

Protection of Women's Rights in terms of Legal Aspects

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ABSTRACT

Domestic violence is a criminal offense for which perpetrators can be punished. There are different types of domestic violence, including financial hardship. Because the perpetrator is still a partner, many victims are afraid to report their crimes to the police, and those closest to them are also afraid to help because it is considered not their duty. The problem of bullying in children at school is a serious and widespread problem. Bullying by friends has the potential to cause trauma to children so that it can inhibit their growth and development. It is aimed that by following this community service, individuals will be able to increase knowledge and actions in their households.

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INTRODUCTION

Domestic violence (KDRT) is defined as any act in the home committed by a husband, wife, or child that has a negative impact on the harmony of relationships either physically, psychologically, or others in Article 1 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law). Domestic violence includes any act committed against a person, often female, that inflicts pain physically, sexually, psychologically, or in some other form; It also includes domestic neglect, threats of violence, coercion, or illegal restrictions on liberty. Although some individuals experience bullying within the home or become victims of the opposite scenario, most victims of domestic violence are women, especially spouses, and the perpetrators are mostly husbands. The premise of equality before the law as stated in Article 27 paragraph (1) of the 1945 Constitution states that every citizen has equal rights before the law. This determination is based on this idea.

The TPKS Bill is a proposed bill that addresses sexual violence. RUU PKS, also known as the Bill on the Elimination of Sexual Violence, is a bill that discusses and regulates sexual violence before the emergence of the TPKS Bill. However, RUU PKS was formerly known as the Sexual Violence Crime Bill or TPKS Bill. The name change of the PKS Bill is because according to the Spokesperson of the House of Representatives, Komnas Perempuan, MUI, and other communities have considered the change. This DPR legislator claimed the term was changed to make it more grounded and easy for the wider community to understand. A number of items in the TPKS Bill have been redacted from the PKS Bill. These articles cover four different examples of sexual violence: coercion to obtain contraception, coercion to have sexual intercourse, and exploitation of the victim.

Religious courts handled 299,199 cases in 2020; District courts handled 299,677 cases, and the National Commission on Violence Against Women (UPR) handled 2,389 cases. This increase in cases was recorded by Komnas Perempuan in its annual record in 2021. Komnas Perempuan KTP data in 2020 shows that sexual violence is still a major problem. About (65%) cases of sexual violence occur in private or domestic environments, while about (33%) cases occur in public or public spaces, and 1% of cases occur in countries. A significant increase in early child marriage has also occurred during this pandemic.

In addition to the sharp increase in child marriage, there has also been an increase in violence against children during this pandemic. From January 1 to July 31, 2020, there were 4,116 records of

violence against children. With 3,296 cases of violence against children compared to 1,319 cases in boys, girls had the highest number. There were 5,463 cases of violence against minors in 2021, an increase compared to the previous year. Of all incidents that occurred in Indonesia, the most cases of sexual violence – 2,556 – were reported in 2020–2021. This case record shows that sexual violence against women and children is still prevalent, and the state must provide a sense of security to women and children, according to Komnas Perempuan and the Ministry of PPAI. Because it is feared that things will not be good in every agency, violence – especially sexual violence – will not continue to increase from year to year.

While discussions about human rights advocacy are becoming more prevalent in the era of globalization, the stigma associated with women's sexuality still seems to be deeply embedded in popular culture in the 21st century. Ultimately, this binary perspective prevents women from exercising their rights because it portrays victims of sexual violence as members of society and authorities. Keny, Samah, and Yin Fah affirm that sexual harassment is recognized as a global social problem affecting people of all ages, races, genders, socioeconomic classes, and professions.

