Implementation of Human Rights Protection For Victims of Sexual Violence in Indonesia

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Abstract

The concept of Indonesia as a state of law emphasizes the importance of protecting human rights as stated in Article 1 paragraph (3) and Article 28G paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This study uses a normative juridical method with a legislative approach and a conceptual approach. The legislative approach is used to examine regulations related to sexual violence, while the conceptual approach is used to build legal understanding based on the doctrine and principles of protection of victims. Sexual violence is a violation of human dignity and the right to freedom from inhuman treatment. However, the rate of sexual violence in Indonesia continues to increase, while existing regulations have not been able to provide comprehensive protection for victims. The protection of victims of sexual violence is regulated in various regulations such as the 1945 Constitution, the Human Rights Law, the Criminal Code, the Domestic Violence Law, the Child Protection Law, and the PTPPO Law. However, there is no comprehensive protection because there is no specific law yet. The Criminal Code is still oriented towards moral violations, not victim protection, and is positivistic.

***Keywords**:* Human Rights, Self-Protection, Sexual Violence.

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Introduction

The concept of Indonesia as a state of law is affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Unitary State of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia). The main essence of *rechtsstaat* lies in the recognition of human rights (HAM). The State is obliged to guarantee and fulfill the recognition and protection of human rights based on the principles of freedom and equality. [1]

The Constitution expressly guarantees the freedom of every individual from torture and treatment that degrades human dignity, as stated in Article 28G paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Sexual violence is a form of action that degrades human dignity and dignity, so its elimination is a must in order to protect the right to freedom from inhuman treatment. However, reality shows that cases of sexual violence still continue to occur and tend to be ignored by the state. Data from the National Commission on Anti-Violence against Women (Komnas Perempuan) noted that from 2008 to 2019, the rate of violence against women increased by 792%, or almost eight times in a period of 12 years. Throughout 2019 alone, there were 431,471 cases of violence against women, with the majority occurring in the personal realm. Of these, forms of physical violence occupy the highest position at 43%, followed by sexual violence which reached 25% of the total cases. [2]

The limited legal instruments available in handling cases of sexual violence are not proportional to the complexity of the problems that occur, causing impunity, recurrence of cases, and frustration among victims in fighting for the right to justice, truth, and restoration. The high number of cases of sexual violence is not balanced by comprehensive regulations, so the protection of Indonesian women from gender-based violence has not received serious attention from the state. The dynamics of a rapidly developing society are not followed by a change in the legal paradigm, thus making the law less responsive in dealing with the problems experienced by women. [3]

Various regulations in Indonesia have actually recognized a number of terminologies related to the crime of sexual violence. For example, the Criminal Code regulates crimes against morality, while in some translations the term crimes against honor are used. Furthermore, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection uses the term sexual crime, Law Number 23 of 2004 concerning the Elimination of Domestic Violence uses the term sexual violence, and Law Number 44 of 2008 concerning Pornography also touches on similar aspects. However, although these regulations contain provisions related to sexual violence, the Criminal Code does not provide a strict definition of the crime of sexual violence, but directly formulates related articles. The same thing is also seen in the Child Protection Law which only refers to the provisions of the Criminal Code, Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons which limits violence in the context of sexual exploitation in human trafficking, and the PKDRT Law which does not provide an explicit explanation of the definition of sexual violence. [4]

The difference in definition becomes the issue of criminalization in cases of sexual violence becomes complicated. *The World Health Organization* (WHO) defines sexual violence as:*"any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work".* [5]

When freely translated, sexual violence according to the WHO definition is "All acts related to sexual activity or attempted sexual activity or comments or other acts that forcibly attack a person's sexuality regardless of the relationship between the victim and the perpetrator". The discussion initiatives are focused on criminalizing acts of violence, forgetting the more important and urgent issue of victims' rights.

Discussions about victims' rights are often ignored because more attention is directed to the criminalization aspect. Most laws and regulations only detail the acts that can be subject to criminal sanctions, but do not provide room for regulation regarding victims and the rights they should have. As a result, the victims who actually suffer the most become the marginalized parties. Sexual violence not only has a physical impact, but also leaves deep psychological and social wounds for the victim. In such conditions, the state has an obligation to guarantee and fulfill the rights of victims of sexual violence as part of the fulfillment of human rights.

