

A Criminological Study against Sexual Violence Performed by Normal Men against Women with Disabilities

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Abstract.

This writing aims to examine the criminology of criminal acts of sexual violence perpetrated by normal men on women with disabilities and the countermeasures made by the Jepara Resort Police to tackle these crimes. This research is included in the type of empirical juridical research. Based on the results of the study, it can be concluded that the object of criminology studies includes three things: criminal acts, perpetrators of criminal acts, and public reactions to both. Furthermore, the object of the study was analyzed using criminological theories. Sexual violence was analyzed using differential association theory. The perpetrators of the crime of sexual violence must have committed a crime because of the factors that caused the crime. After knowing these factors, it was studied using the theory of Social Anomalies. Public reaction to criminal acts and perpetrators of sexual violence. First, the community around the perpetrator provides labeling, or social punishment given to the perpetrator. Second, on the other hand, there are still some people who know about this form of crime and care about the existence of the crime of Sexual Violence by creating forums or becoming activists. This community reaction analysis uses Social interactionist theory.

Keywords: Criminology; Disabilities; Normal; Sexual; Violence.

1. Introduction

Cases of sexual violence with female victims with disabilities in Indonesia are very rarely reported, there are many reasons behind this, one of which is the assumption that women who have sex outside of marriage are despicable, and what has happened so far has made people generally think that men do not may commit sexual violence against women with disabilities. Society's perception of women with disabilities and sex for all men is a stereotype against men, this is what makes it difficult for women with disabilities to appear as victims and report when they become victims of sexual violence (Quoted from Jurnal Perempuan edition No. 109 Vol. 26 No. .2, August 2021).¹ Cases of sexual violence that occur in women with disabilities need more attention. The number of cases of sexual violence that occurs tends to go unreported and do not get a serious response like the cases that occur in normal women. Women with disabilities are always considered natural to be targets of sexual violence because they are considered weak, and men are considered strong so it seems strange that men are called victims of sexual violence. In fact, if it is men with disabilities who become victims, the problem becomes different. What happens is generally that sexual violence

¹ R. Soesilo, (1993). *Kitab Undang-Undang Hukum Pidana serta Komentar-Komentarnya*, Bogor : Politea, p. 23

does not get the right treatment, it can leave a heavy psychological burden such as depression, suicidal ideation, sexual dysfunction, and others. Researchers in America said that in 2014 it turned out that the number of male and female victims of sexual violence had almost the same number, namely 1267 million for men and 1270 for women (Lara Stemple, 2014, *The Sexual Victimization of Men in America: New Data challenge old assumptions*). Meanwhile, according to the Kasatreskrim of the Jepara Police, the number of reports of sexual violence with female victims with disabilities was only 2 victims. On the other hand, Mulyadi, an Activist for Women and Children Assistance in Jepara Regency, mentioned a higher number.

Sexual violence can be defined as unwanted sexual acts, which make someone feel offended, humiliated and/or intimidated. Sexual violence is a serious form of sexual discrimination that affects the dignity of a woman and a man. Sexual violence is all kinds of behavior that connotes or leads to sexual things that are carried out unilaterally and are not expected by the person being targeted, causing negative reactions such as shame, anger, hatred, offence and so on in individuals who are victims of sexual violence. The range of sexual violence is very broad, which includes: flirting, comments that have sex or gender connotations, pornographic humor, pinches, pokes, clapping or touching on certain body parts, certain gestures or gestures of a sexual nature, invitations to date with the lure or threats, invitations to have sexual relations to rape. Sexual violence can happen anywhere and anytime. Although in general the victims of sexual violence are women, this does not mean that men are immune (never experienced) to sexual violence (Irfan, 2001: 58). Sexual violence is not really about sex. The point is abuse of power or authority, even if the perpetrator tries to convince the victim and himself that he is doing it out of sex or romance. In other words, a new offender feels "meaningful" when he can and successfully demean another person sexually. This sense of "significance" is not always able or willing to be verbalized (realized).

