

Optimizing the Role of the Police in Providing Legal Certainty for Women Victims of Sexual Violence

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Abstract. *The lack of evidence and witnesses is due to the victim's reluctance to report their case because it is still taboo and they think it will reveal their own family's shame, especially in cases related to sexual matters. For victims who want to report and the case meets the formal and material requirements, they often try to withdraw it, because they feel intimidated by various parties, which is full of the reality that occurs regarding the position of women as victims of sexual violence in the legal process. The paradigm of legal protection and legal certainty for women victims of sexual violence needs to be optimally embedded in the Police. The aim of this research is to determine and analyze (1) the nature of legal certainty for female victims of sexual violence in national legal products, (2) the role of the police in handling cases of sexual violence against women, and (3) the problems for the police in providing legal certainty for female victims of sexual violence. The approach used in this research is normative juridical. The research specifications are descriptive and analytical. The data sources used are secondary data. Secondary data is data obtained from library research, consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Based on the research results, the following conclusions can be drawn: (1) The Law on Sexual Violence Crimes covers various forms of sexual violence, such as rape, sexual harassment, domestic violence, and cyber-based sexual violence. Constitutionally, legal protection for women from acts of sexual violence is also accommodated in Article 28G of the 1945 Constitution of the Republic of Indonesia. (2) The Chief of the Indonesian National Police (Kapolri) has issued Regulation of the Chief of Police Number 10 of 2007 concerning the Organization and Work Procedures of the Women and Children Service Unit within the Indonesian National Police. The Women and Children Service Unit, abbreviated as the PPA unit, is a unit tasked with providing services in the form of protection for women and children who are victims of crime and law enforcement against the perpetrators. (3) Legal certainty is not difficult for women victims of sexual violence to obtain because in terms of legal construction,*

Indonesia has accommodated various legal products that have been produced through the Government's legal political efforts and the internal legal policies of law enforcement agencies in providing legal certainty and justice for women victims of sexual violence, both from the contextual provisions on the protection of women's rights, protection of women victims of sexual violence, and norms on the criminal responsibility of perpetrators of sexual violence against women.

Keywords: Certainty; Legal; Sexual; Violence; Women.

1. Introduction

Indonesia is a country of law, this is emphasized in the Constitution of the Republic of Indonesia, Article 1 Paragraph (3) which states "The State of Indonesia is a country of law". Based on this statement, all human actions within the territory of Indonesia that have been regulated in regulations based on Pancasila and the 1945 Constitution of the Republic of Indonesia, Indonesian people must submit to legal regulations and uphold applicable laws.¹ Law is a norm or rule that contains rules and provisions based on statutes and is of a mandatory nature and if someone violates it, the perpetrator will receive sanctions.

The objectives of the Unitary State of the Republic of Indonesia are stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which emphasizes that the Indonesian Government was formed to, among other things, protect the entire Indonesian nation and all of Indonesia's territory. This statement also emphasizes the principle of non-discrimination. Then in the Explanation of Paragraph 2 it is stated "To protect its citizens from any disturbances and threats or destructive actions, whether originating from within the country or from abroad." In realizing these National Objectives, a national legal system is required, namely the entire legal system as a unified, orderly entity consisting of a number of interrelated and influencing systems. Therefore, the national legal system is based on Pancasila and the 1945 Constitution of the Republic of Indonesia as the highest legal basis.²

In Indonesia, human rights are fundamental rights inherent in every individual, universally recognized and unalterable, thus requiring protection and preservation without compromise or violation. As a member of the United Nations, Indonesia has a moral and legal obligation to uphold and implement the principles outlined

¹Ahmad Firmanto Prasetyomukti and Rakhmat Bowo Suharto, The Role of Judicial Commission on Supervision of Judge's Crime in Indonesia, Jurnal Daulat Hukum, 1 (4), December 2018, p. 896

²National Commission on Violence Against Women, Policy Paper: Strengthening Legal Protection for Women from Sexual Harassment and Rape in Aceh, National Commission on Violence Against Women, Jakarta, 2021, p. 1

in the Universal Declaration of Human Rights, which affirms the equal dignity and rights of every individual, free from arbitrary treatment. In particular, the human rights stipulated in Law Number 39 of 1999, particularly in Article 1 paragraph (1) and Article 3 paragraph (1), affirm the rights of Indonesian citizens to independence and freedom.³