A number of laws and regulations in Indonesia have actually contained provisions regarding the rights of victims of sexual violence. These rights are regulated in various legal instruments, including the Child Protection Law, the Law on the Elimination of Domestic Violence (PKDRT Law), Law Number 13 of 2006 concerning the Protection of Witnesses and Victims as amended by Law Number 31 of 2014 (Law on the Protection of Witnesses and Victims), and the Law on the Eradication of Trafficking in Persons (UU PTPPO). However, these arrangements are generally still normative. Furthermore, there are differences in the substance of victims' rights between laws, both in terms of regulation and implementation, thus causing inconsistencies in the implementation of protection for victims.

This problem is a concern for the author because there is a need for legal instruments in Indonesia that are able to prevent and handle sexual violence, as well as ensure the fulfillment and protection of victims' rights. The fragmentation of regulations on sexual violence and victims' rights raises uncoordinated and incomprehensible problems, so there are no specific provisions that guarantee that victims obtain their rights in full. Indonesia itself has ratified the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) through Law Number 7 of 1984. Based on this, the author is interested in analyzing legal protection for victims of sexual violence in Indonesia in handling cases of sexual violence, considering that there are still many cases that have not provided a sense of justice for victims. Although there have been various studies on the protection of victims of sexual violence, the discussion is generally partial and limited to certain categories, such as children, girls, or women. This paper seeks to provide a more comprehensive analysis using a human rights perspective.

Literature Review

2.1 Economic changes and digital consumption

The implementation of human rights protection for victims of sexual violence in Indonesia is an important issue in the study of law and public policy because sexual violence is a serious form of violation of human dignity. In the perspective of international human rights, as stipulated in the *Universal Declaration of Human Rights* (UDHR) and *the Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW), states have an obligation to prevent, protect, and rehabilitate victims of gender-based violence. In Indonesia, the basis for protection for victims was initially spread in various regulations such as the Criminal Code, the Law on the Elimination of Domestic Violence, the Child Protection Law, and the Human Rights Law, but the literature notes that these regulations are not comprehensive because the definition of sexual violence is still limited, the mechanism of proof tends to burden the victim, and access to psychological, medical, and socio-economic recovery is not optimal. The presence of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) then became an important milestone because it provides a broader definition of sexual violence and guarantees the victim's right to receive integrated legal, psychological, and rehabilitation assistance. Despite normative progress through the TPKS Law, the implementation of human rights protection for victims still faces structural and cultural obstacles. A number of studies show that the culture *of victim blaming* is still strong so that many victims are reluctant to report cases, and law enforcement officials do not fully have a gender-sensitive perspective so that the judicial process often causes re-trauma (*revitalization*)

for victims. In addition, access to recovery services such as safe housing, psychological counseling, and social assistance remains uneven, especially in rural areas and areas far from government service centers. However, the literature also shows positive developments such as strengthening the role of the Women's and Children's Protection Unit (PPA), LPSK, and community-based service institutions that are beginning to be effective in assisting victims in obtaining assistance, including access to restitution and compensation as part of comprehensive recovery. [6]

Research Methodology

In this study, the author uses a normative juridical research method, which is a research that uses a problem approach to examine the concepts and relationships of various provisions that regulate sexual violence in Indonesia. To solve the legal issues in this paper, the author uses the statute *approach* and the conceptual *approach*. The legal approach is carried out by studying all laws and regulations related to the issue being studied. Then the conceptual approach is carried out by building legal concepts through the views and doctrines that develop in the science of law principles. [7]

Results

4.1 Legal and Human Rights Review of Sexual Violence Arrangements

Jeremy Bentham argued that human life is driven by two main things, namely pleasure and suffering. An action, norm, or law can be considered good and fair if it is able to provide the greatest benefits and happiness for society as a whole, or at least for the majority. Utilitarianism emphasizes the welfare of the majority, but in practice it often results in minority groups or certain individuals suffering losses and even losing their basic rights. The potential for the birth of majority tyranny is an inherent characteristic of utilitarianism, so that anti-utilitarianism theory emerges as an antithesis to the weakness of the theory.

As the antithesis of utilitarianism, Dworkin and Nozick put forward a critique that came to be known as the theory of anti-utilitarianism. Nozick argues that utilitarianism tends to sacrifice individual freedom for the sake of the majority, without taking into account that each individual has only one life that cannot be treated solely as a tool for others. Thus, no one should be sacrificed without his consent for the benefit of society. Every individual has the same value and no one is higher than the other. Therefore, the state is obliged to provide complete and equal protection to all its citizens. [8]

One of the forms of the state's commitment to carrying out the responsibility of legal protection of human rights is to ratify international instruments in the field of human rights. In the context of protecting victims of sexual violence, Indonesia has ratified a number of important instruments, including *the International Covenant on Civil and Political Rights* (ICCPR) and *the Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW). As a state party, Indonesia has an obligation to fulfill this responsibility by adjusting national laws to be in line with the provisions of international agreements, as well as implementing the mechanisms stipulated in the international instruments.

