

## Legal Protection for Victims of Sexual Violence Evaluation of The Implementation of The Law on Sexual Violence Criminal Offences

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**Abstract.** *Criminal acts of sexual violence are increasing in Indonesia. This crime is very detrimental to the victims because of the impacts it causes. Victims must receive protection for their rights as regulated in Law Number 12 of 2022, however, protection for the rights of victims of sexual violence has not been optimal due to weaknesses in terms of legal substance and legal culture. This study uses a constructivism paradigm, with a socio-legal research approach method. The specifications of this study are descriptive analytical. The data used are primary data and secondary data, which are then analyzed qualitatively. The results of the study show that: 1. Victim protection can also include abstract (indirect) and concrete (direct) forms of protection: (1) Abstract protection is basically a form of protection that can only be enjoyed or felt emotionally (psychically), such as satisfaction (satisfaction); (2) Concrete protection is basically a form of protection that can be enjoyed in real terms, such as the provision of material or non-material. 2. Implications of the Regulation of Legal Protection for Victims of Sexual Violence Based on Law Number 12 of 2022, there are weaknesses in the protection of victims' rights, in terms of: (1) legal substance, namely: (i) not all forms of sexual violence are regulated in Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, (ii) Law Number 12 of 2022 opens up space for subsidiary punishment or substitute punishment for perpetrators in the mechanism for providing restitution to victims, and (iii) overlapping laws and regulations governing sexual violence; (2) legal culture, namely: (i) law enforcement, (ii) society. 3. Legal Protection for Women Resulting from Criminal Acts of Sexual Violence: (1) Based on the laws and regulations in Indonesia, there are various regulations that regulate forms of sexual violence such as the 1945 Constitution, Law Number 1 of 1946 concerning the Criminal Code, Law Number 39 of 1999 concerning Human Rights, Law Number 26 of 2000 concerning the Human Rights Court, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking, Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection, Law Number 17 of 2016 which stipulates the State Regulation in Lieu of Law Number 1 of 2016 concerning the second amendment to Law Number 23 of 2002 concerning Child Protection has become a Law, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, Law Number 1 of*

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*2023 concerning the Criminal Code and Law Number 17 of 2023 concerning Health. (2) Efforts to prevent sexual violence, including: a. The role of the government, b. The role of society, c. The role of the family and d. The role of oneself.*

**Keywords:** *Protection; Rights; Victims of Sexual Violence.*

## 1. Introduction

Sexual violence is an issue that has long been the center of discussion in Indonesian society. In Indonesia itself, the term sexual harassment is no stranger because almost every year cases of sexual harassment occur. Sexual Violence comes from the English word Sexual Hardness, where the word Hardness means violence and unpleasant. It can be interpreted that sexual violence is an act of violence committed by someone by forcing them to have unwanted sexual contact.<sup>1</sup>

Cases of sexual violence not only attack physical violence, but also attack the victim's mentality. The mental impact experienced by victims due to sexual violence is difficult to cure compared to the physical violence they experience, it takes a long time for the victim to fully recover from the incident they experienced.<sup>2</sup> Sexual violence means the occurrence of unwanted sexual behavior by one person towards another person.

Cases of sexual violence, both physical and psychological, will always be hot news in Indonesia. This is because cases of sexual violence have occurred since ancient times and will probably continue to occur in the future.

will come. This makes that the victim in a crime, especially the victim of sexual violence, needs protection or a legal umbrella in defending the rights that have been taken by the perpetrator against the victim in the incident, which experiences a lot of pressure and makes the victim reluctant to report and even afraid of the police.

Legal protection for women is an important issue that has received serious attention in various parts of the world. In Indonesia, although there have been various efforts to improve gender equality, the reality is that women are still often victims of violence, both in the public and domestic spheres. Sexual violence, which is often invisible to the wider community, is one of the most concerning forms of violence. This refers to inhumane treatment and violations of women's human rights. Sexual violence not only damages the physical and mental health of the victim, but also degrades the dignity and threatens the safety and well-being of women as a whole.

The importance of legal protection for women cannot be separated from efforts to eradicate sexual violence. Articles in the Constitution of the Republic of Indonesia (UUD 1945) explicitly state that every citizen has the right to receive protection of their rights, including women.<sup>3</sup> However, even though these provisions exist, the practice of protecting women who are victims of sexual violence is still far from adequate. This can be seen from

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<sup>1</sup> Maulida H. Syaiful Tency and Ibnu Elmi, *Sexual Violence and Divorce*, Malang: Intimedia, 2009, p. 17.

<sup>2</sup> Susi Susiana, *Sexual Violence Against Women and the Urgency of Sexual Violence*, Info Pendek Magazine, Vol. VII, No. 1 (2015), p. 13.

<sup>3</sup> The 1945 Constitution of the Republic of Indonesia

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the many cases of sexual violence that do not receive a fair resolution, sometimes the victims are even stigmatized or blamed.