Violence and discrimination encompass any form of restriction, intimidation, or marginalization, whether overt or covert, rooted in distinctions between individuals based on factors such as religion, ethnicity, race, social class, economic status, gender, language, or political affiliation. This issue is explicitly addressed within the framework of Law Number 39 of 1999 concerning Human Rights. Discrimination means unequal and unfair treatment of individuals or groups based on their inherent characteristics, including gender disparities.⁴

Gender equality is a result of discrimination. One of the most important issues to address is gender equality because many still do not meet ideal standards and do not comply with established guidelines. It cannot be denied that gender equality cannot be achieved without equal rights and responsibilities for women who are starting to resemble those of men in their development. The presence of women need not be a concern if we remember the hard work of the architects of the Indonesian nation, as stated in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which underlines the recognition of the principle of equality for all citizens without exception.⁵ This principle of equality serves to eliminate discrimination, ensuring that every citizen has equal rights before the law and in government, regardless of factors such as religion, ethnicity, gender, social status, or position.

Sexual violence against women is a violation of their human rights and fundamental freedoms, hindering their ability to fully exercise those rights. This form of violence includes verbal abuse, coercion, and intimidation tactics used when victims resist the perpetrator's demands. However, public and government understanding of violence against women remains incomplete. Furthermore, there is a lack of recognition of women as frequent targets of violence, making them vulnerable to human rights violations.

The law in Indonesia is still weak regarding human rights for women, it is clear in the articles of the DUHAM (Universal Declaration of Human Rights) that free human beings have the same dignity and rights and may not be treated

³ Morita Ramby & , Rizka Rahma A. Efforts to Uphold Human Rights for Women in Indonesia. National Defense Journal, 1(1) May 2023, p. 9

⁴ Arista Putri Aryanti, et al. Discrimination Against Women in the Field of Education, Proceedings of the National Seminar on Law, Business, Science and Technology, 3(1) 2023, p. 459

⁵ Robertus Wardhana Utama & Tri Susilowati. Analysis of Gender Equality in the Context of General Elections. Case: Journal of Law and Political Science, 1 (4) December 2023, p. 226

arbitrarily.⁶ Many Indonesians still adhere to patriarchal beliefs, where men hold power, marginalizing women and viewing them as inferior. Women are often belittled and considered incapable or even unworthy compared to men. Sexual harassment and violence against women are also common.

Sexual violence against women is a profound and complex issue within the context of human rights worldwide. Not only does it cause physical and psychological harm to victims, but sexual violence also has broader social, economic, and cultural implications, affecting society as a whole. Various forms of sexual violence, such as sexual harassment, rape, and gender-based sexual violence, have devastating effects on victims, both physically and mentally.⁷ In this regard, criminal law plays a crucial role in protecting women and ensuring justice. Although many countries, including Indonesia, have developed various regulations to reduce sexual violence, the reality is that this problem remains widespread and difficult to address.

The high rate of sexual violence against women has led to the emergence of victim blaming, which continues to occur in Indonesia. This act of blaming the victim is known as victim blaming, and it is clear that victims deserve justice and protection and should not experience this. Sexual violence is often perceived by society as something that is caused by the victim's fault; society tends to view sexual violence as something for which the victim is responsible.⁸ Those who blame the victim can influence those closest to the victim, individuals working in certain organizations such as law enforcement or medical professionals, and social media users as both recipients and spreaders.

Sexual violence can be defined as any behavior that ridicules, humiliates, attacks, or otherwise affects a person's body parts related to sexual desire, sexual desire, and/or reproductive function. Furthermore, sexual violence can also be defined as any action that results in a person being unable to freely reach an agreement due to inequalities in power relations, gender relations, or other factors that may contribute to such disagreement.