In addition to international legal instruments, Indonesia also has a number of national provisions that regulate sexual violence. In general, these regulations are contained in the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights (Human Rights Law), and the Criminal Code (KUHP). Furthermore, several special law products, such as the Law on the Elimination of Domestic Violence (PKDRT Law), the Child Protection Law, and the Law on the Eradication of Trafficking in Persons (PTPPO Law) also include provisions related to the protection of victims of sexual violence. However, these regulations are still considered inadequate. Existing legal instruments have

not been able to provide comprehensive protection, because until now there has been no law that specifically regulates sexual violence. [9]

According to *the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (UN General Assembly Resolution No. 40/34, of 1985), known as the *Declaration of Principles of Justice for Victims*, victims are defined as: *"Persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional distress, economic loss, or substantial deprivation of their fundamental rights, through acts or omissions that violate the criminal laws in force in a country, including laws prohibiting the abuse of power."*

This definition emphasizes that victims are not only limited to those who suffer physical or material harm, but also include psychological suffering and violations of fundamental rights. In fact, this recognition extends to victims of abuse of power by state authorities and other parties.

Thus, the concept of victim in the perspective of criminal law, human rights, and international law does not only refer to those who suffer as a result of criminal acts, but also to those who suffer losses due to abuse of authority, discrimination, and other forms of human rights violations, including sexual violence.

Sexual *violence* or sexual violence is a term that is *paying* which includes various types of sexual acts. The WHO defines *sexual violence* as:"*Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work". Sexual violence* as defined by the WHO in free translation is defined as any sexual act, attempt to obtain sexual acts, unwanted sexual comments or seductions, or acts of trafficking in a person's sexuality or otherwise directed against a person's sexuality by force, by anyone, regardless of the relationship to the victim, in any situation, including but not limited to home and workplace.[10]

4.2 National Legal Aspects in Protecting Victims of Sexual Violence

In the realm of national law, the 1945 Constitution of the Republic of Indonesia and its laws and regulations have stipulated guarantees for the protection of human dignity and dignity. The Constitution generally regulates the protection of the individual, including freedom from all forms of treatment that degrades the degree of humanity. Further regulations are listed in the Human Rights Law, while criminal provisions regarding sexual violence are spread across various regulations, such as the Criminal Code, the Law on the Elimination of Domestic Violence, the Child Protection Law, and the Law on the Eradication of Trafficking in Persons. Thus, the guarantee of protection for victims of sexual violence has been expressly regulated in the 1945 Constitution of the Republic of Indonesia and the laws and regulations under it.[11]

4.2.1 Constitution of the Unitary State of the Republic of Indonesia in 1945 (Constitution of the Republic of Indonesia in 1945)

Specifically related to the protection of personal self-esteem for honor, and dignity and also against torture or degrading treatment, human dignity is regulated in Article 28G of the Constitution of the Republic of Indonesia of 1945 which reads as follows: Everyone has the right to the protection of their personal life, family, honor, dignity, and property under their control, and the right to a sense of security and protection from the threat of fear to do or not do something that is a human right. Everyone has the right to be free from torture or degrading treatment and has the right to obtain political asylum from another country.

Based on these articles, there is a guarantee of personal self-protection of honor and dignity and also against torture or treatment that degrades the degree and dignity of human beings. So that legal protection for victims of sexual violence is part of the constitutional right. [12]

4.2.2 Laws and Regulations Under the 1945 Constitution of the Republic of Indonesia

In general, the provisions of Article 29 paragraph (1) of the Human Rights Law affirm the existence of a guarantee of protection of the individual, honor, and dignity of each individual. In addition, this law also pays special attention to vulnerable groups as stated in Article 5 paragraph (3). Regulations on children's rights and women's rights are placed separately as a form of special protection for the two groups. This pattern is in line with the development of international law which also confirms the existence of special instruments that regulate separately the rights of the child and the rights of women.[13]

The state's guarantee of human rights is not solely born from the ratification of international legal instruments or through the issuance of laws and regulations, but it is the state's responsibility to protect the rights of citizens that have been inherently inherent since birth. This reflects the state's respect for these human rights. Women as part of a community group in a country are parties whose rights must be fully guaranteed. Therefore, the state has an obligation to provide human rights protection for women as well as for other groups of society.

