



Legal Protection for Victims of Sexual Violence in Legal Abortion Services

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Abstract: This study aims to examine legal regulations that guarantee protection for victims of sexual violence in Indonesia, including the fulfillment of women's rights to obtain legal abortion services due to pregnancy resulting from sexual violence. The background of this study is based on the limited access of victims to safe abortion services despite being regulated in legislation. This study is important to assess the gap between legal norms and practices in the field in protecting victims. The method used is normative juridical with analysis of laws and regulations and other legal norms through literature study. The results of the study show that although Law Number 12 of 2022 concerning Sexual Violence Crimes, the Health Law, and the new Criminal Code have provided a legal basis for victims to access safe abortions, their implementation is still hampered by limited facilities, social stigma, and a lack of understanding among officials and medical personnel. In conclusion, it is necessary to strengthen the implementation of regulations and increase the understanding of stakeholders. The novelty of this research lies in its comprehensive analysis of the relationship between victim protection regulations and the implementation of legal abortion in Indonesia.

Keyword: Abortion, Sexual Violence, Legal Protection, Women.

INTRODUCTION

From time to time, the crime of sexual violence is still a terrifying crime for the community, especially against women and children. This deviation is like a plague that continues to spread unceasingly. According to N.K. Endah Triwijati, sexual harassment is behavior or actions with sexual nuances that are unwanted or not approved by the targeted party, resulting in violations of the human rights of the victim (Rohmat et al., 2024). Victims who experience often do not have the power to avoid it and are forced to let the incident happen.

Although there is a possibility that men are also victims. But from time to time, women and children are often the main victims (Chusna, 2024). Sexual violence more often affects children because of their vulnerability to being weak and dependent on adults (Malik et al., 2024). Women and children are often in situations at risk of violence. Places such as the home and outside the home are actually the source of this case (Sujasmin, 2025). Views that blame women's clothing are still widely encountered in society, with the assumption that their

appearance can trigger male sexual desire. This way of thinking shows the strength of a patriarchal culture that tends to justify male behavior while harming women (Sulistyawan et al., 2023).

Abortion, or in Latin known as *abortion*, is the act of terminating a pregnancy by removing an embryo or fetus from the uterus before it is able to live independently. This procedure is performed forcibly until fetal development stops and results in fetal death (Hayati, 2022). Abortion is a serious crime because it results in the end of an innocent life, especially when it is still in the form of a fetus (Putri, 2023). Abortion is an issue that triggers differences of opinion in various parts of the world due to differences in views on religion, morals, and ethics inherent in people's lives (Fatahaya & Agustanti, 2021).

Sexual violence is one of the factors that women do not want to get pregnant, women who experience this experience severe depression, social pressure, as well as psychological and social burdens, experience venereal diseases, HIV and other diseases. One of the steps often taken by victims is to have an abortion, either done alone or through the intervention of another party. However, many choose to have an unsafe abortion (Tanjung & Firmansyah, 2024). Victims find it difficult to access safe abortion this is based on information sources from various human rights institutions, social stigma and barriers that often arise from health facilities (Anisah, Choiriyah, & Putra, 2024). Komnas Perempuan data indicates that throughout the period 2018 to 2023, there were 103 cases of sexual violence that led to pregnancy, where almost all victims did not have access to safe abortion services (Yentriyani et al., 2023). According to the 2023 KPAI Annual Report, there are 265 cases of sexual violence involving children. Sexual violence ranks highest as the most frequently reported case (Indonesian Child Protection Commission [KPAI], 2025).

Government regulations related to abortion in criminal law, as explained that anyone who performs an abortion can be subject to sanctions and punishment for the perpetrator. However, Article 60 of the Health Law and Article 463 of Law Number 1 of 2023 concerning the Criminal Code provide exceptions that allow abortion under certain conditions, such as as due to sexual violence or urgent medical needs (Law Number 17 of 2023; Law Number 1 of 2023). In addition, for women who are victims of rape, Government Regulation No. 61 of 2014 allows abortion with the provision that the gestational age has not exceeded six weeks or 40 days since the beginning of the last menstrual period (Constitution of the Republic of Indonesia, 2014).

