

Fulfillment of Rights to Recovery for Victims of Sexual Violence Which Settlement is Made Outside the Judicial Process in Ternate City

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Abstract. *It was recorded that in 2022 the number of sexual violence in North Maluku Province reached 285 cases, where this number is considered very worrying because in 2021 there were 144 cases, an increase of 141 cases or almost 100% from the previous year. Research conducted in the city of Ternate as a barometer for North Maluku Province, provides an illustration that fulfilling the right to recovery for victims of sexual violence whose resolution is carried out outside the judicial process. However, the implications of peace can certainly not benefit the victim. This research is a type of juridical-normative research, namely research carried out by examining secondary materials and library materials. The type of approach used is a conceptual approach and a statutory regulatory approach. That the fulfillment of the right to recovery for victims of sexual violence whose resolution was carried out outside the judicial process in Ternate City in the form of handling the 3 cases was carried out peacefully by fulfilling the conditions agreed upon by both parties, namely fulfilling their right to recovery in the form of material rehabilitation in the form of compensation, in this case the perpetrator provided tuition fees. victim. That the implications of peace can certainly not benefit the victim, because in the end the perpetrator was free with a guarantee of compensation given to the victim's family so that the case was not continued. This situation shows that one form of sexual violence has the potential to give rise to other forms of sexual violence, for example rape results in forced marriage for survivors.*

Keywords: *Crime; Sexual; Victims; Violence.*

1. Introduction

The Law on the Elimination of Sexual Violence is one of the Republic of Indonesia's efforts to protect every citizen, especially women and children. The Law on the Elimination of Sexual Violence is intended as an effort by the state to uphold the constitutional mandate which emphasizes the guarantee of the right of every citizen to feel safe and free from all forms of discrimination (Pejelasan UU No. 12 Tahun 2022, n.d.). The affirmation of this right is in line with the Pancasila philosophy and the 1945 Constitution of the Republic of Indonesia. The law, which

aims to prevent all forms of sexual violence, is expected to handle, protect and restore victims; take action against the perpetrator; and guarantee the implementation of state obligations, the role of the family, community participation, and corporate responsibility in realizing a free environment it is hoped that sexual violence will function as a tool to overcome cases of sexual violence (*RUU-PKS-2020-JMS-Icjr-Upload.Pdf*, n.d.).

Sexual violence is a violation of human rights, a crime against human dignity, and a form of discrimination that must be eliminated. Most victims of sexual violence are women and girls, so sexual violence is also gender-based violence, which targets people because they are female or experience discrimination because of unequal power relations (Kayus Kayowuan LewoLeba et al., 2023). Factors that influence this problem is the social dynamics of society (Ahmad M et al., 2025), so that this violence has the potential to occur in societies that have social and cultural structures that demean and corner women, ignore children and do not recognize or appreciate the existence of special conditions in society. This violence occurs in very personal relationships, within the family or household, and in the public domain (Penjelasan *UU No. 12 Tahun 2022*, n.d.).

Based on the above, this research found that in 2022 the number of sexual violence in North Maluku will reach 285 cases. This number is quite worrying because it has increased by almost 100% (141 cases from 2021 with a total of 144 cases). Of this number, it is still high in Ternate City with 19 cases, Sula Islands Regency 18 cases, South Halmahera 16 cases, North Halmahera 15 cases, West Halmahera 15 cases, Tidore City 12 cases, Taliabu Island 2 cases, Central Halmahera 1 case, and Morotai zero. A number of these cases occurred in Ternate City 19 cases, Sula Islands Regency 18 cases, South Halmahera 16 cases, North Halmahera 15 cases, West Halmahera 15 cases, Tidore City 12 cases, Taliabu Island 2 cases, Central Halmahera 1 case, and Morotai zero. According to the Ternate City Women's Empowerment and Child Protection Service (DP3A), 32 cases of violence against children were recorded throughout 2022. Of these 32 cases, 3 cases were sexual harassment and 1 was a case of underage sexual intercourse. According to LBH Ternate, there were 10 reports of sexual harassment cases throughout 2022. Victims of sexual harassment were dominated by underage girls. Perpetrators of sexual harassment are also dominated by people closest to them, such as fathers, uncles and older brothers. Meanwhile, in 2023, according to DP3A Ternate City, up to January 31 2023, 11 cases of violence against women and children were recorded, of which 2 cases were sexual harassment. On the other hand, Ternate Police received 15 reports of sexual harassment cases (Data from the Office of Women's Empowerment and Child Protection (P3A) of North Maluku Province).