4.3 Regulations Related to Sexual Violence in Criminal Law

Human rights, both men and women, are recognized and protected by law. The existence of the law is needed as a form of the state's commitment to protecting the human rights of all citizens, including women. In the context of positive law in Indonesia, it is appropriate for women victims of violence to receive adequate protection. The Criminal Code does regulate violent crimes through a number of articles spread in chapters on crimes against morality, crimes against life, persecution, and acts that result in death or injury due to negligence. However, the Criminal Code has not specifically regulated violent crimes that do not cause physical injury, such as harassment, insults, or verbal violence that has an impact on psychological trauma. Similarly, provisions regarding the specific crime of sexual violence cannot be found in the Criminal Code.

In the Criminal Code (KUHP), violent crimes are regulated by providing protection for each victim, both male and female, especially if the violence causes physical injury. However, there is also a form of violence that is specifically related to women, namely sexual violence. Provisions regarding sexual violence against women are regulated in Articles 285, 286, 287, 288, and 297 of the Criminal Code which are under Chapter XIV concerning *Crimes against Morality*. [14]

Article 285 of the Criminal Code states that, "Whoever by force or threat of violence forces a woman to have intercourse with him outside of marriage, is threatened with rape, with imprisonment for a maximum of twelve years." Furthermore, Article 286 stipulates that, "Whoever has sexual intercourse with a woman outside of marriage, even though it is known that the woman is unconscious or helpless, is punished with a maximum penalty of nine years." Article 287 affirms the prohibition of intercourse with underage women, while Article 288 regulates intercourse with underage women that results in injury, serious injury, or death. Article 297 contains provisions regarding trafficking in women and underage boys.

The regulation of violent crimes in the Criminal Code focuses more on the aspect of decency than the protection of women as victims. The term used is crime *against morality*, which basically focuses on moral norms, decency, and the location of criminal acts, especially in public spaces, not on the protection of victims. The Criminal Code that is in force in Indonesia until now is a Dutch colonial legacy. In the early days, Indonesia even experienced a dualism of criminal law, namely criminal law for Europeans regulated in *Staatsblad* 1866 Number 55, and criminal law for Indonesians and Foreign Orientals regulated through *Ordonantie*. Both rules are the adoption of the French *Penal Code* which was enforced in the Netherlands when it was under French rule. Through the principle of concordance, the French criminal law that

applies in the Netherlands is also enforced in the Dutch East Indies, so that it is automatically also applied in Indonesia. [15]

The Criminal Code that is in force today, especially the one that regulates acts of violence, is a legacy from the Netherlands since 1918 as a replacement for the previous Criminal Code. The codification of criminal law was greatly influenced by the French criminal law system applied in the Netherlands, which essentially emphasized centralistic prohibitions. The main goal is to create a rule of law that must be obeyed by citizens. Consequently, the criminal law regulation in the Criminal Code tends to be positivistic because it focuses more on formal compliance with codified norms. Efforts to reform the Criminal Code (KUHP) in Indonesia have been going on for decades. The idea of recodification of the Criminal Code first emerged at the National Law Seminar I in Semarang in 1963, which later became the starting point of the history of national criminal law reform. A year after the seminar, the government formed a drafting team for the Draft Criminal Code (RKUHP) as a concrete step in the renewal process. However, the journey of the RKUHP has experienced quite a long dynamic, with the ups and downs of discussions for more than half a century without achieving ratification. Currently, the RKUHP has been included in the National Legislation Program (Prolegnas) for the 2020–2024 period and is at the Level II Talks stage in the DPR. One of the important aspects of the RKUHP is the opening of the possibility of changes to articles related to moral crimes, which reflects the direction of criminal law reform according to the needs of contemporary Indonesian society. [16]

Until the last draft circulated in September 2019, the RKUHP was actually considered a setback in the protection of victims of sexual violence. This can be seen in Article 417 which defines sexual intercourse outside marriage as a criminal act, although this article can only be enforced through the mechanism of complaint by parents, spouses, or children. The expansion of the meaning of adultery to any sexual relationship outside of marriage poses a risk of *overcriminalization* and is counterproductive to efforts to protect victims. Reality shows that the main perpetrators of sexual violence in the personal realm are often the victim's girlfriend or close family members. With this article, there are concerns that it is increasingly difficult for victims to get justice, because sexual relations that actually occur through coercion can be perceived as consensual relationships, and even have the potential to criminalize the victim herself. This situation is clearly contrary to the spirit of the elimination of sexual violence that has been fought for.