Previous research on this topic has been conducted by several researchers. Inayatul, Ana, and Tri (2024) examine the legality of abortion for rape victims by highlighting the debate between the right to life of the fetus and the right of women to make decisions about their bodies. Furthermore, research by Charistina, Maria, Hanuring, Edwin, and Heri (2022) discusses the development of legal protection for victims of sexual violence after the introduction of new regulations, as well as the various obstacles faced in their implementation in the field. Then, Vianica and Christin (2024) analyzed the differences in regulations related to abortion contained in two different regulations as well as the challenges that arise in the implementation process.

This research comes with a more comprehensive approach by combining three important aspects, namely legal protection for victims of sexual violence who face unwanted pregnancies, easy access to legal and safe abortion services, and the law enforcement process against perpetrators of sexual violence, thus making a new contribution to the study of the protection of victims of sexual violence in Indonesia. This journal aims to examine forms of legal protection for victims of sexual violence, law enforcement procedures for perpetrators, and the availability and access to legal and safe abortion services for victims of sexual violence.

METHOD

This research is a type of normative juridical research that focuses on the study of legal principles and rules listed in laws and regulations and other related legal sources. The normative juridical method concentrates on the analysis of literature materials or secondary legal sources that are used as the main data in research. The normative juridical approach collects data through literature studies by utilizing various sources of legal literature such as positive legal provisions and legal regulations, literature, scientific publications, academic works, other archival documents that are closely related to the research topic are also collected to strengthen the data and information needed.

RESULTS AND DISCUSSION

Legal Protection for Victims of Sexual Violence and Law Enforcement for Perpetrators of Sexual Violence

One of the various types of protection that can be provided is through enforcement efforts and legal guarantees for the parties concerned (Giyono, Nurkhasanah, & Rahman, 2024). Legal protection for victims of sexual violence has come into global attention not only domestically, which must be considered so that social justice is fulfilled (Munthe, 2024). Measures to ensure the legal protection of victims of sexual violence need to be taken seriously. The existence of a guarantee of legal protection for victims of sexual violence reflects the realization of a sense of justice in society. However, in practice, sexual violence cases are often faced with various complexities throughout the settlement process, from the investigation and prosecution stage to the sentence phase in court. Beyond the obstacles mentioned earlier, challenges also arise in the evidentiary aspect, especially in cases of sexual harassment which generally take place without witnesses at the scene of the incident (Alpian, 2022).

Sexual violence includes various forms, such as adultery, sexual intercourse, obscenity, and pornography. Acts of sexual violence are not only categorized as criminal offenses, but also as violations of human rights. In the 1945 Constitution, especially Articles 28A to 28J, it is affirmed that "*everyone has the right to live and has the right to defend his life and livelihood*". In addition, Article 28B paragraph (2) also states that "*every child has the right to survival, growth, and development, as well as the right to protection from violence and discrimination*" (Republic of Indonesia, 2002). Every child has the right to protection and the fulfillment of his or her rights, which is not only the responsibility of the biological parents. As social beings, humans are obliged to take care of and care for children, because they are God's mandate that must be maintained and protected from all forms of violations (Mozin & Sungi, 2021).

The ratification of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) is a form of state responsibility to prevent and overcome acts of sexual violence present from the existence of this Law, as well as providing comprehensive human rights protection. The TPKS Law contains 8 chapters with 93 articles, which regulate the prevention, handling of cases, and law enforcement which not only focuses on the criminal aspect but also ensures comprehensive protection and recovery for victims. This law serves as the main legal framework for protecting and rehabilitating victims, effectively enforcing the law, rehabilitating perpetrators, and creating a safe and free environment from sexual violence so that similar incidents do not happen again (Harahap, Pratitis, & Rehulina, 2023). The approach applied is victim-oriented and reflects a more progressive and contemporary legal thinking pattern (Antoni, Hosnah, & Simanjuntak, 2024). Legal protection for victims of sexual violence has an important role to ensure that victims' rights are fulfilled and justice can be upheld. Based on the provisions of Article 1 number 16 of the TPKS Law, it is stated that "*Victims' Rights are the rights to handling, protection, and recovery obtained, used, and enjoyed by the Victim*". Article 66 paragraph (1) importantly states that "*Victims have the right to Handling, Protection,*