Some of the cases above are related to case data in Ternate City, 3 of the 19 cases have been resolved using a Restorative Justice approach, which is the resolution of criminal acts outside of court. This resolution using a Restorative Justice approach is thought to be more about stopping the legal process thereby confirming the impunity of the perpetrator. In particular, the practice of marrying the victim to the perpetrator of the rape is a forced marriage which has a long-term impact on the victim. Apart from still experiencing trauma that requires a recovery process, this

practice also places the victim in a continued vulnerability to violence in their marriage. Thus, the practice of marrying victims to perpetrators of rape contributes to higher rates of violence against women (*Pernyataan Sikap Komnas Perempuan Pada Pemberitaan Pernyataan Menkopolkam Tentang Restorative Justice (20 Februari 2021)*, n.d.).

The use of Restorative Justice in resolving sexual violence should reconstruct the protection of victims' rights. This needs to be done as an effort to provide maximum protection and open the widest possible access for victims to fight for their rights again which have been injured as a result of a criminal act. Adil Lugianto (Adil Lugianto, 2014) explained that the position of the victim is only an element of legal order so that a criminal act is not an act that harms people who have blood, flesh and feelings but is an act that is against the law, contrary to something abstract called legal order (*inbreuk op de rechtsorde*). With this kind of growth, the person who is harmed has no meaning; it is abstracted. In the criminal case process he seemed to be "dehumanized"; he is just a witness (usually the first witness) who is only important to provide information about what the maker did in order to use it as evidence of the maker's mistake.

The regulation of the rights of victims of sexual crimes can be found in Law Number 12 of 2022 (TPKS Law), namely in Article 70 (1) Victims' Rights to Recovery as intended in Article 67 paragraph (1) letter c includes: a. medical rehabilitation; b. mental and social rehabilitation; c. social empowerment; d. restitution and/or compensation; and e. social reintegration (*UU No. 12 Tahun 2022*, n.d.).

Based on the above, the aim of the research is to identify and analyze how the fulfillment of the right to recovery for victims of sexual violence whose resolution is carried out outside the judicial process in the city of Ternate as well as the legal implications of the resolution being carried out outside the judicial process according to Law Number 12 of 2022 concerning Actions Criminal Sexual Violence

2. Research Methods

This research is a type of juridical-normative research, namely research carried out by examining secondary materials and library materials (Soerjono Soekanto & Sri Mamudji, 2003). The type of approach used is a conceptual approach and a statutory regulatory approach. The conceptual approach is an approach that, through understanding the doctrines or views of experts, then finds ideas that provide explanations of legal meanings, principles and concepts that are appropriate to the topic being discussed. The statutory regulatory approach means research carried out by examining all regulations or laws that are relevant to the topic being discussed (Peter Mahmud Marzuki, 2017). This research describes, explains and analyzes the fulfillment of the right to recovery for victims of sexual violence whose resolution is carried out outside the judicial process in the city of Ternate. The collection of legal materials is carried out by identifying and inventorying statutory regulations, researching library materials and other sources of legal materials that are relevant to the legal issues in this research.