One of the latest regulations that is expected to provide more effective protection for victims of sexual violence is the Law on the Elimination of Criminal Acts of Sexual Violence (UU PPKS).<sup>4</sup> This law was passed in response to the inability of existing laws to provide maximum protection to victims of sexual violence. Previously, women who were victims of sexual violence often faced various legal obstacles, ranging from the lack of provisions protecting victims to the lengthy and complicated legal process.

The Law on the Elimination of Criminal Acts of Sexual Violence (UU PPKS) is an important milestone in efforts to provide legal protection for women, especially in providing justice for victims of sexual violence. This law regulates various aspects related to the elimination of sexual violence, both in the realm of legislation, legal procedures, and protection for victims. One important thing in the UU PPKS is the recognition of various forms of sexual violence, which were previously not clearly regulated in positive law in Indonesia.<sup>5</sup>

However, although the Law on the Elimination of Sexual Violence (UU PPKS) provides new hope for women who are victims of sexual violence, the implementation of this law still faces various challenges. One of the biggest challenges is the lack of understanding and awareness among law enforcement officers regarding the importance of protecting victims of sexual violence. In addition, cultural factors and social stigma are still obstacles for many women to report cases of sexual violence that they experience.

Even in many cases, victims of sexual violence prefer to remain silent and do not report the incident to the authorities because they are afraid of not being believed, afraid of getting a negative stigma, or feel that there is no guarantee of sufficient protection. Therefore, this law must be supported by effective policies and strategies to ensure its maximum implementation. This includes educating the public about their rights and the protection that can be provided by the state.

In addition, the role of society is also very important in supporting legal protection for women. The community needs to be given a deeper understanding of what sexual violence is, its impacts, and ways to protect women from sexual violence. With increasing public awareness, it is hoped that a safer environment for women can be created, as well as strengthening the existing legal protection system.

On the other hand, there are still various parties who consider that the Law on the Elimination of Sexual Violence (UU PPKS) has not been fully effective in overcoming sexual violence, especially in terms of law enforcement. Some groups consider that the existing legal process is still less pro-victim, due to the minimal protection and legal assistance provided to victims. This shows that even though there are clear regulations, implementation in the field still needs to be improved so that it can truly provide maximum protection.

Another challenge that needs to be considered is the problem of handling sexual violence

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<sup>4</sup>Dewi, AR, Legal Protection for Victims of Sexual Violence, Indonesian Law Journal, Vol. 3, No. 2 (2022), pp. 142-158.

<sup>5</sup>Rachmawati, S., "Law on the Elimination of Sexual Violence: Between Hopes and Challenges," Journal of Social Development, Vol. 5, No. 1 (2023), pp. 74-85.

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cases involving authorities. In some cases, law enforcement officers tend to underestimate victims' reports or even do not process the reports seriously. This condition is certainly very detrimental to victims, because they do not get the justice they deserve. Therefore, firm and consistent law enforcement is needed in order to realize better legal protection for women.

In this context, research on the implementation of the PPKS Law and the challenges it faces is very important to conduct. This study aims to explore the extent to which the law can provide effective protection for women who are victims of sexual violence, as well as to identify the obstacles that exist in the implementation of the law. Thus, it is hoped that more appropriate solutions can be found in improving legal protection for women in Indonesia.

According to Law Number 12 of 2022 Article 1 number 1 concerning Criminal Acts of Sexual Violence, the definition of sexual violence is any act of degrading, insulting, attacking, and/or other acts against a person's body, sexual desire, and/or reproductive function, by force, against a person's will, which causes a person to be unable to give consent in a free state, due to the inequality of power relations and/or gender relations which result in or can result in suffering or misery physically, psychologically, sexually, economic, social, cultural, and/or political losses.<sup>6</sup>

On the other hand, the definition of sexual harassment is all forms of verbal or physical actions that refer to sexuality that are carried out either explicitly or implicitly. There are three forms of sexual harassment, namely physical, verbal, and non-verbal. It can be said that sexual harassment has a wide range of sexual acts through physical or non-physical touch targeting the victim's sexual organs or sexuality, flirting, sexually suggestive remarks, showing things about pornography and sexual desires, poking or touching certain parts of the body, etc. so that it causes discomfort, offense, feeling humiliated, and can cause health and safety problems.<sup>7</sup>

Crime cases that occur in the community are increasingly horrific, the quality and quantity of crime are increasing, bomb cases, customer robberies, murders and other types of crimes such as rape accompanied by murder, trafficking of women to be used as prostitutes, show that crime is growing and increasing. If we look at the history of human life, crime has existed since humans were created, starting from crimes committed by Adam's children against their brothers, therefore crime is often said to be the oldest of social problems, because crime is one form of deviant behavior that occurs in society.<sup>8</sup>

Sexual violence also occurs in educational environments, because of this, regulations are needed to prevent and protect victims, one of the cases of sexual violence that has become hot news throughout Indonesia from the case of sexual violence that occurred in 2022 at a high school in Malang. With the following chronology:

This case involves a motivator and founder of SMA SPI (Good Morning Indonesia), with the initials JEP, who is suspected of committing sexual violence against female students since

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<sup>6</sup>Central Bureau of Statistics, Statistical Report on Violence Against Women in Indonesia, BPS, 2021.