and Recovery since the Crime of Sexual Violence occurs". Article 68 explains the rights of victims in the procedural process, in accordance with the provisions listed in Article 67 paragraph (1) part a, regulates the rights that must be obtained by victims of sexual violence, victims have the right to know the entire process and official documents of the results of handling cases of sexual violence that they experience in the sense that the victim is not left blind to information about this. The victim has the right to receive legal services including assistance from lawyers and legal advisors during the legal process, the victim has the right to receive counseling support so that he can fully recover from the trauma suffered due to the sexual violence he has experienced, the victim also has the right to get examinations, medical services and health care needed as a result of the sexual violence he has experienced while if the victim has special needs (disability) or other conditions, the needs and facilities needed by the victim must be obtained, for sexual violence that has immoral content files, the victim has the right to the deletion of the content, especially if the content is disseminated in the public and digital realms.

Next, Article 69 emphasizes that victims' rights related to protection are regulated based on the regulations that have been stipulated in Article 67 paragraph (1) letter b, in which it is explained that victims and reporters of sexual violence have the right to comprehensive protection. They are required to obtain complete information about the rights and protection facilities available, as well as access to information related to the implementation of such protection. Ensuring that victims are safe from repeated threats or violence from perpetrators or other parties, including by maintaining identity confidentiality so that their privacy is protected. In addition, victims should not be treated condescendingly by the authorities, victims are guaranteed not to lose their jobs, access to education, mutations, or political rights as a result of reporting. Both victims and complainants cannot be subject to criminal or civil charges for sexual violence reports submitted, so that their safety and rights are maintained.

In Article 70 paragraph (1) it is stated that "*The Victim's Right to Recovery as referred to in Article 67 paragraph (1) letter c includes medical rehabilitation; Mental and social rehabilitation; social empowerment; Restitution and/or compensation; and social reintegration*" (Law Number 12 of 2022).

The high number of cases of sexual violence that remains a problem at the national level requires effective law enforcement for perpetrators of sexual violence, law enforcement has the goal of uniting stable values and rules to maintain peace in community life (Aprianti, Triana, & Afrita, 2025). Strengthening law enforcement against perpetrators of sexual violence in Indonesia is realized through the ratification of the TPKS Law. This regulation is stipulated as the latest legal tool that functions to complement the previous criminal law which has not fully accommodated victim protection and perpetrator prosecution. In its implementation, the TPKS Law presents a comprehensive legal protection mechanism, not only focusing on punishing perpetrators, but also including actions to help victims recover and prevent sexual violence (Nurisman, 2022).

The TPKS Law stipulates very strict rules in providing punishment for perpetrators of sexual violence. If the perpetrator's actions result in the victim's death or serious permanent disability, the perpetrator may be sentenced to death. Meanwhile, life imprisonment is imposed for cases that cause deep physical and psychological suffering to the victim. In addition to these main sanctions, the TPKS Law also introduces additional punishments in the form of chemical castration. This punishment is specifically aimed at perpetrators who commit repeated sexual violence, with the aim of reducing sexual drive so that it can prevent the recurrence of the same crime. Chemical castration is expected to have a stronger deterrent effect than just a prison sentence. Its application is carried out selectively and only applies to perpetrators with a high level of intentionality or who have a history of committing sexual violence repeatedly. Although this policy often triggers pros and cons at the international level, Indonesia considers

it an important and decisive step to strengthen child protection and reduce the number of cases of sexual violence in a sustainable manner (Utomo, Septinawati, Maulufi Alkadrie, & Marsalena, 2024).