The impact of sexual violence can vary, depending on the severity and duration of sexual violence against the victim. The psychological impact is the same. The perpetrator's revenge, retaliation, or victim blaming are things that worsen the psychological condition of the victim. Generally will be positioned like a rape victim. The system that is supposed to help and protect is likely to position itself in a more vulnerable position to experience sexual violence again. The experience of revictimization can occur in those who report sexual violence against themselves (Triwijayanti, 2007: 303-306). The absence of a law that regulates sexual violence, especially for female victims with disabilities, makes victims feel unsure about receiving appropriate treatment guarantees after they report their cases. Laws on sexual violence are generally contained in laws that also regulate Domestic Violence, concerning women and children. This is also a gender bias, as if women with disabilities cannot be victims and as women are not people with disabilities.

2. Research Methods

This research was conducted using a descriptive analytical approach, with an

empirical juridical approach. The specification of this research is descriptive analytical. It is said to be descriptive because this research seeks to describe in detail, systematically and thoroughly regarding the settlement of criminal acts both through formal justice procedures and settlements outside the formal justice institutions. In addition, for the sake of data validity, in this study used data in the form of primary data and secondary data. The primary data in this study were the results of interviews about the handling of women with disabilities who were victims of sexual violence in the jurisdiction of the Jepara Police and the Jepara District Court. Secondary data in this study include the Criminal Code and Law Number 8 of 2016 concerning Persons with Disabilities as well as legal theories from experts from literature, books and the internet.

3. Results and Discussion

3.1. Sexual violence or sexual harassment

Criminology scholars² agree that the object of criminology research is crime; criminal; deviant behavior; perpetrators of irregularities; crime victims; social reactions to evil behavior and deviant behavior, both as formal reactions, namely the workings of the institutions of the criminal justice system, as well as non-formal reactions from community members against perpetrators of crimes and victims of crime in a crime event. The whole object of this research is analyzed within the scope of sociology under the topic of social phenomena. Or in other words, the object of criminology research is studied as a social phenomenon.

In general, a conclusion can be drawn that the object of study in criminology includes three things, namely criminals, crimes, and public reactions to both. So in this study, researchers conducted a criminology study object regarding sexual violence which will be explained in the discussion of this research, namely as follows:

Sexual violence or sexual harassment is a form of violation of decency which is not only a national legal problem of a country but is a legal problem for all countries in the world or is a global problem. Sexual violence is already so complex, disturbing and worrying the community, so it cannot be viewed from a micro perspective. If you want to know the root of the problem, you must dare to enter various aspects of life that have an influence on human behavior, including crimes of decency and harassment. Human behavior that recognizes sexual violence does not arise by itself, but develops through a process, due to environmental influences, such as the natural environment, sociological, political, economic and cultural aspects (religion is included in it).

The crime raised by the author here involves two alleged perpetrators and a victim who is a woman with a disability. The actions of the two perpetrators were based on one of the perpetrators with the initials M who liked to secretly often catch the victim coming to play near his house. At the time of the case, M was older than the victim, M was 55 years old while the victim was 30 years old. Victims with

² Sutherland, Edwin H, (1995). *Principle of Criminology reviced by Donald R Cressey*, Philadelphia, JB. Lincolt Co.

the initials UN are often just pacing around their homes. Among them often play in the perpetrator's yard, apart from M as the main actor, there is another actor with the initials MR, who happens to be the son of the first perpetrator. Both are neighbors of the victim, and because of the opportunity, the two perpetrators carried out the sexual violence on different occasions.

After the incident, the victim became pregnant, and her family reported the two perpetrators who had committed sexual violence to the Jepara Resort Police accompanied by the writer of this journal, because the victim did not feel that the consequences of what she had experienced had made her feel strange about herself and the victim was traumatized, besides that the actions This was not only done once, before this report was made, the two perpetrators often did the same thing to him, either by force or not.

Based on case study research conducted by researchers, in this case the crime of sexual violence committed by the two perpetrators against the victim is a form of sexual violence in the form of obscenity or sexual harassment in the usual form and violates article 289 of the Criminal Code (KUHP). Indonesia which adheres to an integrated law enforcement system (Integrated Criminal Justice System) which is the legal spirit of the Criminal Procedure Code. This integration is philosophically an instrument to realize the national goal of the Indonesian nation which has been formulated by The Founding Fathers in the 1945 Constitution, namely protecting the community (social defense) in order to achieve social welfare.³

In this criminological study of the crime of sexual violence, the author examines using criminological theory which explains that a person can become evil because it is learned, in other words, crime can be learned. The theory of differential association or differential association was first proposed by Edwin H Sutherland in 1934 in his book *Principles of Criminology*. Sutherland in this theory argues that criminal behavior is behavior that is learned in a social environment. This means that all behavior can be learned in various ways. Therefore, the difference between law-abiding and criminal behavior is based on what and how something is learned⁴.