Violent crimes that do not cause physical injury, such as harassment, insults, or verbal violence that have an impact on psychological injury, have only been explicitly regulated through Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law). This law, which was passed on September 22, 2004, comprehensively regulates the prohibition of acts of violence within the domestic sphere, including physical, psychological, sexual, and neglectful violence. The term *sexual violence* itself was first introduced normatively in this legal instrument. Article 8 of the PKDRT Law states the scope of sexual violence, including: (1) forced sexual relations committed against people who live within the scope of the household; and (2) forced sexual relations against one person within the scope of the household with another person for commercial purposes and/or certain purposes. However, this law does not provide a more detailed definition of the concept of sexual violence, thus creating a fairly wide scope of interpretation in law enforcement practice.[17]

In particular, the provisions regarding the protection of children from sexual violence have been regulated in Law Number 23 of 2002 concerning Child Protection as amended several times, most recently by Law Number 35 of 2014. In Article 15 letter f it is affirmed that *"Every child has the right to be protected from sexual crimes."* This provision affirms the state's recognition of the right of children to be free from all forms of sexual violence, while placing children as legal subjects who must be protected. However, the Child Protection Act does not

provide an explicit definition of the terms "sexual crimes" or "sexual violence". This lack of definition raises juridical problems in its implementation, considering that the protection of children from sexual violence requires clarity of norms so that it can be used as a basis for effective law enforcement. Therefore, the interpretation of sexual crimes in the context of child protection often refers to the provisions of other laws and regulations, such as the Law on the Elimination of Domestic Violence and the Criminal Code (KUHP), so that it can provide conceptual clarity and legal certainty for law enforcement officials in protecting children as victims.

One form of sexual violence that is also of concern is sexual exploitation, which has been regulated in *the Law on Trafficking in Persons* (UU PTPPO). In Article 1 number 8, the PTPPO Law defines sexual exploitation as *"any form of exploitation of the sexual organs or other organs of the victim for profit, including but not limited to prostitution and fornication activities."* Sexual exploitation in the context of trafficking in persons is clearly an act that is contrary to human dignity and is a fundamental violation of human rights. Therefore, these criminal acts must be strictly eradicated. Furthermore, the development of increasingly widespread and organized trafficking networks, both across countries and domestically, poses a serious threat to the respect, protection, and fulfillment of human rights.

Victims of the Crime of Trafficking in Persons (TPPO) are not only limited to the purpose of prostitution or sexual exploitation, but also include various other forms of exploitation. In Indonesia, the majority of trafficking cases include labor exploitation, sexual exploitation, work that is not in accordance with employment agreements, the sale of organs, and the practice of buying and selling babies. The complexity and broad scope of these crimes show that trafficking is a form of *extraordinary crime* that requires a special, integrated, and sustainable handling strategy.

The prevention aspect in efforts to eradicate the crime of trafficking in persons as regulated in the PTPPO Law has a very important role. Similarly, the aspect of law enforcement through punishment, which in addition to functioning to crack down on perpetrators, is also expected to contribute to preventing similar crimes. The application of heavy criminal sanctions is normatively designed to have a deterrent effect and prevent the practice of trafficking in persons. However, reality shows that despite the enforced regulations and threats of punishment, cases of trafficking in persons are on the rise, signaling a gap between the normative goals of the law and implementation on the ground.

The criminal law that regulates sexual violence in Indonesia is still spread in various sectoral laws and regulations. Forms of sexual violence such as rape, sexual harassment, unwanted touching, forced sexual intercourse, sexual trafficking, female circumcision, obscenity, child marriage, forced contraception, sexual slavery, forced prostitution, and forced pregnancy, are generally regulated separately in a number of laws, including the Law on the Elimination of Domestic Violence (UU PKDRT), the Child Protection Law, and the Law on Domestic Violence. Eradication of Trafficking in Persons (PTPPO Law). In this context, when the Criminal Code (KUHP) does not comprehensively regulate sexual violence, the principle of *lex specialis derogat legi generali* applies, which is a specific legal provision that overrides general legal provisions. However, the fundamental problem that arises is the lack of a law that specifically and comprehensively regulates sexual violence. As a result, in cases that cannot be reached by sectoral regulations, law enforcement officials often revert to the general provisions of the Criminal Code, which are basically unable to provide optimal legal protection for victims of sexual violence.