<sup>7</sup>Dida Rachma Wandayati, Legal Protection of Female Victims of Sexual Harassment in the Indonesian Criminal Justice System Reviewed from a Victimology Perspective, Journal of Feminism and Gender Studies Vol.2 No.1, 2022, p.58.

<sup>8</sup>Yuliani, F., Legal Protection for Victims of Sexual Violence in the Perspective of Indonesian Law, Journal of Law and Development, Vol. 15, No. 4 (2021), pp. 210-223.

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2009. JEP was reported by the National Commission for Child Protection (Komnas PA) to the East Java Regional Police on May 29, 2021. The chronology of the JEP case began when a female student claimed to have been raped by Julianto up to 15 times since the school was founded. Unfortunately, the victim did not dare to report it because she was afraid of JEP's figure who was a respected person. Furthermore, there is evidence of CCTV from JEP's Hotel when JEP entered one of the rooms, in the room there was a student victim who was about to be raped. The suspect JEP was charged by the Public Prosecutor with multiple articles, namely Article 81 paragraph 1 in conjunction with Article 76D of the Law on Child Protection, in conjunction with Article 64 paragraph 1 of the Criminal Code (KUHP). Then, Article 81 paragraph 2 of the Law on Child Protection, in conjunction with Article 64 paragraph 1 of the Criminal Code, Article 82 paragraph 1, in conjunction with Article 76e of the Law on Child Protection, in conjunction with Article 64 paragraph 1 of the Criminal Code and Article 294 paragraph 2 ke-2 of the Criminal Code, in conjunction with Article 64 paragraph 1 of the Criminal Code. In the ongoing trial, the panel of judges read out the verdict that JEP, the founder of SMA SPI, was found guilty, with a prison sentence of 12 years and a fine of Rp300 million, subsidiary to three months' imprisonment. In addition, JEP also received restitution or compensation for the victim.<sup>9</sup>

This case is quite in the spotlight because in addition to being sentenced to prison, the defendant also received restitution or compensation for the victim. The victim is also required to be provided with assistance by related institutions, especially the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) and authorized psychologists for post-incident recovery. This is in accordance with the policy in Article 30 of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence which states "Victims of Criminal Acts of Sexual Violence have the right to receive restitution and recovery services".

The government has taken steps to address the limitations of the regulations on sexual violence and sees the need for a special law that can further and comprehensively handle sexual violence, which then in 2022 the House of Representatives of the Republic of Indonesia officially ratified the Draft Law on the Crime of Sexual Violence (RUU TPKS) after a very long journey since it was first proposed by the National Commission on Women in 2012. The RUU TPKS was specifically designed to handle victim-oriented sexual violence and regulate sexual harassment more broadly. Sexual violence in its diverse and complex forms has not been clearly regulated in law. Thus, so far victims of sexual violence have not fully received justice, protection, and recovery from the State. The enforcement process is still limited and has not fully sided with the victim. The perspective of the victim who is often considered guilty of the sexual violence they receive has also created an increasing culture of violence, both privately and publicly.

Law Number 12 concerning Criminal Acts of Sexual Violence explains that the elimination of sexual violence is all efforts consisting of preventing, handling, protecting, restoring victims, prosecuting perpetrators and trying to prevent sexual violence from recurring. It is hoped that the enactment of this regulation can prevent and minimize criminal acts of sexual

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<sup>9</sup> Meilita Elaine, "Sexual Violence Case at SPI Batu High School, Judge Sentences Julianto Eka Putra to 12 Years in Prison" <https://www.suarasurabaya.net/kelanakota/2022/kasus-kekerasan-seksual-di-smaspi-batu-hakim-onis-julianto-eka-putra-12-tahun-penjara/>, accessed on Friday, April 11, 2025 at 19.10 WIB.



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violence in Indonesia and can also be a complete, fair and formal foundation for victims of sexual violence.

Based on the background description above, the author is interested in analyzing further, especially regarding how "Legal Protection for Victims of Sexual Violence Evaluation of the Implementation of the Law on Sexual Violence Crimes".

## **2. Research Methods**

The approach method used in studying the problem is Empirical Jurisprudence. The problems that have been formulated above will be answered or solved by using the Empirical Jurisprudence approach method. The Jurisprudence approach (law is seen as a norm or *das sollen*), because in discussing the problem this research uses legal materials (both written law and unwritten law or both primary legal materials and secondary legal materials).