3. Results and Discussion

3.1. Fulfillment of the right to recovery for victims of sexual violence whose resolution is carried out outside the judicial process in Ternate City

Examining an act that is often experienced by women is the crime of sexual violence, besides that there are also other forms that are often experienced by women and children. Sexual crimes that women and children receive are a form of torture carried out by adults and teenagers as material for sexual exploitation by asking or forcibly pressuring women and children to have sexual relations, by showing pornographic things to women and children, such as physical contact with genitals, viewing genitals without physical contact and using pornography as a means of reproduction (Ario Ponco Wiguno, 2013).

Sexual violence is an issue that has long been discussed among Indonesian society. In Indonesia itself, currently many people commit sexual violence against adult women or children. In cases of sexual violence, it does not only involve physical violence, but also indirectly attacks the victim's mental state. The mental impact experienced by victims as a result of sexual violence is not easily eliminated compared to the physical violence they also experience, it takes time long enough for the victim to truly recover from the incident he experienced (Rosania Paradiatz & Eko Soponyono, 2022). According to the World Health Organization (WHO), sexual violence is defined as any behavior that targets a person's sexuality or sexual organs without consent. This action is carried out with elements of coercion or threats (Rida Madyana & Safik Faozi, 2023).

The consequences of unnatural acts (sexual crimes) against women can cause several reactions including stress, depression, psychological and social trauma along with long-term trauma which causes children to continue to experience the events they have experienced until they become adults. The healing process due to mental trauma suffered by children is very difficult to rehabilitate because children's memories tend to be stronger, so this incident should be prevented from occurring by parents, the community and institutions that have the authority to protect children (Sapti Prihatmini et al., 2019).

The presence of the TPKS Law is important in eradicating criminal acts of sexual violence that occur, without forgetting the victim as the party who suffers most from the acts that occur. The TPKS Law does not provide a definite definition of what sexual violence is or what a criminal act of sexual violence is, it only states that a criminal act of sexual violence is any action that meets the elements of an offense in the provisions of the a quo Law. In the TPKS Law, acts of sexual violence consist of physical sexual harassment; non-physical sexual harassment; forced contraception; forced sterilization; forced marriage; sexual torture; sexual exploitation; sexual slavery; and electronic-based sexual violence (Siti Shalima Safitri et al., 2023).

Based on the above, in 2022 the number of sexual violence in North Maluku will reach 285 cases. This number is quite worrying because it has increased (141 cases from 2021 with a total of 144 cases). Of this number, it is still high in Ternate City with 19 cases, Sula Islands Regency 18 cases, South Halmahera 16 cases, North Halmahera 15 cases, West Halmahera 15 cases, Tidore City 12

cases, Taliabu Island 2 cases, Central Halmahera 1 case, and Morotai zero (Data from the Office of Women's Empowerment and Child Protection (P3A) of North Maluku Province). It is from things like this that the birth of Law number 12 of 2022 concerning the Crime of Sexual Violence is aimed at preventing all forms of Sexual Violence; handle, protect and recover victims; take action against the perpetrator; and guarantee the implementation of state obligations, the role of the family, community participation, and corporate responsibility in creating an environment free of sexual violence.

In the cases above, related to Ternate City case data, 3 of the 19 cases were resolved using a Restorative Justice approach, which is the resolution of criminal acts outside of court. Restorative Justice is an alternative resolution of criminal cases which in the criminal justice procedure mechanism focuses on punishment which is transformed into a dialogue and mediation process involving the perpetrator, victim, family of the perpetrator/victim, and other related parties to jointly create an agreement or resolution of the case. punishment that is fair and balanced for both the victim and the perpetrator by prioritizing recovery its original state, and restore the pattern of good relations in society. The basic principle of restorative justice is restoration to victims who have suffered as a result of crime by providing compensation to the victim, peace, the perpetrator carrying out social work or other agreements (Asit Defi Indriyani, 2021).

Departing from this, the handling of cases of sexual violence committed outside of court according to Bahtiar Husni in his explanation explained that there were 3 cases of sexual violence which were resolved amicably involving the families of both parties to reach an agreement to resolve the criminal case amicably (Interview results with Bahtiar Husni as Director of the North Maluku Legal Aid Foundation).