Sexual violence against women often occurs at home, at school, at bus stops, at work, on buses, trains, on public transportation, and in other places that provide opportunities for people of different genders to communicate. It can also occur within the family, with victims including both adult women and minors. Cases involving (victimizing) women involve fraud, with some victims sometimes unaware that they will be raped, molested, and then trafficked. Cases of sexual

⁶Morita Ramby & Rizka Rahma A. Op.Cit, 1(1) May 2023, p 10

⁷Hamka Galuh Artika, & A. Noerzaman, The Role of United Nations Women in Addressing Sexual Violence Against Women in Indonesia in 2016-2017. Journal of Indonesian and Global Politics, 1 (1) April 2020, p. 34

⁸Hengki Firmando, Ira Sinta Azlina & Indah Septipah, Protection of Victims of Sexual Violence Who Experience Victim Blaming on Social Media Based on the Legal Realism School, Legal Reform, 27 (1) January-April 2023, p. 35

trafficking demonstrate the violation of women's human rights. Women are often victims of sexual violence.⁹

Several types of sexual violence occurring in society clearly violate the human rights of others and constitute crimes that undermine the dignity and worth of fellow human beings. Therefore, the state, through its instruments, is obligated to provide protection to the public, including legal aspects, sexual education, physical and mental rehabilitation of victims of sexual violence, and so on. This ensures that people feel safe and comfortable within the scope of state and community activities without having to worry about sexual violence. This is the driving factor behind the enactment of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence.¹⁰

The National Commission on Violence Against Women (Komnas Perempuan) reported from the Annual Report on Violence Against Women that the number of cases reported to Komnas Perempuan in 2024 was 445,502 cases. This number of cases experienced an increase of 43,527 cases or around 10.76% compared to 2023 (401,975) where the average number of complaints to Komnas Perempuan was 16 cases/day. Based on the form of violence, Komnas Perempuan data and case reporting data from CATAHU 2024 partners, the most frequently reported were sexual violence (36.43%), psychological violence (26.94%), physical violence (26.78%) and economic violence (9.84%). Sexual violence showed the highest number of 17,305, physical violence 12,626, psychological violence 11,479, and economic violence 4,565.¹¹

2. Research Methods

To conduct the study in this research, the author used a normative legal method or written legal approach (statutory/statutory approach). The normative legal approach is an approach carried out based on primary legal materials by examining theories, concepts, legal principles and regulations related to this research. This approach is also known as a library approach, namely by studying books, laws and other documents related to this research.¹² This research uses descriptive analysis, or an explanatory approach to the research object. The purpose of descriptive research is to obtain a comprehensive picture of the legal

⁹Ni Made Dwi Kristiani, Crimes of Sexual Violence (Rape) Reviewed from a Criminological Perspective, Udayana Master of Law Journal, 7 (3), 2014, p. 373

¹⁰Stephanie & Anton Diary Steward Surbakti, Legal Analysis of the Prevention and Handling of Sexual Violence in the Prima Indonesia University Environment (Post-Enforcement of the Minister of Education and Culture Regulation Number 30 of 2021), Unes Law Review, 6 (4) June 2024, p. 11708

¹¹National Commission on Violence Against Women, Organizing Data, Sharpening Direction: Reflections on Documentation and Trends in Cases of Violence Against Women 2024, Annual Report on Violence Against Women, 2025, p. xv

¹²Rony Hanitijo Soemitro, Legal Research Methodology and Jurimetry, Ghilia Indonesia, Jakarta, 1990, p. 34

situation in a particular place and at a particular time. The legal events in force at a particular time are highly dependent on the evolving situation and dynamics of society.

3. Results and Discussion

3.1. The Nature of Legal Certainty for Female Victims of Sexual Violence in National Legal Products

Based on Article 1 paragraph (3) of the 1945 Constitution, which states that Indonesia is a state of law.¹³ This implies that all activities within the state are based on law. Therefore, law exists to provide protection and enforce those laws. These two components are the primary factors in the concept of a state based on the rule of law.