## **3. Results and Discussion**

### **3.1. Legal Protection for Victims of Sexual Violence Based on Law Number 12 of 2022 Concerning Criminal Acts of Sexual Violence**

Crimes of sexual violence have often been heard and seen the news is good in electronic media, mass media and online media. No few women are victims of sexual violence crimes until now resulting in the death of the victim. Cases of sexual violence seem to be endless, so it can be said that in Indonesia there is an emergency of sexual violence.<sup>10</sup>

Violence is different from aggression. Aggression is seen more in terms of behavior that includes the initiative to carry out an act of violence by perpetrators who are aware and intend to harm or control the target of their actions through physical, verbal, sexual and emotional attacks. While violence is seen more from the consequences it causes, be it physical injury or disability to death, or psychological, emotional and sexual impacts.<sup>11</sup>

It can be said that aggression is an act or behavior of attacking. from the perpetrator to the victim, while violence is more about the consequences of the perpetrator's actions that cause harm to the victim. Violence is often directed at women, but not a few children are also victims of violence. Violence against women is an action or attitude carried out for a specific purpose that causes harm to women, both physically and psychologically. Women and children are groups that are vulnerable to discrimination and are at high risk of experiencing disorders and problems in their development, both psychologically (mentally), socially and physically which are influenced by internal and external conditions due to acts of violence.<sup>12</sup>

Violence against women according to the Decree of the Minister of Health No.

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<sup>10</sup> Hairani Siregar, Husni Thamrin, Fajar Utama Ritonga and Agus Suriadi, *op.cit.*, p.13.

<sup>11</sup> Rachmad Hidayat, et al., *The Face of Violence: Analysis of Data on Cases of Violence Against Women in Rifka Annisa 2000-2006*, Rifka Annisa Women Crisis Center, Yogyakarta, 2009, p. 6.

<sup>12</sup> Henny Nuraeny and Tanti Kirana Utami, *Criminal Law and Human Rights; Legal Protection of Children and Women*, First Edition, Raja Grafindo Persada, Depok, 2021, p.60.

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1226/Menkes/SK/XII/2009 concerning Guidelines for the Implementation of Integrated Services for Victims of Violence Against Women and Children in Hospitals, namely all forms of gender-based violence that result in, or may result in, physical, sexual, mental harm or suffering to women; including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in society or in private life.

Furthermore, Article 1 of the 1993 Declaration on the Elimination of Violence Against Women defines violence against women as: "Acts of violence committed against women because of their gender assumptions, which cause or will cause physical, sexual or psychological suffering for women, including threats, coercion or restrictions on freedom of movement, whether occurring inside or outside the home."

There are forms of crime that can be classified as: violence against women, including:<sup>13</sup>

1. Physical, sexual and psychological violence within the family, including beatings, sexual abuse of girls in the family, violence related to dowry (dowry), rape in marriage, female genital mutilation and other customs outside of marriage; harassment of women, and violence related to exploitation;

2. Physical, sexual and psychological violence committed or condoned by the state. Specifically, the Indonesian Criminal Code classifies violence against women as victims of:

- a. Rape (Article 282);
- b. Abortion without the consent of the woman concerned (Article 347);
- c. Trafficking in women (Article 287);
- d. Running away from women (Article 332).

Even several women's organizations that accompany and advocate cases against women divide violence against women into 8 (eight) acts, namely:<sup>14</sup>

1. Violence against wives (VAW);
2. Dating violence (DV);
3. Rape;
4. Sexual harassment;
5. Domestic violence (DV);
6. Violence against children (VAC);
7. Unwanted pregnancy (KTD);
8. Other violence.

There are myths about sexual crimes that generally mislead the public, even law enforcement officers who handle the cases. Sexual crimes only happen to women, they always happen at night, the victims are not good women, the crimes happen solely because sexual desire, and the best solution is to marry the perpetrator to the victim. In reality,

<sup>13</sup> Hairani Siregar, Husni Thamrin, Fajar Utama Ritonga and Agus Suriadi, op.cit., p.14.

<sup>14</sup> Sulistyowati Irianto and Lidwina Inge Nurtjahjo (Ed.), op.cit., p. 91.

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sexual crimes can happen to anyone, it can happen at any time, and it doesn't just happen because of sexual desire, but also because of the unequal power relations based on gender, age, status social, ethnic, religious, in the realm of patriarchal culture.<sup>15</sup>

Criminal acts of sexual violence are more often committed by men against women, but it does not rule out the possibility of it being done by men against men or women against women. Even Recently there have been cases of sexual violence committed by boys against girls.<sup>16</sup>

Efforts to achieve gender equality and justice are, of course, realized in providing protection for the rights of victims of crime sexual violence crimes, where the victim has the same rights before the law (equality before the law), and this can be seen in the criminal justice system. Mardjono Reksodiputro provides a limitation that The criminal justice system means a crime control system consisting of the Police, Prosecutor's Office, Courts and Correctional Institutions for convicts.<sup>17</sup>

On this basis, at the inspection level, both at the initial stage investigation and inquiry at the Police, prosecution stage at the Prosecutor's Office and the stage of examination of the trial in court by the Judge, the rights of the victim especially in this case victims of sexual violence crimes must get attention, in the sense that victims can participate in the judicial process in order to protect and fight for their rights.

