

Legal Protection for Victims of Sexual Violence Under Indonesian Positive Law

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ABSTRACT

Sexual violence is a violation of human rights that significantly affects the physical, psychological, and social well-being of victims. Although Indonesia has established several legal frameworks to protect victims—including Law Number 12 of 2022 on Sexual Violence Crimes (UU TPKS)—its implementation continues to face various challenges. This study aims to analyze the forms of legal protection provided to victims of sexual violence under Indonesian positive law and to identify obstacles in its enforcement. The research employs a descriptive qualitative method using a literature review of primary, secondary, and tertiary legal sources. The findings indicate that the TPKS Law offers substantial progress by strengthening victims' rights to handling, protection, and recovery in a comprehensive manner. Nevertheless, its effectiveness remains hindered by the limited capacity of law enforcement officers to apply trauma-informed approaches, inadequate victim support services, persistent societal stigma, and weak interinstitutional coordination. This study concludes that enhancing the implementation of the TPKS Law requires improving law enforcement competence, expanding integrated victim services, and increasing public awareness to ensure that legal protection for victims is carried out effectively and equitably.

Keywords: Legal Protection, Sexual Violence, Law on Sexual Violence Crimes (UUTPKS)

INTRODUCTION

Sexual violence is a very complex form of human rights violation because it involves profound physical, mental, and social aspects. This issue can be found in various levels of society regardless of the age, gender, or socioeconomic status of the victim. Sexual violence remains a serious problem that requires attention from all elements of the state, especially in terms of legal protection for victims. According to data from the Ministry of Women's Empowerment and Child Protection, in 2024 the number of cases of violence increased from the previous year, reaching 31,947 cases. This condition shows that sexual violence remains a serious problem that requires attention from all elements of the state, especially in terms of legal protection for victims. In the context of the Indonesian legal system, protection of victims is an important part of the law enforcement process based on justice and respect for human dignity.

Generally sexual harassment or sexual harassment Harassment can be interpreted as an action or Behavior that is directed or directed at something that has a sexual connotation can be a joke or a statement and vulgar action that is "obscene". teasing and making certain gestures leading to sexual activity either verbally or non-verbally. The development of information technology The year is a sign of the beginning of modernization in the company. The presence of the Internet is very important today to meet the needs of society regarding socialization, education, business, etc. Unfortunately, the crime is so high Internet or (cybercrime) in the form of crime that is very detrimental and disturbing Society is one form of crime that exists in social networks, namely all types of computer network applications for criminal purposes and / or

advanced technology through misuse One of them is the ease of digital technology forms of crime reported in the media

As a nation governed by the rule of law, Indonesia is obligated to ensure that every citizen feels safe and free from all forms of violence, including sexual violence. The Indonesian government has enacted various regulations aimed at providing legal protection to victims, such as the Criminal Code (KUHP), the Child Protection Law, the Witness and Victim Protection Agency (LPSK) Law, and most recently, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS). However, despite the continued development of these regulations, many victims still face obstacles in obtaining effective legal protection, including in the reporting process, assistance, and recovery.

The main problem that frequently arises is the gap between existing legal norms and their implementation. Many victims experience obstacles ranging from fear of social stigma, a lack of understanding of legal procedures, to limited support services. Law enforcement officers also often face challenges in understanding victims' psychological issues, resulting in the investigation process often being sensitive to the victims' circumstances. This demonstrates that legal protection is not simply a matter of the existence of legal regulations, but also of how law enforcement is carried out in a humane and responsive manner.

On the other hand, legal protection for victims of sexual violence is not only repressive, namely actions taken after the crime has occurred, but also encompasses preventive and rehabilitative protection. Preventive protection aims to prevent sexual violence through education, outreach, and clear regulations. Meanwhile, rehabilitative protection aims to restore victims' condition after the violent incident, whether through health services, psychological support, or legal aid. This comprehensive approach is crucial to ensure victims do not experience re-victimization during the legal process.