Sutherland (1995) said that for the permanent nature of the perpetrators of this crime, he called it a habitual criminal⁵. The crime committed is the character of the person. The nature of permanent behavior means that the behavior has become the character of the perpetrator and is a pattern (main choice) of behavior that is carried out repeatedly. This sedentary nature needs to be distinguished from the nature of situational or non-permanent behavior. The nature of situational behavior means that the behavior appears in very situational circumstances, and the possibility of repetition of the behavior is small. Thus, if there is someone who commits an act of violating the criminal law but the act of violating the criminal law is not a pattern of behavior, that person cannot be categorized as a criminal, because the nature of his behavior is situational or not

³Jurnal Daulat Hukum Volume 1 Issue 1, March 2018 ISSN: 2614-560X accessed on 21 Nov 2021

⁴Sutherland, Edwin H, Op.cit

⁵Ibid

permanent.⁶ The punishment is an integrated system in society which has the aim of tackling the problem of crime in the sense of controlling crime so that it is within the limits of community tolerance.⁷

This concept also applies even to violations of the criminal law of murder, as long as the act has not or does not constitute a permanent pattern of behavior. In a situation where the serious violation of law is considered by the socio-cultural setting of the perpetrator as not a crime, then the perpetrator of the act should not be categorized as a criminal. An example is the perpetrators in cases of rape in one of the ethnic groups in Papua, which if resolved with a criminal approach will not solve the root of the problem. In this regard, researchers must be able to distinguish between private trouble and public issues related to the place where the law violation occurred according to W. Mills (1959)⁸. In criminal behavior, the existence of a crime can certainly occur due to the presence of one perpetrator or several perpetrators. There are factors in the perpetrator of the crime. These factors encourage perpetrators to commit crimes. The factors that cause these crimes are seen from several angles, namely:

*3.1.1. Factors originating from within the actor (internal)
Perpetrators feel innocent for their behavior.*

Although the law has a fictional principle, namely the principle that everyone understands the law (*presumption iures de iure*) but in reality not everyone knows the rule of law. Every state administrator is obliged to provide legal counseling as part of legal education and civilisation. The government is obliged to convey the existence of certain laws to the public⁹. The occurrence of a violation of the law, often the perpetrator does not feel guilty for the crime he has committed. This is because the perpetrators do not know the legal rules or laws that regulate the prohibition of committing crimes of sexual violence. In this case, the perpetrator considered what he had done was not a crime because he did not understand the limits of sexual violence perpetrated by normal men against women with disabilities.

There is an Interest in the Actors.

The perpetrators of crimes in committing crimes must have an interest or what we call the intent and purpose of their actions. In this case, the perpetrator has an interest aimed at him. In order to achieve the intended interests of the perpetrators, the perpetrators make various efforts and do not have the burden of committing sexual violence.

Perpetrators feel they have a higher position.

As we know that "men have power over women in society". Due to the condition of social power that places men in a higher position than women, men abuse their power to obtain sexual benefits against women. But now with the development of the era, there are many perpetrators of sexual violence

⁶ Muhammad Mostofa, Loc.cit, p. 25

⁷Jurnal Daulat Hukum Volume 1 Issue 1, March 2018 ISSN: 2614-560X accessed on 21 Nov 2021

⁸Ibid

⁹ <http://m.hukumonline.com/berita/baca/hol1915/fiksi-law-must-support> accessed on November 21, 2021

perpetrated by normal men against women with disabilities. There are 3 theories in analyzing sexual violence perpetrated by normal men against women with disabilities as stated by Fitri Dian Hapsari, the psychologist who examined the victim, namely: Theory Biology, Sociocultural Theory, Organizational Theory. In this case, organizational theory is the right reason for the perpetrator to commit the crime of sexual violence.

Unfulfilled Satisfaction and Age Factor.