The implementation of the TPKS Law has not fully achieved the expected results, even though this law has expressly regulated sanctions as a form of enforcement of the principles of justice and protection for victims. The complexity of cases, strong social stigma, and limited understanding of law enforcement officials are the main factors that hinder the effectiveness of its implementation. To overcome this, it is necessary to increase public awareness, strengthen support for victims, and implement consistent and sustainable policies so that the goals of the TPKS Law can be realized in real terms (Yantik & Jamba, 2025).

Legal and Safe Abortion Service Arrangements for Victims of Sexual Violence

The rules for banning abortion and its exceptions in Indonesia are contained in Law No. 17 of 2023 concerning Health, Article 60 paragraph (1) states that "*Everyone is prohibited from having an abortion, except with criteria that are allowed in accordance with the provisions of the Criminal Code*". Then in Law No. 1 of 2023 concerning the Criminal Code (KUHP) which came into force three years after it was promulgated in Article 463 paragraph (1) of the New Criminal Code, it is explained that "*Every woman who performs an abortion is sentenced to a maximum of 4 (four) years in prison*", but paragraph (2) states, "*The provisions as referred to in paragraph (1) do not apply in the event that women are victims of rape or other sexual violence crimes that causes a pregnancy whose gestational age does not exceed 14 (fourteen) weeks or has indications of a medical emergency*". If abortion is carried out outside of these provisions, then this act is considered a criminal offense (Sitanaya, Sondakh, & Muaja, 2025).

Proof is required when a victim of sexual violence who is pregnant undergoes an abortion procedure in an effort to confirm that the event is a criminal act of sexual violence that caused her pregnancy, Article 118 of Law No. 28 of 2024 stipulates that proof is carried out through a medical document from a doctor confirming the pregnancy to ascertain whether it is in line with the incident of rape or sexual violence that led to the pregnancy, Then it was included with official documents by investigators regarding the alleged occurrence of criminal acts in the form of rape or sexual violence that resulted in pregnancy.

Based on Article 60 paragraph (2) of the Health Law, the implementation of abortion that meets legal and ethical criteria may only be carried out by medical professionals who have official certification and competence, and assisted by supporting health workers who also meet the standards of authority in accordance with applicable regulations. In addition, this procedure must be carried out in health service facilities that have met the special requirements set by the Minister such as adequate medical equipment, safety protocols, and operational benchmarks officially determined by the Minister of Health, in order to ensure safety and quality of service for patients. Further, the abortion requires the written consent of the pregnant woman concerned, who shows her conscious and informed will, as well as the consent of her husband or life partner; However, in special cases such as victims of sexual violence or rape, the consent of the husband is not required, so priority is given to the right and protection of the victim to access the necessary health services without additional barriers. This provision aims to protect women's reproductive rights while ensuring that abortion is carried out responsibly and in accordance with the medical norms and legal provisions applicable in Indonesia.

More detailed arrangements regarding abortions that meet the permissible requirements should be established through a Government Regulation (PP). However, as long as the PP that specifically regulates abortion has not been issued, the provisions that apply temporarily refer to Government Regulation Number 61 of 2014 and Regulation of the Minister of Health Number 3 of 2016 concerning Training and Implementation of Abortion Services on

Indications of Medical Emergencies and Pregnancy Due to Rape, as long as they do not violate the regulations of the Health Law or the Criminal Code.

The practice of safe, quality, and responsible abortion must be under the supervision of medical professionals, especially doctors who adhere to strict medical standards, thereby ensuring the health and safety of pregnant women. This service should only be carried out in health service facilities that have met the standards set by the special requirements as set by the Minister of Health, creating a sterile and professional environment. All procedures are mandatory based on the voluntary request or consent of the pregnant woman, which is central to this decision, the consent of the husband is required, except in cases involving women as victims of rape where priority is given to the rights of the victim. This approach also emphasizes the principle of non-discrimination, where every woman is treated equally regardless of her background, and should not be motivated by the motive of material reward, but solely for the well-being of the individual concerned (Ariyani, 2023).