In the realm of criminal law, the Criminal Code (KUHP) is bound by the principle of legality as contained in Article 1 paragraph (1), which states that *"No act can be punished except based on the provisions of the laws that existed before the act was committed."* This formulation emphasizes that the Criminal Code can only be applied to criminal acts that

have been explicitly regulated in laws and regulations. Thus, any form of crime or violation that is not stated in writing in the positive legal provisions cannot be processed or subject to criminal sanctions. This principle explicitly limits the scope of the application of criminal law to offenses that have been clearly formulated by the lawmakers.

A critical analysis of the principle of legality in Article 1 paragraph (1) of the Criminal Code shows that although this principle is important to prevent arbitrariness by the ruler, its rigid application actually limits the scope of legal interpretation. The dominance of positivism makes legal certainty take precedence over substantive justice, so that dangerous acts that have not been regulated in writing can escape the snares of the law. This creates a dilemma between maintaining legal certainty and fulfilling the community's sense of justice.[18]

Protection for victims of sexual violence in Indonesian laws and regulations is still spread across several laws and regulations, such as the Criminal Code, the Domestic Violence Law Law, the Child Protection Law, and the PTPPO Law. There is no specific law that regulates the protection of victims of sexual violence. The legal instruments related to the protection of victims of sexual violence that currently exist have not been able to provide a comprehensive legal umbrella.

The element of intercourse itself, according to R. Soesilo, is interpreted as the existence of a contest between the male genitals and the female genitals to the release of semen. This is certainly very narrow considering that cases of sexual violence that occur are not always the case. All the elements in the two articles must also be fulfilled cumulatively so as to meet the delicacies of these articles. When one of the elements in the criminal procedure formulation cannot be fulfilled, then the act cannot be classified as a criminal act because the criminal act has not or has not occurred. Laws related to sexual violence, including the PKDRT Law, the Child Protection Law, and the PTPPO Law, each contain a definition of 'victim'. Victims protected by the PKDRT Law are regulated in Article 1 number 3 of the PKDRT Law which defines a victim as "a person who experiences violence and/or threats of violence within the scope of the household." The Child Protection Law, which specifically regulates child protection, through Article 1 number 1, provides restrictions through the definition of a child as "a person who is not 18 (eighteen) years old, including a child who is still in the womb." Then in the crime of trafficking in persons, the scope of the victim is limited through Article 1 number 3 of the PTPPO Law, namely "a person who experiences psychological, mental, physical, sexual, economic, and/or social suffering, as a result of the crime of trafficking in persons". In fact, victims of sexual violence are not only limited to victims in the Criminal Code, victims in the domestic realm, child victims, and victims of human trafficking. Victims of sexual violence outside of all of them certainly need the same protection. In the absence of comprehensive rules, efforts to protect victims of sexual violence are not optimal.

Efforts to improve legal protection against sexual violence continue to be encouraged through the PKS Bill initiated by the civil society coalition. This bill aims to prevent and deal with sexual violence, provide rehabilitation for victims, and enforce punishment for perpetrators. In addition, the PKS Bill offers special legal procedures so that the obstacles experienced by victims can be minimized and access to legal aid, especially for women, can be more easily reached.

Conclusion

1. Legal protection for victims of sexual violence can be interpreted as part of human rights, namely the right to individual safety, the right to freedom and personal security, and self-protection of the honor and dignity of a person who is naturally inherent in human beings since birth. Legal protection for victims of sexual violence can be traced from international instruments on human rights, including the UDHR

(Article 1), ICCPR (Article 9 number 1), and CEDAW (Article 2 and Article 6). At the national level, it is contained in the 1945 Constitution of the Republic of Indonesia (Article 28G) and the Human Rights Law (Article 29 paragraph (1)). The criminal law that regulates the crime of sexual violence is spread across several provisions, including the Criminal Code through Articles 285-288 and 297, the PKDRT Law, the Child Protection Law, and the PTPPO Law.

2. Protection for victims of sexual violence in laws and regulations in Indonesia already exists but is still spread across several laws and regulations, such as the Criminal Code, the PKDRT Law, the Child Protection Law, and the PTPPO Law. The legal instruments related to the protection of victims of sexual violence that currently exist have not been able to provide a comprehensive legal umbrella. The absence of a special law regulating the protection of victims of sexual violence makes protection for victims of sexual violence not optimal.

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