The age factor of the partner can also be the reason someone experiences sexual dissatisfaction, because the age factor experienced by the partner causes a person to not be able to carry out the desired sexual activity. In the case experienced by the UN, the two perpetrators were neighbors of the victim in the village where the victim and the perpetrators lived, besides that the perpetrators were older than the victim, aged 55 and 25 years. The mastermind of this crime, M is a 55-year-old man, from the Investigation Report (BAP) M admits that he did this because he was not satisfied with what his wife gave him.

Have Been a Victim of Sexual Harassment Before.

Weber and Smith (2010) reveal the long-term impact of sexual violence on children, namely that children who are victims of sexual violence in childhood have the potential to become perpetrators of sexual violence in the future.¹⁰ The helplessness of victims when faced with acts of sexual violence in childhood, is unconsciously generalized in their perception that sexual acts or behavior can be done to weak or helpless figures. Victims of sexual violence are likely to become perpetrators of sexual violence in the future.

3.1.2. Factors that arise from outside the perpetrator (External).

Factors that exist in the victim.

The existence of an action can lead to reciprocal interactions, namely reciprocal relationships between the perpetrator and the interlocutor or related interactions that contain reciprocal meanings. Likewise, this crime creates reciprocity between the perpetrator and the victim of sexual violence. Victims of sexual violence in responding to or fighting against perpetrators, victims tend to be mentally weak and there are even some victims who do not care that they experience sexual violence or do not understand that they are victims of sexual violence. As a result, the perpetrator is more free to commit his crime and feels himself stronger than the victim.

Technological development.

The advancement of technology that cannot be controlled makes many porn videos freely accessible to all ages, young and old, men and women can access these videos anytime, anywhere for free. As a result, content lovers like to imagine the sexual activity they want, and they can do anything to get what they want.

Modernization Factor.

With the development of the era which was then followed by technological developments, it also resulted in the development of culture in society. The

¹⁰Journal of International Violence. (Online). 26 (9): 1899-1905, Weber, Mark Reese., Smith, Dana M.(2010). Outcomes of Child Sexual Abuse as Predictors of later Sexual Victimization. (On line). 26 (9): 1899-1905

progress in various sectors has brought society to a more advanced, more modern mindset. Along with the changing times, which are increasingly modern, create new forms of crime that are also increasingly modern because of access to information, mass media, social media, and culture that are developing towards individualistic and materialistic directions.

Peer Group.

In research on perpetrators of sexual violence crimes committed by normal men against women with disabilities, the researcher uses a theory viewed from the perspective of the biology and psychology of the perpetrator using the Garofalo theory, namely by tracing the roots of criminal behavior not to physical forms, but to similarity psychological disorders referred to as moral anomalies (moral anomalies). According to this theory, natural crimes are found in all societies, regardless of lawmakers, and no civilized society can ignore them.

Factors lack of understanding of religion.

The cause of a crime is determined on the issue of harmony, religion or the relationship between man and God. According to this theory, the more distant a person's relationship with his god is through the intermediary of the religion he adheres to, the closer a person's intentions are to committing a crime. If a person does not really understand his religion, it will cause his faith to be weak.

Sexual violence perpetrated by normal men against women with disabilities is a new crime, because currently there are 2 cases reported and handled by the Jepara Police in the last 2 years which have permanent legal force. Soemitro gives 4 characteristics of crime, namely: the criminal career of the offender, the extent to which the behavior gains group support, the reciprocal relationship between crime and legitimate patterns of behavior, social reaction to crime. Violent individual crimes which include other forms of criminal acts such as murder and rape. Perpetrators do not consider themselves criminals and often have never committed the crime before, but rather because of certain circumstances that compel them to do so. In this case, the two perpetrators committed the crime because of the opportunity that could be seen from the victim walking alone and the main perpetrator's desire to have sexual satisfaction for the victim with a disability. The factors that influenced the two perpetrators to commit the crime:

3.1.3. Factors originating from within the actor (Internal):

There is an interest that exists in the perpetrator.

In this case, the perpetrator has an interest aimed at him. In order for the intended interests of the perpetrators to be achieved, therefore the perpetrators make various efforts and do not have the burden of committing sexual violence. In this study, the intention of the two perpetrators to commit sexual violence against the victim was because both perpetrators liked the victim and both perpetrators wanted to have a victim, more than just friends and neighbors in the village where they lived. The two perpetrators committed impolite acts and the consequences of these actions.