Law and society are interrelated and inseparable. Law and society have a reciprocal relationship: where there is law, there is society, and vice versa.¹⁴ Law also evolves in line with developments in society. On the other hand, there is the term "law as a tool of social engineering," where law serves as a tool for societal renewal or as a means of social control used to prevent and address various forms of social change that may occur within a society. As a positive norm, law is defined as a rule that applies within society with the aim of upholding order, creating a safe, peaceful, and secure life, and regulating societal behavior to prevent deviance.¹⁵

As explained above, law is essential for society. Without it, society would be chaotic or completely directionless, and vice versa, without society, law would be meaningless. Law in society has two characteristics: active and passive. Passive law can be seen in the extent to which it adapts to society. Active law, on the other hand, can be seen in the active role of law in the dynamics of a society, whether it leads to planned change or decline.¹⁶

Viewed as a political tool, law serves to strengthen and maintain political power and ensure the effective and efficient implementation of state power. This prohibits interference by those in power. If this occurs, the law is inconsistent with societal values and norms. It could be said that the law is irrelevant to society. Furthermore, in carrying out its duties and authorities, the government, in this

¹³Ahmad Firmanto Prasedyomukti and Rakhmat Bowo Suharto, Op.Cit, 1 (4), December 2018, p. 896

¹⁴Khaidir Saleh, et al., Law and Society in the Perspective of Legal Sociology, Datin Law Journal, 1 (2) December 2020

¹⁵Annisa Kusuma Rahmani, Legal Protection for Women in the Law on Sexual Violence Crimes, Sovereignty: Journal of Democracy and National Resilience, 2 (2) 2023, p. 233

¹⁶Achmad Ali, *Unveiling the Veil of Law: A Philosophical and Sociological Study*. Second edition; Jakarta: PT. Toko Gunung Agung, 2002, pp. 87-104.

case state institutions, must comply with applicable law. This aims to limit the responsibility of state institutions to prevent arbitrary actions.¹⁷

Law is a reflection of society, so it's not easy to force people to follow any rule that isn't based on the values and customs within that society. Thus, there's a reciprocal relationship between the laws in force and their enforcement and the society.¹⁸ On the other hand, the law exists within society to guarantee legal certainty. The realization of this legal certainty is inseparable from the crucial role of the public, who strive to comply with applicable legal principles and regulations. Furthermore, as Indonesia is a country governed by law, as mandated by the constitution, it is obligatory for every citizen to comply with applicable regulations.

To realize optimal legal function, community empowerment can be achieved through the promotion of legal awareness and compliance. This can at least guarantee justice, legal certainty, and benefits within society. However, the law cannot always guarantee the aforementioned aspects. Sometimes, the law can also cause problems if it is created without incorporating existing values and customs within society, giving the impression of authoritarianism because it is created without the involvement of the community. Laws that conflict with societal values and norms are considered irrelevant and unsuitable for application in society, so changes are needed to make the law relevant and achieve its objectives.

The law exists to provide legal protection to the community, known as law for the community. Soerjono Soekanto explains that legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims. Legal protection for crime victims is part of community protection, which can be realized in various forms.¹⁹

As a nation based on the rule of law that upholds the values of civilization based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the Indonesian people consistently prioritize respect for human dignity in all aspects of their nation, state, and society. This is based on the understanding that human rights are fundamental rights inherent in every human being, without exception. These rights cannot be diminished, restricted, obstructed, or revoked or eliminated by anyone, including the state.

As a national asset who plays a role in the process of continuing and creating a quality generation, women need to be guaranteed the fulfillment of their rights and protected from violence and discrimination in order to build society, the

¹⁷Ibid, p. 234

¹⁸Satjipto Rahardjo, *Law and Behavior (Good Living is the Basis for Good Law)*. First edition; Jakarta: Kompas, 2009, p. 116.

¹⁹Soerjono Soekanto, *Factors Influencing Law Enforcement*, Jakarta: Rajawali Press, 1983, p. 7.

nation, and the state. Women are often in a vulnerable position.²⁰Discrimination is not limited to differences in treatment based solely on gender but also discrimination that stems from negative socio-cultural assumptions attached to a situation because it is a "woman" or what is called "gender ideology".