Criminal law regulations regarding the protection of crime victims In the criminal justice system, there are basically 2 (two) models known, namely the procedural rights model and the service model:

1. The procedural rights model<sup>18</sup>

In the procedural rights model, the emphasis is on enabling victims to play an active role in the judicial process. Victims of crime are given the right to file criminal charges or the right to be present and heard at every level of the court hearing, where their interests are involved, including the right to be consulted by the correctional institution, before being granted parole, and ultimately the right to enter into a peace or civil trial. This approach sees the victim as a subject who must be given broad legal rights to demand and pursue interests.

2. The service model<sup>19</sup>The service model emphasizes the provision of compensation in the form of compensation, restitution, medical services, legal assistance and efforts to restore the condition of victims who experience trauma, fear and stress due to crime. This is a form of legal protection for victims of crime. Compensation is something that is given to the party who suffers a loss commensurate with the damage suffered. The difference between

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<sup>15</sup> *Ibid.*, p. 333.

<sup>16</sup> *Ibid.* 2

<sup>17</sup> Joko Sriwidodo, Development of the Criminal Justice System in Indonesia, Development of the Criminal Justice System in Indonesia, First Edition, Kepel Press, Yogyakarta, 2020, p.1.

<sup>18</sup> Aris Prio Agus Santoso, Ahmad Rifai, Angga Eko Prasetyo and Sukendar, Head of *Criminal Law Selecta, A Basic Introduction*, Pustaka Baru Press, Yogyakarta, 2022, p. 115.

<sup>19</sup> *Ibid*



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compensation and restitution is that compensation arises from the victim's request and is paid by the community or is a form of responsibility of the community or state (the responsible of the society), while restitution is more criminal in nature, arising from a criminal court decision and is paid by the convict or is a form of responsibility of the convict.

Protection of the above rights has weaknesses. In this procedural rights model, it can place public interests below the individual interests of the victim, in addition to the free trial atmosphere and based on the principle of presumption of innocence can be disturbed by the victim's opinion about the punishment imposed because it is based on emotional thinking as an effort to take revenge. In addition to the above, which stipulates that the Public Prosecutor represents the victim, often in practice, the victim's aspirations in the criminal justice process are not given enough attention, resulting in dissatisfaction from and/or the victim's family with the prosecutor's demands and the judge's decision. This aspect is partly triggered because procedurally, victims in the criminal justice system do not have the opportunity to express their dissatisfaction with the demands submitted by the Public Prosecutor and the judge's decision. Likewise with the service model, where victims are only seen as special targets who must be served in law enforcement activities or criminal case resolution.<sup>20</sup>

In addition, victim protection can also include abstract (indirect) and concrete (direct) forms of protection.<sup>21</sup>

1. Abstract protection is basically a form of protection that can only be enjoyed or felt emotionally (psychically), such as a sense of satisfaction (satisfaction);
2. Concrete protection is basically a form of protection that can be enjoyed in real terms, such as the provision of goods or services. both material and non-material. Material gifts can be in the form of compensation or restitution. The provision of protection that non-material nature can be in the form of freedom from threats and news that degrades human dignity.

The government has taken steps to address the rules on sexual violence and sees the need for a special law that can further and comprehensively handle sexual violence, which then in 2022 the House of Representatives of the Republic of Indonesia officially ratified the Draft Law on Sexual Violence Crimes (RUU TPKS). In the crime of sexual violence, Law Number 12 of 2022 concerning the Crime of Sexual Violence has also regulated provisions regarding the rights of victims, the victim's family, and witnesses. The implementation of witness and victim protection is carried out in accordance with the law governing the protection of witnesses and victims, unless otherwise specified by Law Number 12 of 2022.<sup>22</sup>

The issuance of Law Number 12 of 2022 concerning Criminal Acts Sexual Violence Crimes have given hope to victims of sexual violence to receive protection for their rights.

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<sup>20</sup> Adil Lugianto, Reconstruction of Protection of the Rights of Victims of Criminal Acts, in MMH, Volume 43 No. 4, Faculty of Law, Diponegoro University, Semarang, October 2014, p. 556.

<sup>21</sup> 115-116.

<sup>22</sup> R. Valentina Sagala, 100 Questions and Answers about Sexual Violence, Since the Enactment of the Sexual Violence Crime Law, First Edition, Gramedia Pustaka Utama, Jakarta, 2022, p. 93.

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so far cannot be obtained. Law Number 12 of 2022 It is hoped that this will accelerate the resolution of cases of sexual violence and bring out the courage of victims to get justice.