Perpetrators feel they have a higher superiority.

With the development of the era, many perpetrators of sexual violence perpetrated by normal men against women with disabilities. There are 3 theories

in analyzing sexual violence perpetrated by men against women with disabilities as stated by Sandra S. Tangri, Martha R. Burt and Leanor B. Johnson namely: Biology Theory, Sociocultural Theory, Organizational Theory.¹¹ In the case experienced by the UN Organizational theory may be used as a reason why the two perpetrators committed the crime of sexual violence because this theory assumes that structural differences in the everyday world can be used by them as an opportunity to arbitrarily treat weaker people. The perpetrators know that their normal status can intimidate victims into complying with their requests. The perpetrators use threats to make the victim feel intimidated.

Unfulfilled satisfaction and age factor.

In the UN case, the two perpetrators were neighbors of the victim in the neighborhood, besides that the perpetrators were older than the victim, 55 years old. The mastermind of this crime, M is a 55-year-old man, from the Investigation Report (BAP) M admits that he did this because he was not satisfied with what his wife gave him.

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The researcher concludes that the perpetrators of sexual violence in this case study committed their actions because they had moral peculiarities, namely in this case the morals of the perpetrators were questioned. The moral in question is humans who consider other humans with actions that have positive values. Meanwhile, the actions carried out by the two actors are actions that cannot humanize humans, such as the absence of morality in the perpetrators. By harassing the victim, the perpetrator does not assume that the victim is someone who has sensitivity to these things, even though the perpetrator admits that he has only done this a few times to the victim.

¹¹Sandra S. Tangri, Martha R. Burt dan Leanor B. Johnson. *Sexual Harassment At Work:Three Explanatory Models*.p.89-110

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In general, social reactions can be classified into two groups, namely formal reactions and informal social reactions. Often people include the category of informal social reactions as opposed to formal social reactions. However, from the nature of its essence, informal social reactions cannot be separated from formal social reactions, namely reactions carried out by formal institutions but carried out informally and do not follow applicable formal rules.

Social reactions to crime and criminals are various forms of action taken in order to tackle crime or take action against criminals so that people are free from crime and criminals do not repeat their actions. Formal social reactions are actions taken by the community through the formation of formal institutions for crime prevention and the making of formal rules (laws) that regulate the behavior of community members. These formal social institutions are various institutions in the criminal justice system, starting from the police, prosecutors, courts, and prisons (penal institutions). These institutions are formed based on the applicable legal rules.

In this study, the researcher discusses the non-formal social reactions given by the community. The existence of a crime is certain to have an impact on the crime. One of the impacts of the crime is the reaction created by society or social reaction. The existence of a public reaction is a form of social control regarding the existence of a form of crime. In the study of criminology, there are two forms of reaction created by the community, namely the reaction to the existence of the crime and the reaction to the perpetrators of the crime.

3.2. Public reaction to the crime of sexual violence

One of the public's reactions to this crime of sexual violence is shown by forms of response, namely in the form of public concern for the existence of this type of crime. The form of public reaction to this type of crime still tends to be permissive or tends to be indifferent and does not care about this crime because it is considered that this form of crime is not a form of extraordinary crime (extraordinary crime). On the other hand, because there are still many people who do not know the limits of what can be considered sexual violence, many people equate sexual violence with rape. In addition, the community also does not feel the negative impact of this sexual violence crime directly, so that people tend to be indifferent. In addition, another reason for the public's ignorance of this act can be seen from the case that looks trivial, the victim does not seem to have suffered a loss due to not understanding what he is experiencing and the changes in him. So that people don't really care about why this act has reached the investigation process to the court table.

But on the other hand there are still some people who know this form of crime and care about the existence of sexual violence crimes. This can be proven by the existence of several activists, forums, or communities that have stood to combat this sexual violence crime. For example, the forum to stop sexual violence in Indonesia was formed to combat sexual violence. The actions taken include providing knowledge for students in schools and providing counseling to the community by attaching brochures or billboards to inform about sexual violence.

