to other evidence. Article 237 of Law No. 20 of 2025 concerning the Criminal Procedure Code stipulates that the testimony of one witness is, in principle, insufficient to prove the defendant's guilt, but this provision does not apply if the witness's testimony is supported by other evidence.

CONCLUSION

The Public Prosecutor (JPU) has strategic authority in building and proving cases of sexual assault through the testimony of victim witnesses. This authority is not limited to the presence of the victim in court, but includes the process of obtaining, examining, and presenting the victim's statement along with other evidence, such as witness statements, expert testimony, medical and forensic examination results, electronic evidence, and physical evidence to prove the fulfillment of the elements of the crime charged. The victim's statement must be assessed based on events actually experienced, seen, or heard by the victim. In cases of sexual violence, the TPKS Law pays special attention to witness and/or victim testimony, including through the regulation of evidence in the form of electronic recordings, medical records, and forensic examination results, as well as Article 25 which still requires the existence of other valid evidence and the conviction of the judge.

Obstacles faced by the Public Prosecutor include inconsistencies in the victim's testimony, the absence of witnesses who directly witnessed the crime, the victim's psychological condition or trauma, limited supporting evidence, denials by the defendant, and the victim's status as a child. However, these obstacles do not necessarily eliminate the evidentiary value of the victim's testimony, the Public Prosecutor is required to assess it comprehensively and connect it with other evidence. This is in line with the current Criminal Procedure Code, namely Law Number 20 of 2025 which came into effect on January 2, 2026 and revoked the previous Criminal Procedure Code which emphasized that a witness's testimony in principle needs to be supported by other evidence.

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Specifically for child victims, differences in capacity in remembering, understanding, and explaining an event require an examination that takes into account the child's condition and protection, and respects the victim's rights, honor, and dignity by avoiding intimidation, victimization, trapping questions, and questions that have the potential to cause trauma as regulated in the TPKS Law. Thus, the Public Prosecutor's authority in proving the crime of indecent assault is essentially implemented by placing the victim's statement as an integral part of the series of evidence. The effectiveness of the evidence is not solely determined by the existence of the victim's statement, but by the Public Prosecutor's ability to test the consistency of the statement, present supporting evidence, consider the victim's condition, and systematically compile all evidence to prove each element of the crime charged.

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