### **3.2. Legal Protection for Women Resulting from Criminal Acts of Sexual Violence**

According to Ani Purwani, sexual violence is one type of violence that can occur both in public and domestic spaces. Sexual violence usually targets women because in this case women are always considered weak. Furthermore, sexual violence against women is a common crime, this sexual violence does not occur in closed spaces, but also occurs everywhere and often occurs repeatedly anywhere over a very long period of time.<sup>23</sup>

Sexual violence is generally closely related to violence against women. Sexual violence refers to any attack on a person's sexuality (whether male or female) that is carried out under duress.<sup>24</sup>

Sexual violence is an act that affects the values of honor and self-esteem, especially if the victim is a woman. The crime of sexual violence that occurs today does not include several acts that are classified as sexual crimes, therefore, in considering the sentence, it is important to pay attention to the perception of the judge who sentenced the perpetrator.<sup>25</sup>

From the above definition, sexual violence against women is defined as the use of violence, whether by someone in our environment or someone far from us. And usually the victims who often receive sexual violence are women.

The Republic of Indonesia provides legal protection to people who experience violence, including legal protection for women who are victims of sexual violence. In this case, criminal law only identifies victims as targets of regulation, not as legal subjects who need to receive protection. Legal protection through the legal system for victims is still very limited, and victims can only receive protection if they take legal action.

Integrated criminal justice system for handling sexual violence cases against women (SPPT-PKKTP) is an integrated criminal justice system that shows a collaborative process between institutions/parties used to process and access cases of sexual violence. SPPT-PKKTP is built based on the needs and interests of victims, with reference to the values of gender equality and with the demands for the protection of women as victims of sexual violence. In the concept of SPPT-PKKTP, victims have the right to be heard, to receive information about the legal efforts being made and to be taken into account for the sense of justice and social welfare they desire, and to be positioned as subjects, SPPT-PKKTP revises customs that are generally positioning the victim as just a complement (object) who only takes information from him.

In general, Article 5 of the Witness and Victim Protection Law contains very good and detailed basic provisions in protecting the rights of witnesses and victims. Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, later amended by Law Number 31

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<sup>23</sup> Elizabeth Siregar et al., *Sexual Violence Against Women: Reality and Law*, (Jurnal Hukum, Vol, XIV, No.1, 2020), p. 3.

<sup>24</sup> Simson Ruben, *Sexual Violence Against Wives Reviewed from a Criminal Law Perspective*, (Jurnal Lex Crimen, Vol IV, NO.5, 2015), p. 94.

<sup>25</sup> Elizabeth Siregar et al., *Sexual Violence Against Women: Reality and Law*, (Jurnal Hukum, Vol, XIV, No.1, 2020), p. 4.

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of 2014 concerning the Protection of Witnesses and Victims, regulates new standards added to Article 6, the full text of which is as follows: victims of gross human rights violations, victims of terrorist crimes, victims of human trafficking, victims of torture, victims of sexual violence and serious abuse.

Law Number 31 of 2014 which is a new regulation mandates the protection of witnesses and victims (LPSK) to provide medical assistance, psychosocial rehabilitation and psychological rehabilitation to women who are at risk of becoming victims of sexual violence.<sup>26</sup>

In theory, legal protection for women who are victims of sexual violence can be provided in different ways, depending on the pain and loss experienced by the victim. Referring to the discussion above, there are several protections that are commonly provided to victims, including:

1) Compensation and restitution are regulated in the framework of the Law on Protection of Witnesses and Victims, namely Law Number 13 of 2006 as amended by Law Number 31 of 2014. According to the Law on Protection of Witnesses and Victims, restitution is defined as the amount of compensation received by the victim and his/her family from the perpetrator or a third party, and compensation is defined as compensation provided by the state because the perpetrator is unable to pay in full the amount of losses suffered by the victim and his/her family. Based on Article 7A paragraph (1) on Protection of Witnesses and Victims, namely Law Number 31 of 2014, 43 victims are entitled to restitution in the following forms:

- a. Restitution for loss of property or income
- b. Restitution for losses resulting from losses directly related to the crime committed
- c. Restitution for medical or psychological care costs.

2) Counseling Generally this protection is given to women as victims due to the severity of the psychological impact of sexual violence they experience. Medical services/assistance for women as victims who experience stress due to sexual violence. The health services in question can be in the form of a health examination and in the form of a written report or health certificate that has the same legal force as evidence. This medical information is especially needed if the victim wants to report the crime of sexual violence that occurred to the police for further processing.