Terminologically, the word woman comes from the Arabic word al-Mar'ah, the plural of which is al-nisa'a', which means woman, an adult female or adult daughter, the opposite of a man. The word an-nisaa' means female, equivalent to the Arabic word al-Rijal, which means male. Its English equivalent is woman (plural women), the opposite of man.²¹ According to Nugroho, it is stated that: "Women are humans who have reproductive organs, such as the uterus and birth canals, have egg cells, have a vagina, and have organs for breastfeeding, all of which are permanently unchanging and have biological provisions or are often referred to as nature (God's provisions)."²²

The word "woman" in the Indonesian dictionary is known as "wanita," the opposite of "man." Etymologically, "woman" is defined as a human being, an adult female. The term "woman" is derived from Sanskrit, meaning "what men desire." This interpretation of the term "woman" clearly positions women in a passive and powerless role, with no role other than "complementing" men. This understanding of women suggests that women are patient, passive caregivers, sufferers, and are considered substandard, not expected to assert themselves, and are allowed to have professions but their roles are underrecognized.²³

Ideological constructions of women's roles and abilities influence their access to opportunities at various levels: individual, institutional, and systemic. For example, the fact that women are predominantly employed in certain occupations, while women are excluded from other types of work, is a result of ideological assumptions that women are only suited to certain jobs. Women perform more caregiving and service work based on choice, and the opportunities afforded to them within these occupations are not due to women's inability or lack of interest in other work. These gender assumptions have limited equal opportunities for women in the workplace. Violence against women is one form of gender inequality.²⁴

In the study and regulation of several international conventions, women are included in the vulnerable group, along with children, minorities, refugees, and other vulnerable groups. Women are considered weak and unprotected, and

²⁰Martha Riananda and Malicia Evendia, *Women and Gender Justice in a Legal Perspective*, Pusaka Media: Bandar Lampung, 2021, p. 23

²¹Nurjannah Ismail, Op.Cit, 2003, p. 34

²²Nugroho, Op.Cit, 2008, p 2.

²³Mahmud, Heri Gunawan, and Yuyun Yulianingsih, Op.Cit, 2013, p. 165.

²⁴Louisa Yesami Krisnalita, *Women, Human Rights and Their Problems in Indonesia*, Binamulia Hukum, 7 (1) July 2018, p. 75

therefore always at risk and highly vulnerable to dangers, one of which is violence from other groups. This vulnerability makes women victims of violence.²⁵

Legal protection for women should be of the same level as that for men, as everyone has equal standing before the law (equality before the law). Indonesia, as a country based on the rule of law, must recognize and protect the human rights of every individual without distinction of gender, status, or background, ensuring that everyone has the right to be treated equally and that everyone, without exception, has the same standing before the law.²⁶

Indonesian law remains weak in its enforcement of women's human rights. The Universal Declaration of Human Rights clearly states that free human beings have equal dignity and rights and should not be treated arbitrarily. Many Indonesians still adhere to patriarchal principles, where men hold power, marginalizing women and viewing them as inferior to men.²⁷ Often women are underestimated and considered incapable or even unworthy compared to men, and there is also a lot of harassment against women.

The phenomenon of violence in everyday life often occurs in the domestic sphere or household affairs, as well as in the public sector or workplace, ranging from physical violence to social or psychological sanctions. The emergence of violence against women is related to cultural ideology or prevailing values, the type of societal structure, and the relational patterns between men and women. It occurs in various communities, from the simplest to the most complex modern societies. Violence against women has become a topical and interesting topic to study, especially among those who observe women's issues.²⁸

Violence against women can refer to Article 1 of the UN Declaration with the term violence against women defined as follows: the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.²⁹ Violence against women is any act based on gender differences that results in or may result in physical, sexual or psychological harm and suffering

²⁵Ibid, p. 76

²⁶Teguh Prasetyo and Arie Purnomasidi, Building Law Based on Pancasila. Bandung: Nusa Media, 2014: p. 84

²⁷Morita Ramby, Rizka Rahma A, Yuliana Yuli Wahyuningsih, Op.Cit, 1 (1) May 2023, p 10

²⁸Galuh Artika Suri, Hamka, and Ali Noerzaman. The Role of United Nations Women in Addressing Sexual Violence Against Women in Indonesia in 2016-2017, Independent: Journal of Indonesian and Global Politics, 1 (1) April 2020, p. 34