In Indonesia, the problem of sexual violence is increasingly concerning. The 2022 Annual Record of the National Commission on Violence Against Women (CATAHU) states that within ten years, 2021 was the year with the highest number of cases of violence recorded, which was 16,162 cases. The difference between this number and the 2020 figure of 8,234 is 50%. A small percentage of complaints (0.3%) were not identified, according to statistics provided by Komnas Perempuan and Lembaga Jasa. The types of gender-based violence that are of concern in CATAHU 2021 include attacks on members of the TNI and Polri, sexual violence in educational environments, and gender-based sexual violence (KGBS) against women online. Online threats in the form of dissemination of personal images or videos (malicious distribution), online sexual extortion services (sextortion), and online intimidation (cyber harassment) are the main complaints in the KGBS category from Komnas Perempuan and data institutions.

Any action against a person, especially a woman, is considered domestic violence. Compared to men, women are usually more often victims of violence or "latent victims". It turns out that the PDKRT Law, which ostensibly seeks to protect victims, does not aim to protect women. There are concerns that the PDKRT Law does not actively defend women's rights. Given that victims experience physical and psychological distress, as well as neglect, loss of financial gain, violations of certain human rights, and other hardships, they should be afforded legal protection. As guardians of the law, the government is obliged to safeguard human rights. This article aims to find out what is meant by the term "legal protection" and how women are protected by law.

METHOD

This method uses several methods, such as the Normative Research Method is, Legal Document Analyst which involves the collection and analysis of other legal documents. Empirical Research Method, interviews involving interviews with parties directly involved in the implementation and enforcement of laws related to women's rights such as officials, government and advocates. Comparative research method comparative study of law, comparing laws and legal practices related to the protection of women's rights.

RESULTS AND DISCUSSION

Meaning of Legal Protection

The 1945 Constitution Article 1 Paragraph 3 states that "Indonesia is a state of law". The essence of this verse is that every citizen has the right to legal protection, that is, how the state guarantees the legal rights of its people. As a general form of legal protection, the principle of *freis ermessen* is closely related to preventive legal protection efforts. Repressive laws and regulations in Indonesia

are protected by administrative appellate bodies and several entities within the General Court of Government Agencies. Theoretically, gender is not a factor in legal protection. To protect and recognize human rights and help its citizens realize their unique identity as individuals and harmonize well-being for all.

Restrictive legal protection methods used by courts to punish perpetrators of criminal acts. According to Andi Hamzah and Sumenglipu, one of the objectives of criminal prosecution is to protect the community, including providing legal protection to victims. The main source of legal protection and law enforcement for all people who commit domestic violence still remains Indonesian criminal law. Law enforcement officials in Indonesia make a number of criminal threats contained in the Criminal Code passed before the Domestic Violence Law was passed as a positive legal tool, as a guide in enforcing the law. Therefore, sanctions should be used to provide legal protection to victims. They state that punishing offenders through the judicial system indirectly provides legal attention or protection for the offenses they committed. Legal protection for women who are victims of these crimes not only includes the punishment imposed on the perpetrators, but also includes the impact on them.

Forms of Criminal Sanctions for Sexual Violence

Indonesia's Criminal Code regulates criminal penalties imposed on those who commit crimes, although there is no mention of acts of violence against women. The explicit provisions of the Criminal Code that are limited to acts of physical violence are as follows:

1. Rape.. Article 285.
2. Persecution. Article 351.
3. Obscenity. Article 290.
4. Murder. Article 338.

Women are victims of various forms of physical violence because they are not regulated, although the Criminal Code contains rules relating to crime. Sexual harassment can also be considered unpleasant behavior. The categories of sexual violence women face include non-aggression and assault. Emotional trauma is a category that includes sexual violence that does not constitute assault. On the other hand, sexual violence includes categories such as forced hugs, forced masturbation, seduction, ridicule, assault resulting in physical harm, and rape.