The substance of the TPKS Law basically has several objectives as stated in Article 3, namely: "preventing all forms of sexual violence; handle, protect and recover victims; carrying out law enforcement and rehabilitating perpetrators; creating an environment without sexual violence; and ensure the non-recurrence of sexual violence." As an effort to protect and restore victims, the TPKS Law also regulates victims' rights, as regulated in articles 66-67 of the a quo Law that victims' rights include treatment, protection and recovery. Victims who are persons with disabilities also have the right to obtain appropriate accessibility and accommodation to fulfill their rights. These victims' rights are an obligation of the state and must be implemented in accordance with the conditions and needs of the victims (Siti Shalima Safitri et al., 2023).

Based on the substance mentioned above, it is necessary to ensure the commitment of the government and various stakeholders to guarantee the rights of victims of sexual violence. Commitment to guaranteeing legal certainty to fulfill victims' rights is stated in legal norms as regulated in the TPKS Law. One of the guarantees of legal certainty is the Guarantee for recovery regulated in article 70 of the TPKS Law which includes guarantees for medical rehabilitation, mental rehabilitation, social rehabilitation and material rehabilitation in the form of compensation and restitution. Thus, guaranteeing legal certainty regarding victims' rights

emphasizes attention to victims so that they receive comprehensive treatment, protection and recovery.

Referring to the guarantee of recovery above, as explained by Bahtiar Husni in his explanation, in handling the 3 cases, peace was carried out by fulfilling the conditions agreed upon by both parties, namely fulfilling their right to recovery in the form of material rehabilitation in the form of compensation, in this case the perpetrator provided to cover the victim's college costs (Interview results with Bahtiar Husni as Director of the North Maluku Legal Aid Foundation).

Compensation or restitution can be said to be protection for victims. Restitution is a term that is not widely known or implemented by legal officials or the public. Demands from victims to be paid by society or the state are often used when the perpetrator is not given punishment, the perpetrator is only asked for compensation by the victim. The right to restitution in the form of compensation is paid by the perpetrator based on the principle of restoration to its original state (*restitutio in integrum*). This form of compensation is based on a request, namely that the victim must return to the physical or mental state they were in before the victim received sexual violence from the perpetrator, even though it is not possible for the victim to return to the previous condition. That principle demands that the victim must return to her original condition by means of comprehensive recovery as a result of the crime experienced by the victim through restitution, with the hope that the victim can live life in the same condition as before the incident of sexual violence, namely living freely with the rights as regulated in the Constitution and Other laws relate to social status, family life, citizenship and job restoration along with recovering assets (Mia Hadiati et al., 2022).

Paying attention to what is explained above in terms of recovery for victims of sexual violence, according to the author, the restorative justice approach cannot be used as a solution for resolving cases of sexual violence because apart from being unable to protect the victim, this will result in the emergence of thoughts or assumptions that what the perpetrator did can be resolved by simply compensation and the perpetrator is free to roam anywhere again. Apart from that, there is no guarantee of safety for the victim if there is a threat from the perpetrator. Most perpetrators of sexual violence are people closest to the victim, even their own family. According to the National Commission on Violence Against Women's Annual Notes (CATAHU) for 2021, in the personal realm, the most perpetrators of sexual violence were girlfriends, with 1074 cases and this has been consistent for the past 3 years. Apart from boyfriends as perpetrators of sexual violence, biological fathers as perpetrators of sexual violence were 165.17. So when the perpetrator has paid compensation and is free, of course this will have the potential that the victim will experience repeated violence by the perpetrator (Komnas Perempuan, 2021).

This resolution using a Restorative Justice approach is thought to be more about stopping the legal process thereby confirming the impunity of the perpetrator. In particular, the practice of marrying the victim to the perpetrator of the rape is a forced marriage which has long-term impacts on the victim. Apart from still experiencing trauma that requires a recovery process, this practice also places the victim in a continued vulnerability to violence in their marriage.