3) Legal Aid Is a form of assistance to victims, especially in Indonesia, most of this assistance is provided by non-governmental organizations or commonly abbreviated as NGOs. Providing legal assistance to women as victims of sexual violence must be done, this is important considering that the majority of victims of sexual violence have little knowledge of the law to obtain legal assistance and if the government does not provide adequate legal support to women as victims of sexual violence, it can worsen the victim's condition. Efforts to protect women as victims of sexual violence are not only the task of law enforcement officers, but also the task of society to help women as victims of sexual violence restore

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<sup>26</sup> Ema Mukarramah, Promoting the State's Commitment to the Protection of Women Victims of Violence: A Collection of Proposals for Draft Legislation and Policy Implementation Studies, (Jakarta: National Commission on Violence Against Women, 2015. p. 155.

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their social status.

Sexual violence is a form of human rights violation that involves sexual exploitation of a person without consent. It is important to remember that sexual violence is not only limited to physical acts, but also includes online sexual harassment, but what distinguishes sexual harassment from sexual violence is that sexual harassment generally refers to unwanted, inappropriate or inappropriate behavior in accordance with social norms related to sexuality, which in essence sexual harassment is more verbal or non-physical, while what is meant by sexual violence involves physical acts or physical threats accompanied by sexual elements such as rape or sexual coercion. Here are some regulations regarding forms of sexual violence in the following laws and regulations:

1) The 1945 Constitution implicitly regulates the issue of forms of sexual violence in Article 28 G paragraphs (1) and (2) and Article 28 I paragraphs (1) and (2). Based on Article 28 G paragraph (1) that every individual has the right to self-defense, honor, dignity and security and protection from fear to do or not do something, while paragraph (2) explains that every individual has the right to be free from torture and treatment that degrades human dignity and every individual also has the right to obtain political asylum in another country.

Article 28 I paragraph (1) explains that every individual has the right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to freedom of religion, the right not to be enslaved, the right to be recognized as a human being before the law and the right to escape from unjust rights, while paragraph (2) explains that every individual has the right to be free and protected from discriminatory treatment on any basis.

2) Law Number 39 of 1999 Concerning Human Rights In the explanation of Article 5 paragraph (3) of Law Number 39 of 1999 concerning Human Rights, it is stated that the Law aims to protect human rights, especially the rights of vulnerable communities. Groups at risk include the elderly, children, the poor, pregnant women and people with disabilities. The Human Rights Law defines the term torture as an act of violation of human rights. The Human Rights Law also provides protection for women from acts of sexual harassment and rape are included in the category of sexual harassment.

3) Law of the Republic of Indonesia Number 1 of 1946 concerning the Criminal Code Article 285 which states that a person who uses violence or threats of violence to force a woman to have sexual relations outside of marriage. Article 289 which states that a person who forces or allows indecent acts through violence or threats of violence because they commit a violation of moral honor.

4) Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code In Article 414 paragraph (2) which states that a person who uses violence or threats of violence to force another person to commit an indecent act against himself. Article 422 paragraph (1) which states that anyone who moves, transports, brings or hands over a child to another person for the purpose of indecent assault, prostitution or other acts contrary to morality.

5) Law Number 35 of 2014 Amendment to Law Number 23 of 2002 Concerning Child Protection Defines the concept of child exploitation, but is not limited to all prostitution and sexual abuse activities, including all forms of use of a child's sexual organs to gain profit

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either for oneself or for others. The Child Protection Law also provides the right to compensation for children who are sexually exploited.

The National Commission on Violence Against Women considers that the Law on the Crime of Sexual Violence is a legal reform to fill the legal gap, so with the enactment of the Law on the Crime of Sexual Violence (UU TPKS) the state becomes the vanguard in protecting victims of sexual violence, especially if the victims are women. The enactment of this Law is a milestone towards a new civilization to prevent various forms of sexual violence which are currently increasing.

The ratification of the Law on Sexual Violence Crimes is the starting point for the birth of a new civilization to prevent various forms of sexual violence that have been an urgent issue. This law must be implemented seriously by all stakeholders to ensure the protection of all citizens, especially women and children who are very vulnerable to sexual violence.<sup>27</sup>

Efforts to protect women as victims of sexual violence is a struggle to protect the rights of victims. As a country of law, Indonesia has an obligation to protect the human rights of all its people. The following are the rights of victims of sexual violence as stated in the Law on the Crime of Sexual Violence (UU TPKS) number 12 of 2022, namely:<sup>28</sup>

1) Right to protection. The right to protection means that victims have unlimited rights to comfort and well-being from the beginning of the case handling. Article 69 contains guidelines regarding the right to protection which includes the victim's right to access, facilities, and information to maintain protection. As part of the right to protection, victims have the right to be protected from potential acts of intimidation, either from the perpetrator or other parties, or from actions by law enforcement officers who intentionally intimidate the victim. The victim's rights to privacy and protection in revealing their identity, as well as their rights to work, education and political participation can be protected.

2) Right to treatment. Article 68 of the Law on Sexual Violence Crimes regulates how victims of sexual violence have the right to information regarding the entire process of treatment, protection and recovery, the right to receive documents resulting from treatment, the right to legal services, the right to psychological empowerment, the right to health services including health checks and treatment, the right to access services and facilities that meet the special needs of victims and the last is the right to delete sexual content in cases of sexual violence on electronic media.