²⁹United Nations: Human Rights office of The High Commissioner, DEVAW (Declaration on the Elimination of Violence Against Women), General Assembly resolution. December 1993

to women, including certain threats, coercion or arbitrary deprivation of liberty whether occurring in public or in private life.³⁰

3.2. The Role of the Police in Handling Cases of Sexual Violence Against Women

As a state based on the rule of law, law in Indonesia serves as the foundation for implementing various aspects of life. Law plays a crucial role as a guide and basis for protecting the rights and obligations of every citizen, thus serving to create security, order, justice, and prosperity in society. To realize and carry out the intended legal functions, the state establishes law enforcement agencies to control, implement, and enforce applicable laws in Indonesia. The police are one of the law enforcement agencies that carry out their duties and authorities based on Law Number 2 of 2002 concerning the Indonesian National Police. The police are one of the law enforcement agencies that play a crucial role in implementing and enforcing applicable laws in Indonesia.

In principle, the universal duties of the police are to provide protection, provide services to the public, enforce the law, and maintain order (law enforcement and maintain law and order). The functions, roles, and duties of the police are clearly inseparable from existing laws and regulations, particularly Law Number 2 of 2002 concerning the Indonesian National Police.

The legal duties of the police as stated in Article 13 of Law of the Republic of Indonesia Number 2 of 2002 concerning the Republic of Indonesia National Police, state that the main duties of the Republic of Indonesia National Police are (a) Providing security and public order; (b) Enforcing the law; (c) Providing protection, patronage and services to the community. To support the main duties above, the police also have certain duties as stated in Article 14 paragraph (1) of Law of the Republic of Indonesia Number 2 of 2002 concerning the Republic of Indonesia National Police, namely:

- 1) Carrying out arrangements, guarding, escorting and patrolling of community and government activities as needed;
- 2) carry out all activities to ensure security, order and smooth traffic on the roads;
- 3) fostering the community to increase community participation, community legal awareness and community compliance with laws and regulations;
- 4) participate in national legal development;
- 5) maintain order and ensure public security;

³⁰Moerti Hadiati Soeroso, Domestic Violence in a Juridical-Victimological Perspective, Jakarta: Sinar Grafika. 2010

- 6) carry out coordination, supervision and technical guidance for special police, civil servant investigators and forms of voluntary security;
- 7) conduct investigations and inquiries into all criminal acts in accordance with criminal procedure law and other laws and regulations.

In handling cases of sexual violence, it is crucial for law enforcement officers, particularly the police, as the frontline, whose duty is to serve victims with empathy, sensitivity, and a female perspective. This is expected to uncover unresolved cases of sexual violence and optimize the handling of sexual violence cases. This is where the first concept will be developed: that victims hope that by reporting their cases to the police, they will gain peace of mind, guaranteed legal protection. Of course, not all police officers can provide this form of protection; therefore, a police officer with the skills to handle cases involving female victims is needed.

In line with the duties and functions of the Indonesian National Police, the Chief of the Indonesian National Police (Kapolri) has issued Regulation of the Chief of Police Number 10 of 2007 concerning the Organization and Work Procedures of the Women and Children's Service Unit (PPA Unit) within the Indonesian National Police. The Women and Children's Service Unit, abbreviated as PPA Unit, is a Unit tasked with providing services in the form of protection for women and children who are victims of crime and law enforcement against the perpetrators. The PPA Unit is tasked with providing services in the form of protection for women and children who are victims of crime and law enforcement against the perpetrators.³¹

The PPA Unit consists of a Leadership Unit, namely the PPA Unit Head and Assistant Leadership Units (Executors), namely the Protection Unit and the Education Unit. The Head of the PPA Unit is tasked with leading the PPA Unit in providing protection for women and children who are victims of crime and law enforcement against the perpetrators, carried out in the Special Service Room, abbreviated as RPK. In carrying out his duties, the Head of the PPA Unit is responsible for:

- 1) at the National Police Headquarters level to Director I/National Security and Public Order of the Criminal Investigation Unit of the National Police;
- 2) at the Polda Metro Jaya level to the Head of Operations Unit of the Polda Metro Jaya Criminal Investigation Directorate;
- 3) at the Regional Police level to the Head of Operations Unit of the Regional Police Criminal Investigation Directorate;