Legal Protection Factors Against Victims

Due to women's insatiable interest in women and lack of knowledge about sexual harassment, the number of incidents of sexual violence committed by women is increasing along with the rapid progress of society. Sexual harassment occurs when necessary conditions are met or opportunities arise. It develops into a habit. Legal protection is essentially the same as protecting women's rights as victims of sexual violence and providing legal protection for women. Soerjono Soekanto stated that the elements that affect women's legal protection are:

1. The law consists of various official written regulations that are binding on applicable regulations, generally applicable, and coercive. The implementation of legal protection for women can be facilitated efficiently through the establishment of laws and regulations that are expressly protected by sanctions.
2. Police Department. Law enforcement includes the deployment of personnel and agencies tasked with enforcing regulations needed to create legal certainty that protects the parties concerned.
3. Access to Legal Resources. For law enforcement to function effectively.

4. Community. Society is a place or arena where people regularly engage in social interaction. The community has an important role in raising awareness and providing support, especially in defending women's rights.
5. Culture. Culture is a combination of social relations, life values, and people's perspectives on how laws should be applied so that people can live their daily lives

It is clear to see that these five criteria are interdependent in relation to implementing regulations. This is because law enforcement officials can influence each other in enforcing the law. Because all of these are human rights in law enforcement, the lack of one will have an impact on other obstacles. It is also necessary to establish standards of law enforcement efficiency.

Women who are victims of domestic violence have legal protection.

The purpose of the domestic violence law is to protect victims of domestic violence, most of whom are women. Because they can file cases and get legal protection, this is good news for women victims of domestic violence. In addition, the Law on Domestic Violence distinguishes two types of protection, namely protection provided through court orders and services, and temporary protection. In parallel with their specific duties and responsibilities, institutions and institutions offer services and protection. On the contrary, victims have the right, according to the government's assessment of their needs, to temporary or permanent protection from their families, police, prosecutors, courts, advocates, social institutions, and others under Article 10a of the Domestic Violence Law. protect against the law.

1. Police protection is provided in the form of temporary protection that can last up to seven (7) days. The police must request a protection order from the court within 1 (one) day from the commencement of the protection period. Together with volunteer assistants, social workers, health professionals, and spiritual counselors, police can provide temporary protection to victims. Police stations should provide dedicated service spaces equipped with procedures and tools to cooperate in victim-accessible service programs for victims of domestic violence. Safe houses, also known as shelters, should be built immediately by the government and communities to accommodate, care for, and isolate victims of domestic violence. Therefore, police have the right and responsibility to investigate, make arrests, and detain suspects if there is sufficient preliminary evidence and a restraining order for perpetrators of domestic violence. If a person violates a protective order, the police are authorized to make arrest and detention without a warrant; This means a warrant can be obtained once in 24 hours.
2. Legal consultation, mediation and negotiation on behalf of the parties, including the families of victims and perpetrators, as well as providing support to victims in the process of investigation, prosecution, and testimony in court are some of the techniques used by advocates to protect victims (litigation). They also accompany volunteers and social workers, coordinating with other law enforcement officials (cooperation and partnership).
3. Protection from harm through a court-mandated protective order and can be renewed after an entire year. If the perpetrator of domestic violence violates a signed statement of his or her ability to comply with the protective order, the court may apply a restraining order against the offender for thirty (30). By considering the potential losses that may be suffered by the victim, the court can provide more protection. The services of health professionals are essential, especially when trying to punish those who commit domestic violence. Health professionals are required by their profession to submit a written report on the findings of the medical examination and, if requested, prepare a post mortem et repertum.
4. Social worker services are provided in the form of counseling to help victims feel safer and stronger; They also advise victims on their rights to seek protection and coordinate with relevant organizations.

5. The victim is granted access to volunteer escort services in relation to his/her right to one or more volunteer escorts; In addition to listening to victims and offering psychological and physical assistance, these volunteers accompany victims during investigations, prosecutions, and court proceedings, providing them with impartial explanations about acts of domestic violence they encounter.
6. Victims can obtain the services of a spiritual guide to help them understand their rights and responsibilities and develop their piety and faith.