METHODS

The method used in this study is a qualitative descriptive approach with library research, utilizing primary, secondary, and tertiary legal sources to provide a comprehensive overview of how positive law in Indonesia regulates and provides legal protection to victims of violence. Therefore, this research is expected to provide scientific contributions in understanding the extent to which existing regulations are able to address victims' problems and identify weaknesses and challenges in their implementation.

RESULTS AND DISCUSSION

RESULT

Forms of Legal Protection for Victims of Sexual Violence in Positive Law

According to the World Health Organization (WHO), sexual violence is defined as any sexual act committed without the victim's consent, including physical sexual acts, such as rape, and unwanted or degrading sexual behavior. Sexual violence is an act of violence committed by someone by forcing them to engage in unwanted sexual intercourse. Indonesian positive law regulates the protection of victims of sexual violence through applicable laws. The laws governing the protection of victims of sexual violence in Indonesia include:

1. Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence.

2. Law Number 35 of 2014 concerning Child Protection.
3. Law Number 23 of 2004 concerning the Elimination of Domestic Violence.

Sexual violence is a form of crime under Indonesian law. It constitutes a violation of human rights, a crime against human dignity, and a form of discrimination that must be eliminated. Forms of sexual violence are comprehensively regulated in Article 4, paragraphs (1) and (2) of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS). Positive law places greater emphasis on a victim-centered approach, prioritizing victims' rights to ensure physical, psychological, and social recovery. The TPKS Law actually introduces several breakthroughs compared to other regulations on sexual violence, including the rights of victims to treatment, protection, and recovery from the time of the sexual violence. The state is obligated to provide significant support to victims in the form of restitution.

Victims' rights include the right to treatment, protection, and recovery, which they can obtain, utilize, and enjoy. Therefore, broadly speaking, under Indonesian law, protection for victims of sexual violence can include the fulfillment of their rights, including the treatment process, protection from sexual violence, and recovery before and during the trial. The right to treatment ensures that victims receive assistance immediately after the incident to prevent further trauma and facilitate recovery. The victim's right to treatment is regulated in Article 68 of the TPKS Law, which states:

1. The right to information regarding the entire process and results of handling, protection and recovery.
2. The right to obtain documents resulting from processing.
3. Right to legal services;
4. The right to health services includes medical examinations, actions and treatment.
5. The right to services and facilities according to the special needs of the victim.
6. The right to removal of sexually charged content in cases of sexual violence using electronic media.

The right to protection of victims' rights can mean the victims' right to receive protection from all forms of threats, harassment, or human rights violations that can worsen their condition during the legal process, recovery, and daily life. The right to protection is regulated in Article 69 of the TPKS Law, which states:

1. Provision of information regarding rights and protection facilities.
2. Provision of access to information on the implementation of protection.
3. Protection from threats or violence from perpetrators and other parties and from repeated violence.
4. Protection of identity confidentiality.
5. Protection from attitudes and behavior of law enforcement officers that demean victims.
6. Protection against job loss, job transfer, education, or political access.
7. Protection of victims and/or reporters from criminal charges or civil lawsuits for reported acts of sexual violence.

The right to rehabilitation is regulated in Article 70 of the TPKS Law, which covers rehabilitation before and during the judicial process. This rehabilitation includes medical rehabilitation, mental and social rehabilitation, social empowerment, restitution and/or compensation, and social reintegration.

Implementation of Positive Law in Handling Sexual Violence in Indonesia

Positive law refers to a body of written legal principles and rules currently in force and binding, generally or specifically, to be enforced by and/or through the government or courts within Indonesia. In the context of addressing sexual violence, positive law in Indonesia is regulated through national legislation, focusing on protecting victims and punishing perpetrators. Protection of victims in the judicial process is of course inseparable from protection under applicable positive law. Several laws and regulations govern sexual violence under Indonesian positive law. However, the primary positive law governing sexual violence is Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS). This law replaces and strengthens previous provisions.