Thus, the practice of marrying victims to perpetrators of rape contributes to higher rates of violence against women.

3.2. The legal implications of the settlement being carried out outside the judicial process according to law number 12 of 2022 concerning criminal acts of sexual violence

Sexual violence is a violation of human rights, a crime against human dignity, and a form of discrimination that must be eliminated because of the negative impacts experienced by victims of sexual violence, including:

- a. Physical and sexual impacts: in the form of collisions resulting in external/internal bruising, permanent physical disabilities, reproductive disorders, pregnancy disorders, sexually transmitted diseases including HIV/AIDS)
- b. Social impact: difficulty building relationships both in the immediate environment and in the wider environment. In some cases, victims have to build their own world, hide and isolate themselves and feel safer when they are in it.
- c. Economic impact: the victim has to pay money to heal himself both physically and mentally from the psychological disorders that arise, and not infrequently, the victim even loses his job.
- d. Psychological impact: trauma experienced by the victim, the form of which differs from one victim to another. Among the victims there are those who feel afraid, even when meeting people they feel worried, experience nightmares, are emotional, have trouble sleeping and have no appetite, appear distrustful of men, feel guilty, feel embarrassed and humiliated, and even have prolonged trauma with the appearance of memory of an incident that happened to him suddenly (flesh back).
- e. Continued impact. anti-social behavior, feelings of helplessness, low self-esteem, anxiety, depression which results in victims showing negative behavior by drinking alcohol, abusing illegal drugs, plunging themselves into the world of prostitution, becoming lesbian/gay/transgender, and some even attempted suicide (Atikah Rahmi, 2019).

The sexual crime experienced by the victim was very serious and resulted in prolonged trauma and depression. Johan Runtu classified the impact of sexual violence experienced by victims on their physical, psychological conditions and personal and social lives (Johan Runtu, 2012). For this reason, special treatment is needed for children and women victims of sexual crimes, including recovery efforts after the violence they experience. There is quite a lot of childhood sexual abuse or abuse carried out by people close to the victim, which has long-term psychological impacts. According to Retno Listyarti, Commissioner of the Indonesian Child Protection Commission (KPAI) for Education, that around 70% of people who experience sexual violence as children tend to become perpetrators of sexual violence as adults (Atikah Rahmi, 2019).

Dikdik M. Arief Mansur expressed his disappointment that crime victims, who are basically the parties who suffer the most in a criminal act, do not receive as much protection as is provided

by law to perpetrators of crimes. As a result, when the perpetrator of a crime has been given criminal sanctions by the court, the condition of the crime victim is completely ignored. In fact, the issue of justice and respect for human rights does not only apply to perpetrators of crimes, but also victims of crimes. The victim's position as a legal subject has an equal position before the law (equality before the law) (Dikdik M. Arief Mansur & Elisatris Gultom, 2008).

The birth of the TPKS Law is a form of commitment by the government and various stakeholders to guarantee the rights of victims of sexual violence. Commitment to guaranteeing legal certainty to fulfill victims' rights is stated in legal norms as regulated in the TPKS Law. The guarantee of legal certainty includes guarantees of the right to treatment, the right to protection and the right to recovery. Guarantees of the right to treatment are regulated in article 68 of the TPKS Law which includes guarantees of access to information, documents and facilities in the field of health services, legal services and the elimination of sexual violence content in electronic media. The guarantee of the right to protection regulated in article 69 of the TPKS Law includes guarantees for physical and psychological protection, guarantees against degrading treatment of victims and guarantees for education, employment and political access. Top guarantee Recovery regulated in Article 70 of the TPKS Law includes guarantees for medical rehabilitation, mental rehabilitation, social rehabilitation and material rehabilitation in the form of compensation and restitution. Thus, guaranteeing legal certainty regarding victims' rights emphasizes attention to victims so that they receive comprehensive treatment, protection and recovery (Hasanuddin Muhammad, 2022).