³¹Mulia Riadi and Dewi Kurniawati, Precision as an Innovation and Strategy for Building the Image of the North Sumatra Regional Police, *Perspektif*, 11 (4) October 2022, pp. 1569–1581

4) at the Resort Police level to the Head of the Resort Police Criminal Investigation Unit.³²

In carrying out its duties, the PPA Unit carries out the functions of (1) Providing legal services and protection; (2) Providing criminal investigations and inquiries; (3) Providing cooperation and coordination with related agencies. The Women and Children's Service Unit consists of a leadership consisting of the Head of the Women and Children's Service Unit (Kanit PPA) and Leadership Mentors and implementers as Protection Unit Officers (Panit Lindung) and Investigating Officers (Panit Idik), each of which consists of women. This is because many women who are victims and experience shame in disclosing information about the crimes they have experienced. The events that will be expressed by the victims are individual. Likewise, Muslim women who do not want to be questioned by male police, so that officers in the women and children's security room consist of women.

This provides a structural function that as a law enforcement apparatus, the Police through its functional unit, namely the PPA Unit, becomes a medium for protection and legal handling for female victims of sexual violence, where in terms of legal legitimacy, the state through the constitution and the Police as a state institution in the corridor of law enforcement has accommodated regulations as a guarantee of protection and legal certainty for female victims of sexual violence and this should not be complicated for the state to optimally reflect the legal mechanism to guard, guide, protect women as victims in the criminal law process against perpetrators of sexual violence crimes against female victims.

In this case, the researcher attempts to outline two police mechanisms for handling sexual violence against women. The first mechanism is judicial processing, which focuses on criminal accountability for the perpetrator. The second mechanism is protection, which involves processes focused on supporting female victims of sexual violence.

The role of the Police PPA unit is very fundamental in realizing concrete protection for women victims of sexual violence because the representation of justice and legal certainty is also shown in the role of the Police through the PPA Unit in actualizing this mechanism as the essence of the position of women as victims of sexual violence in the eyes of the law.

1) Assessment(Evaluation)

The initial stage in handling cases of sexual violence is

³²Mud' Jaffar Vaddle One Hasan, et.al. The Effectiveness of the Legal Role of the Women and Children's Service Unit of the North Gorontalo Police in Addressing Crimes of Violence against Children, *Aktivisme: Indonesian Journal of Educational, Political and Social Sciences*, 2 (2) April 2025, p. 82

Conducting an assessment involves evaluating or observing female victims of sexual violence. This stage is standard operating procedure for handling victims. The victim's condition must be assessed. Two interrelated steps in the process are: first, registration or interview, and second, observing the victim's physical and psychological condition.³³

In this first stage, it is a police formality stage in handling victims. The goal is to obtain complete victim data to facilitate the case handling process. The data and information are then managed for decision-making and policy formulation. After obtaining the personal data of victims of sexual violence and understanding the chronology of events, the police draw conclusions and determine the next steps.

The first meeting with the victim of a sexual assault case with the police through the PPA unit aims to obtain the victim's personal data. After that, the PPA conducts an initial approach with the victim, so that they are more open to talking and the chronology of their problems is heard. After obtaining the victim's personal data and understanding the chronology of the problem, the next step is an initial assessment. At this stage, the PPA will conduct psychological, mental, physical, and health recovery after the victim has recovered and can honestly describe the chronology of the problem.

Based on the results of a thorough assessment of the sexual violence the victim experienced, whether it was indeed rape, whether it was consensual, etc. If the victim is underage, the term "consensual" no longer applies, meaning the case will be processed immediately.³⁴

In the Standard Operating Procedure (SOP) for Handling complaints, meetings and women who are victims of violence

sexual violence, it is stated that recording and reporting of cases, in addition to the interests of important case data, is also for the purposes of case analysis and advocacy. This case recording includes at least (a) Identity of the victim (name, gender, age, address, education, occupation); (b) Identity of the perpetrator (name, gender, age, address, education, occupation); (c) Relationship between the victim and the perpetrator; (d) Place or location of the incident; (e) Time/date of the incident; (f) Type of violence and narrative of the incident; (g) Registration number; (h) Description of the case, new or referral; and (i) Service officer.³⁵