3) Right to recovery. The right to recovery provides victims of sexual violence with access to various information and facilities aimed at restoring normal conditions both physically and mentally, spiritually and socially to the victim. Regarding the right to recovery, it provides guarantees to victims to return to a normal life. To protect the right to recovery, there are three things that need to be done. First, medical and psychological rehabilitation. Second, this social rehabilitation is an effort to restore the victim's ability and confidence in interacting in community life.

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<sup>27</sup> Andrean Alan Kusuma et al., *Regulating Sexual Violence: The Indonesian Experience*, Bekasi: Daya Research Advocacy for Women and Children in Indonesia, 2023, p. 8.

<sup>28</sup> Muhammad H, *Legal Implications of the Regulation of the Rights of Victims of Sexual Violence in Law Number 12 of 2022 Concerning Sexual Violence*, *Journal of Legal and Justice Problem Dynamics*, Vol 9, No 1, 2022. p. 50.



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Third, material rehabilitation, substance rehabilitation occurs through the provision of compensation in the form of money used by the victim for his life.

Government efforts to prevent sexual violence include:

- a. Governments can conduct public campaigns and educational programs to raise awareness about sexual violence, including how to identify, prevent and report it.
- b. The government can conduct remote monitoring in places that are vulnerable to acts of sexual violence through CCTV monitoring.

The community can also participate in preventing the occurrence of sexual violence in several ways as follows:

- a. The community can disseminate education about sexual violence crimes to all levels of society to prevent these crimes from occurring and to avoid becoming victims or perpetrators.
- b. In society, we must create environmental conditions that can prevent the occurrence of sexual violence by providing positive activities such as religious studies or other activities that can be used as a means for the community to carry out positive activities.

It is undeniable that the role of the family can also have a positive impact in preventing cases of sexual violence such as:

- a. In a family, there also needs to be a quality communication network between family members. This is very useful because by fostering a good communication network, there will be openness between one another, so that in this case it can minimize the occurrence of sexual violence.
- b. In the family, the role of parents and all family members is to prevent and protect the family from the influence of pornography or access to information containing pornographic elements for each family member.

There are various ways to prevent sexual violence against oneself, as follows:

- a. It is important to understand about education and awareness about sexual violence education and awareness of personal rights which are the first steps to avoid becoming a victim of sexual violence.
- b. Instilling in yourself about setting clear boundaries in relationships, whether with partners, friends or family is an important step to maintaining your own safety.

#### **4. Conclusion**

1. Victim protection can also include abstract (indirect) and concrete (direct) forms of protection: 1) Abstract protection is basically a form of protection that can only be enjoyed or felt emotionally (psychically), such as a sense of satisfaction (satisfaction); 2) Concrete protection is basically a form of protection that can be enjoyed in real terms, such as the provision of goods or services. both material and non-material. Material gifts can be in the form of compensation or restitution. The provision of protection that non-material nature can be in the form of freedom from threats and news that degrades human dignity. 2. Implications of Legal Protection Regulations for Victims of Sexual Violence Based on Law Number 12 of 2022, there are weaknesses in protecting victims' rights, in terms of: 1) legal

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substance, namely: (i) not all forms of violent crimes sexuality is regulated in Law Number 12 of 2022 concerning Crime of Sexual Violence, (ii) Law Number 12 of 2022 opens up space for subsidiary sentences or substitute sentences for perpetrators in the mechanism for providing restitution to victims, and (iii) overlapping laws and regulations governing crime of sexual violence; 2) legal culture, namely: (i) law enforcement: differences in perception of victims between law enforcers, considerations of law enforcement officers who do not defend the interests of victims in law enforcement, and lack of empathy from law enforcement officers towards victims and tend to blame victims; and (ii) society: society considers the position of women to be lower than men, culture of victim blaming and negative stigma or stereotyping of society towards women victims of sexual violence; 3. Legal Protection for Women Resulting from Criminal Acts of Sexual Violence: 1) Based on the laws and regulations in Indonesia, there are various regulations that regulate forms of sexual violence such as the 1945 Constitution, Law Number 1 of 1946 concerning the Criminal Code, Law Number 39 of 1999 concerning Human Rights, Law Number 26 of 2000 concerning the Human Rights Court, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection, Law Number 17 of 2016 which stipulates the State Regulation in Lieu of Law Number 1 of 2016 concerning the second amendment to Law Number 23 of 2002 concerning Child Protection has become a Law, Law Number 12 of 2022 concerning the Crime of Sexual Violence, Law Number 1 of 2023 concerning the Criminal Code and Law Number 17 of 2023 concerning Health. 2) Uefforts to prevent sexual violence, including: a. Role government, b. The role of society, c. The role of the family and d. The role of oneself.

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