Deconstructing the rights of victims of sexual violence in the TPKS Law is an effort to complement the provisions of existing laws and regulations and at the same time guarantee the fulfillment of constitutional rights as citizens. This is stated in the 1945 Constitution of the Republic of Indonesia article 28G which in principle, every person has the right to protection from violence, torture and treatment that degrades human dignity. The regulations regarding victims' rights contained in the TPKS Law are an effort to complement and strengthen the provisions on victims' rights regulated in the Criminal Code and the Criminal Procedure Code, the Elimination of Domestic Violence Law, and the Child Protection Law, Human Rights Law, Law on the Eradication of the Crime of Trafficking in Persons, Law on Ratification of the Convention Against Torture and Other Cruel, Inhuman Or Degrading Treatment Or Punishment, Law on Human Rights Courts, Law on Population Development and Family Development, Health Law, Child Protection Law, Military Justice Law, Information and Electronic Transactions Law, Witness and Victim Protection Law, Pornography Law, Marriage Law. Thus, strengthening and affirming victims' rights in the TPKS Law was created to further guarantee the position of victims in treatment, protection and recovery (Hasanuddin Muhammad, 2022).

As explained previously, restorative justice is a concept that sees criminal law as a means of restoring justice. The aim of the restorative justice approach is an agreement on a fair and balanced resolution of criminal cases for both the victim and the perpetrator by prioritizing restoration to its original state and restoring a pattern of good relations in society (Siti Shalima Safitri et al., 2023).

The Supreme Court guidelines regarding restorative justice which are regulated in the Decree of the Directorate General of the General Judicial Agency of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020, state that the restorative justice approach can only be applied to resolve cases involving minor crimes, namely criminal offenses regulated in Articles 364, 373, 379, 384, 407 and Article 482 of the Criminal Code which are punishable by a maximum imprisonment of 3 (three) months or a fine of Rp. 2,500,000 (two million five hundred thousand rupiah), the case of the woman facing with the law, children's cases and narcotics cases (Hasanuddin Muhammad, 2022).

Based on the Guidelines for Implementing Restorative Justice in the General Court Environment, the Supreme Court has set limits regarding criminal acts that can be resolved through a restorative justice approach, and it can be seen that one of them is cases of women in conflict with the law. However, specifically regarding criminal acts of sexual violence, based on Article 23 of the TPKS Law, criminal acts of sexual violence cannot be resolved outside the judicial process, except for child perpetrators.

However, in practice there are often attempts to resolve cases peacefully under the pretext of implementing restorative justice. peace in the judicial process and those acting as mediators are Law Enforcement Officials or State Officials. Another obstacle encountered in the legal process of sexual violence cases is that families, communities, village officials, government officials and law enforcement officials often encourage peace or kinship. These resolution methods are almost all applied to cases of sexual violence where the victim is pregnant, or the perpetrator is the victim's boyfriend.

Before the TPKS Law came into effect, based on the 2020 Gender Equality Barometer study series from the Indonesian Judicial Research Society (IJRS) regarding 1,586 respondents involved in sexual violence cases, there were only 19.2 percent of cases where the perpetrator was imprisoned. As many as 26.2 percent of victims of sexual violence in these various cases actually married the perpetrator as a solution to the case - the rest did not even get a solution to the problem and the perpetrator only paid a certain amount of money.

After the TPKS Law came into effect, there was still a similar case, namely the case involving AM, a rape victim who had reported her case to the Ternate Police. While there has been no follow-up to the victim's report, the perpetrator was not detained and in fact various parties, both the victim's family and the perpetrator's family, pushed for this case to be resolved peacefully between the perpetrator's family and the victim in the form of compensation. Apart from the family, law enforcement agencies also often facilitate or encourage mediation by marrying the victim to the perpetrator.