Law Number 23 of 2004 has actually officially provided protection to victims of domestic violence from harm. However, there are still violent crimes committed outside the courtroom. Because "the implementation of a policy plan and program to achieve the objectives set out in the policy plan and program" is what is meant by the implementation of a law. Therefore, the Domestic Violence Law is expected to provide a defense and stop acts of domestic violence. Therefore, it is the government's responsibility to restructure patterns and tactics in implementing protections and services and socialize these policies on the ground. Recognising that effective legal construction is essential in combating domestic violence, legally protecting women who are victims of such violence and taking action against those who commit it is also important. In addition, systems that protect the rights of women victims of domestic violence must be implemented by the state with the support of the community.

Sexual Violence Law Number 12 of 2022 Protects Women Legally

The struggle for the rights of victims of crime is reflected in efforts to protect victims of sexual violence. Indonesia has a responsibility to uphold the human rights of everyone as a state of law. This position exists because of the state's obligation to uphold, defend, and respect the human rights of every citizen. One of the strategies used to provide protection is a legal defense strategy that covers all victims of crime, including those who are victims of sexual harassment both offline and online. The following rights are available to victims of sexual harassment in accordance with the Criminal Abuse Law (TPKS) Number 12 of 2022:

First: Right to Handling

Article 68 of the Sexual Violence Law regulates the right to treatment of victims of sexual violence. One of victims' rights to treatment is the opportunity to contact appropriate parties for services, information, and documentation and ask for help. the right to victim case resolution facilities and services, particularly for victims with disabilities; This includes the right to services and activities related to physical and mental health. The right of the victim to request the removal of information about her sexual harassment experience from electronic media. Therefore, victims' right to treatment includes their ability to access resources and facilities from various parties to help them obtain justice, satisfaction, and healing from the experience of sexual violence.

Second: The Right to Protection

Victims have the full right to comfort and well-being as soon as their case is dealt with, in accordance with the right to protection. Guidelines regarding the right to protection are set out in Article 69. The aggrieved party has the right to be protected from potential threats, including the right to be protected from legal action if someone is a victim of violence, whether committed by the perpetrator or others. law enforcement officials. The victim's right to protection also includes the right to access facilities and information regarding the maintenance of his or her protection. This includes the right to legal protection if someone is a victim of violence, regardless of whether the perpetrator or a third party is to blame. The right of victims to be protected from legal litigation and sanctions if they disclose incidents of sexual violence. Therefore, to safeguard the right to protection,

it is the responsibility of all parties involved to increase the sense of security to ward off threats, both real and imagined.

Third : Right to Recovery

The right to recovery refers to the ability of victims of sexual violence to access resources and information that will help them return to a normal state of mind, body, and spirit. The Sexual Violence Law (TPKS) provides principles regarding the right to healing as stipulated in Article 70. This right to remedy includes the right to rehabilitation, that is, to take steps to improve the physical, mental, and social state of victims so that they can continue their lives. regular social and personal interaction. The right, arising from a court decision that has permanent legal force, to obtain compensation by providing restitution to the perpetrator or third party. The right to compensation, which can be in the form of government assistance money provided to victims of sexual violence. the right to facilities and access to social empowerment and social reintegration activities, allowing victims to reintegrate into society. To help the aggrieved recover from their suffering, it is necessary to realize that the restoration of mental, physical, and social health involves granting them material and immaterial rights.

CONCLUSION

The author argues in response to the problem statement. First, theoretically men and women are treated equally in the eyes of the law. Because it will enable its citizens to achieve their rights as individuals and as social beings in a unitary state that upholds family unity, Indonesia as a state of law based on Pancasila is obliged to provide legal protection to its citizens. achieve universal well-being. Second, although Law Number 23 of 2004 concerning the Elimination of Domestic Violence already has provisions governing the protection of victims, violence against women still often occurs in the real world. Therefore, the state needs to create a system with community support to defend the rights of women who get domestic violence. The government also needs to reset patterns and tactics to implement protections and services and educate the public about the law).

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