The provisions on the rights of victims of sexual violence in Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS) bring a new perspective to law enforcement in cases of sexual violence. Previously, law enforcement practices tended to focus on criminalizing perpetrators and paid little attention to protecting victims' rights. The legal resolution under the TPKS Law utilizes contemporary criminal theory, prioritizing not only the principle of revenge but also the benefits for victims and other parties. This includes guarantees of protection and assistance, as well as fulfilling the right to restitution or recovery. In addition to criminal penalties, perpetrators are also provided with rehabilitation services to discourage repeat offenses.

The use of the PKS Bill's title, which includes the term "violence," was deemed potentially problematic. Therefore, a name change was deemed necessary and would impact the bill's substance. In August 2021, the PKS Bill was officially renamed the TPKS Bill. This name change is believed to better enable the TPKS Bill to provide protection and justice for victims without any specific limitations. In 2022, the TPKS Bill was passed and enacted on May 9, 2022. Since its enactment, victims have been better protected. Overall, the articles in the TPKS Law provide more benefits to victims of sexual violence. The TPKS Law was passed for several reasons, including:

1. Every person has the right to protection from sexual violence and the right not to experience torture or acts that degrade human dignity as guaranteed by the 1945 Constitution.
2. Sexual violence is contrary to divine and human values and disrupts social order and peace.
3. Legislation is not yet comprehensive in terms of prevention, protection, access, justice and recovery, does not meet the needs of victims of sexual violence, and is not yet comprehensive in regulating the law.

The TPKS Law was designed as a *lex specialis*, meaning it provides specific regulations for crimes of sexual violence, including prevention, treatment, victim recovery, and integrated and comprehensive law enforcement. However, in reality, the TPKS Law's implementation in addressing sexual violence in Indonesia has not been fully optimal. There are many reasons why the implementation of the TPKS Law has not been fully optimal. There are two definitions of prevention under the TPKS Law: first, prevention before it occurs, and second, prevention after a crime of sexual violence has occurred. Prevention before it occurs means preventing

anyone from experiencing sexual violence. Meanwhile, prevention after it occurs indicates that sexual violence has already occurred and must be prevented from happening again.

The main challenge faced is that some communities still believe that the increase in reported cases of sexual violence creates a stigma of moral problems in the region, so victims will be afraid to report their cases. However, Article 85 of the TPKS Law emphasizes the role of the community in implementing TPKS prevention, such as cultivating literacy about TPKS, socializing laws and regulations related to TPKS, and creating an environment that can prevent TPKS. On the other hand, the readiness of law enforcement officers in handling cases of sexual violence is still not optimal, especially regarding the use of a sensitive approach and focus on victim protection. Although the TPKS Law provides quite clear guidelines, law enforcement officers are often insufficiently trained in handling cases of sexual violence with an empathetic approach and without blaming the victim. As a result, many victims are reluctant to report sexual violence they have experienced due to fear of a long and painful legal process, as well as a lack of trust in law enforcement officers who have not been able to respond sensitively to the trauma experienced by victims.

The implementation of the TPKS Law in addressing sexual violence still faces various obstacles. To improve the effectiveness of law enforcement, training officers in a trauma-based approach to investigating sexual violence cases is needed. Furthermore, coordination between institutions, the government, and the community must be strengthened in preventing sexual violence. Public outreach needs to be expanded to create a supportive environment for victims and encourage victims to report cases of sexual violence.

CONCLUSION

Legal protection for victims of sexual violence under Indonesian positive law has been comprehensively regulated through various regulations, most notably Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS), which provides a significant breakthrough in the handling, protection, and recovery of victims. The TPKS Law affirms victims' rights, including the right to handling, protection, and recovery from the time the crime occurs.

Challenges include a lack of understanding among law enforcement officials regarding a sensitive and empathetic approach, limited support services, social stigma against victims, and suboptimal coordination between institutions. Nevertheless, the TPKS Law has provided a strong foundation for the state to strengthen victim protection. For legal protection to be effective, increased understanding among law enforcement officials is needed through specialized training, strengthening integrated services for victims, and more extensive outreach to the community to create a safe and supportive environment for victims to report cases of sexual violence. Therefore, strengthening the ongoing implementation of the TPKS Law is key to achieving justice and comprehensive recovery for victims of sexual violence in Indonesia.

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