The implications of peace can certainly not benefit the victim, because in the end the perpetrator was free with a guarantee of compensation given to the victim's family so that the case was not continued. This situation shows that one form of sexual violence has the potential to give rise to other forms of sexual violence, for example rape results in forced marriage for survivors. Apart from that, this shows that there is still a lack of understanding among many

parties, including law enforcement officials, that sexual violence as a criminal act cannot be reconciled and the legal process should continue (*Rancangan-Undang-Undang-Tentang-Penghapusan-Kekerasan-Seksual.Pdf*, n.d.). This often gets criticism that restorative justice is just a way for law enforcement officers who are weak and not serious enough to be able to carry out their roles and obligations (Sri Wiyanti Eddyono, 2018).

Several of the cases above show a misunderstanding of law enforcement officials in understanding Restorative Justice in the TPKS Law by assuming that what is meant by Restorative Justice is "peace" or resolving cases outside of court. Even though Article 23 of the TPKS Law clearly and emphatically states that cases of criminal acts of sexual violence cannot be resolved outside of the judicial process, the exception to the provisions in Article 23 of the TPKS Law is that cases of criminal acts of sexual violence can be resolved outside of court only if the perpetrator of the crime sexual violence is a child.

Based on information from the Deputy Minister of Law and Human Rights, Edward Omar Sharif Hiariej, the restorative justice aspect emphasized by the TPKS Law is not an effort to resolve cases peacefully outside of court but rather victims of sexual violence against women and children must have their rights ensured and guaranteed to receive redress and restoration (Antaraneews.com, 2022). These victims occur simultaneously with the legal process. So that the legal process against perpetrators of criminal acts of sexual violence must continue. Recovery for victims does not stop the legal process against perpetrators of criminal sexual violence.

The principles of victim protection adopted in the TPKS Law are principles that form the basis of justice for victims of crime and abuse of power which were summarized by Supriyadi Widodo Eddyono and Zainal Abidin, namely as follows: first, the principle of restoration to its original state (*restitutio in integrum*), second, the principle of non-discrimination, third, the principle of respecting the dignity of victims, fourth, the principle of appropriateness, fairness and proportion, fifth, the principle of the needs and convenience of victims, sixth, complete and comprehensive compensation, seventh, state responsibility, and eighth, attention to victims and special needs (Siti Shalima Safitri et al., 2023).

Apart from the misunderstanding on the part of law enforcers in understanding restorative justice in criminal cases of sexual violence by forcing peace between the perpetrator and the victim, this misunderstanding of restorative justice is also experienced by the general public and judges by using peace between the perpetrator and the victim of sexual violence as a reason for reducing the sentence. This is known from the 2016 survey by the Indonesian Judicial Monitoring Society (MaPPI-FHUI) which found that 51.6 percent of around 2000 respondents considered that marriage between the perpetrator and the victim of sexual violence could be a reasonable reason to reduce the perpetrator's sentence. MaPPI-FHUI also found that many judges' decisions used this reason as a basis for reducing sentences (Siti Shalima Safitri et al., 2023). Based on the above, the author does not agree with peace through mediation between the perpetrator and the victim in cases of sexual violence. Because in cases of sexual violence, the approach only applies to perpetrators of crimes, but also victims of crimes. The victim's position as a legal subject has an equal position before the law (equality before the law).

4. Conclusion

That the fulfillment of the right to recovery for victims of sexual violence whose resolution was carried out outside the judicial process in Ternate City in the form of handling the 3 cases was carried out peacefully by fulfilling the conditions agreed upon by both parties, namely fulfilling their right to recovery in the form of material rehabilitation in the form of compensation, in this case the perpetrator provided tuition fees. victim. That the implications of peace can certainly not benefit the victim, because in the end the perpetrator was free with a guarantee of compensation given to the victim's family so that the case was not continued. This situation shows that one form of sexual violence has the potential to give rise to other forms of sexual violence, for example rape results in forced marriage for.

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