3.3. Public reaction to perpetrators of sexual violence

Similar to reactions to crime, reactions to perpetrators of criminal acts of sexual violence also tend to be indifferent and uncaring. This is because the perpetrators who are mostly unknown to the public and the public do not feel the impact caused by the perpetrators of sexual violence crimes directly. On the other hand, labeling applies in society, where criminals who carry out criminal penalties must get a stamp by the community around the perpetrator's house, and the environment where the perpetrator lives. The stamp seems to give a label to the perpetrator that the perpetrator is a bad person.

But in the case also shows a different reaction from the community, namely people who care about the perpetrators. In the case of the perpetrator in this study, the public tends to be surprised by this case, because the perpetrator is a normal male sex with a female victim with a disability. Some people do not even believe in this case. They assume that victims of sexual violence must be normal women because judging from the social status that is seen as more normal, it seems impossible if the victims of sexual violence are women with disabilities.

In this research on community reaction, the researcher uses the theory of Cooley, Thomas and Mead (social interactionist). They view that the human person is formed through a process of social interaction. Labeling separates the good from the bad, the commonplace and the deviant. Mead's concern is not with the consequences of actions but in the social interactions with which a person becomes a deviant. Social behavior is built up in a continuous process of action and reaction.

This research on community reactions, researchers look at the social behavior caused by the community which continues to act and react. Actions regarding this crime are that there are several groups of people who reject this crime, there are also groups who defend the perpetrators and the actions of the perpetrators because of one group. While the public reaction for those who are in the same group as the perpetrators consider that this act is not worthy of trial, while many do not care and think that this act is just a trivial act so it is not important to be tried, and some do not care at all about the act.

Efforts have been made in order to overcome the occurrence of criminal acts of sexual violence committed by normal men against women with disabilities in Jepara Regency have been carried out by the Jepara Police. Efforts have been made starting from preemptive, preventive, and repressive efforts, namely:

Preemptive Effort

Preemptive efforts are the initial efforts made by the Police to prevent the

occurrence of criminal acts. Efforts made in preventing crime preemptively instill good values or norms so that these norms are internalized in a person. Even if there is an opportunity to commit an offense or crime but there is no intention to do so then there will be no crime. So in a preemptive effort the intention factor is lost despite the opportunity. This prevention method comes from the NKK theory, namely: Intention + Chance of crime.

In the crime of sexual violence committed by women against men, Polresta Jepara has never posted pamphlets, banners, or appeals regarding the crime of sexual violence. This crime is still too new and there are still few reports of crimes that come to the Jepara Police. So it can be concluded that the preemptive efforts for the crime of sexual violence have not been implemented.

Preventive Effort

Preventive countermeasures are a form of action to prevent crime. Preventive efforts are actions taken by law enforcement before a crime occurs so that a crime can be tackled for the first time. These countermeasures are very important because they are the first step to minimize crime.

- Holding a Seminar or Counseling that has been carried out is the socialization of Posyandu, PKK forums, and schools regularly once a month with different targets.
- Conducting public complaint services provided by the Jepara Police Resort located in the office. The public can come to complain about the crime they have experienced.

Repressive Effort

Repressive measures are actions taken by law enforcement officers actively so that ongoing crimes can be dismissed. This effort is carried out as a form of handling carried out by law enforcement officials for the work of the criminal justice system to tackle crime and prevent perpetrators of sexual violence crimes from repeating their crimes again.

Repressive efforts are important to be carried out by law enforcement officers in order to provide a deterrent effect for perpetrators of crime and is a form of effort to re-socialize (resocialize) perpetrators of crimes of sexual immorality against children and women in general and women with disabilities in particular. As for the repressive efforts carried out by the Jepara Police in order to tackle the crime of sexual violence against normal men against women with disabilities, namely by conducting investigations and investigations against the perpetrators. In carrying out this repressive effort, the police took action by following up on the report submitted by the UN family, and the development of this case is still in the investigation stage.

4. Conclusion

In the crime of sexual violence perpetrated by normal men against women with disabilities, the Jepara Police have never posted pamphlets, banners, or appeals regarding criminal acts of sexual violence by normal male perpetrators against women with disabilities on sexual violence. This crime is still too new to be reported to law enforcement officers and there are still few reports of crimes that

have been submitted to the Jepara Police, namely, according to the Head of the PPA Satreskrim Jepara Police, only 2 cases were processed in the last 2 years, namely from 2020-2021. So it can be concluded that the preemptive efforts for the crime of sexual violence have not been implemented.

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