The implementation of abortion procedures is limited to doctors who have been officially appointed by the head of the district or city health office, provided that they have undergone special training on abortion services. This training is organized by the central government or local governments in collaboration with related professional organizations, and includes materials on clinical aspects, counseling techniques, and service management to ensure that services are provided safely, effectively, and according to standards. Medical personnel who have completed a comprehensive and comprehensive training program are authorized to obtain a certificate of certification issued by a government agency at the central level. This certificate serves as a proof of recognition of the ability of doctors to provide safe, quality, and responsibly performed abortion services. Then after obtaining a certificate, each health facility determined by the head of the hospital or the head of the district/city Health Office is obliged to form a Feasibility Team, which is led by a doctor certified in special training. This team is tasked with assessing the presence of indications of a medical emergency and examining rape victims based on a doctor's referral. After the examination, the team will issue a certificate of gestational age along with a certificate of eligibility to perform an abortion. Before the action is carried out, the victim is required to undergo an examination to confirm the gestational age and the truth of the rape. In addition, victims should also undergo pre-action counseling with a certified counselor to ensure mental and emotional readiness. If the victim is declared ready, the counselor will issue a statement of readiness, and the abortion can only be performed after the victim has a pregnancy certificate and a counseling result letter as official requirements.

Abortion must be carried out in line with the criteria that have been officially formulated, including including safe service facilities. Abortion services can be provided at health centers equipped with Basic Emergency Neonatal Obstetrics Services (PONED) facilities. This facility includes the services of doctors who have undergone special training, primary clinics that have provided basic medical services with experienced doctors, main clinics that provide medical services for obstetrics and gynecology specialists or at least basic medical services with these services carried out by doctors who have undergone special training, or in hospitals that have specialist doctors (Rahmawati, Napitupulu, & Singgi, 2021).

In the case of abortion involving rape victims, support from the police is urgently needed to provide protection and assistance to the victim. However, before being involved in the process, the police must understand the applicable regulations and responsibilities so that there are no misunderstandings that can harm the victim.

The Ministry of Health provided special training that began with the formation of an abortion team, consisting of three main medical personnel, namely obstetricians and gynecologists, forensic doctors, and psychiatrists. These three doctors have a crucial role in determining whether an abortion can be performed on a patient. The final decision on abortion

is based on the team's agreement. If they agree, the abortion procedure will be performed by an executor who is not part of the assessment team. However, in certain situations, for example, in a hospital where only one obstetrician and gynecologist is available, the doctor can concurrently serve as a team member as well as an executor.

The training provided does not focus on abortion techniques, because these skills have been acquired by doctors during the period of medical education. This allows GPs to administer abortions in emergency situations, especially in remote areas where there is a shortage of specialist medical personnel. The focus of the training lies in understanding the aspects of abortion, including its physical and psychological impacts, especially on rape victims who often refuse to have a pregnancy that occurs as a result of violence. The situation becomes more complicated when the victim is still a minor who may not fully understand the events he experienced. Through this training, it is hoped that all medical personnel will have a uniform understanding so that abortion procedures carried out without the basis of medical indications can be accepted and carried out appropriately, ethically, and responsibly (Karunia, 2023).

CONCLUSION

This study aims to comprehensively analyze legal protection for victims of sexual violence who face unwanted pregnancies, examine the implementation of the TPKS Law and regulations related to legal and safe abortion in Indonesia. The results of the study show that although there is a strong legal basis through the TPKS Law, Law No. 1 of 2023 concerning the Criminal Code, and Law No. 17 of 2023 concerning Health, its implementation in the field still encounters various obstacles, such as limited access to medical services, high social stigma, and a lack of understanding of the rights of victims by law enforcement officials and health workers. This suboptimal implementation has resulted in many victims not getting a proper recovery and still opting for unsafe abortion routes that are risky to their safety. Therefore, this study recommends the need to strengthen cross-sectoral coordination between legal institutions, medical personnel, and women and child protection institutions; increased training for officials and medical personnel related to handling victims of sexual violence; as well as updates to derivative policies in the form of government regulations and technical guidelines that ensure safe abortion for victims of sexual violence. With these measures, it is hoped that legal protection and access to reproductive health services for victims of sexual violence can be realized in a real, fair, and human rights perspective.

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