³³Wulandari, Firman Umar and Nurharsya Khaer Hanafi, Effectiveness of Handling Cases of Sexual Violence Against Women in the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) of Makassar City, Historical: Journal of History and Social Sciences, 2 (2) 2023, p. 69

³⁴Ratna Batara Munti, et.al. Violence Against Women in Criminal Justice: An Analysis of the Consistency of Decisions, FH UI Publishing Agency: Australia Indonesia Partnership for Justice, Depok, First Edition, 2016. p. 298

³⁵Wulandari, Firman Umar and Nurharsya Khaer Hanafi, Op.Cit, 2 (2) 2023, p. 69

Case recording should be avoided as much as possible, as this can cause distress to the victim. Therefore, if a referral is made, the victim's data must be included. Data collection may be repeated by the referring agency if additional data/information is required. Therefore, every victim must be recorded. However, victim data must be kept confidential and accessible only to the team and those who need it. Data collection/recording goes beyond this; every case resolution process must also be recorded/written down.³⁶

2) Victim assistance

The process of supporting victims of sexual violence is carried out with an understanding of the context of the victim's case. The behavior of the victim, both the victim and the perpetrator, is greatly influenced by socio-cultural and economic factors, as well as the values, norms, and laws prevailing in society and the state. Victims require not only medical treatment to describe the chronology or to treat physical injuries, but also

psychologically, but the victim needs more in-depth support to dare to explain what happened, by siding with the victim so that he can explain in detail.³⁷ Through the assistance provided to the victim, it will be easier to resolve the victim's case and draw conclusions about the next steps to be taken in handling the victim's case.

3) Case Management

In case management, after identification and knowing the further handling for victims of sexual violence, the case will be distributed and handed over to the case worker (person in charge) and to other fields who will then accompany the victim and report on the progress of the sexual violence case assistance, and if the case is continued, litigation assistance (case resolution through the courts) and non-litigation (case resolution through mediation) will be provided and recommendations will be given.

The sexual violence case management process involves assigning cases to case workers and other relevant departments. At this stage, the victim will be assisted by two to three dependent counselors. After assisting the victim, the counselor will prepare a progress report. If the victim wishes to pursue their case, a recommendation will be made for further resolution and the case will be referred to the police for immediate processing. The Police Women and Child Protection Unit will continue to assist the victim through legal counseling.³⁸

³⁶Ibid

³⁷Agus Haryono, Sri Ismawati and Edy Suasono. The Role of the Police in Providing Legal Protection to Women and Children as Victims of Crime (A Study at the Women and Children's Service Unit of the Pontianak City Police Resort). Nestor: Tanjungpura Journal of Law, 1 (2) 2023, p. 7

³⁸Wulandari, Firman Umar and Nurharsya Khaer Hanafi, Op.Cit, 2 (2) 2023, p 70

4) Termination of Case

The final stage in handling cases of sexual violence against women is case termination. The term "case termination" simply means the termination of assistance or services provided to the victim. Termination also refers to an activity aimed at ensuring the termination of social services provided to the victim.

The final procedure in handling cases of sexual violence against women is the case resolution or termination process where after case management, the victim will choose to continue the case to the court stage, if they continue, the companion will provide assistance to the victim until the case resolution stage but if the victim does not continue the case, the case will be terminated.

Literally, the word "sacrificer" is a translation of "victim," which comes from victimology, which in English is called "victim." Literally, the meaning of "sacrificer" is (1) A gift to express devotion, loyalty; (2) A person who suffers as a result of an incident, evil deed, etc.³⁹ *Victim is a person harmed by a crime, tort, or other wrong.*⁴⁰ Victims are people who suffer because of crimes, unlawful acts and other wrongdoings.

Victim protection according to Barda Nawawi Arief⁴¹, can be seen from 2 (two) meanings. First, it can be interpreted as legal protection to avoid becoming a victim of a crime (meaning protection of Human Rights or a person's legal interests). Second, it can be interpreted as protection to obtain legal guarantees/compensation for the suffering/loss of people who have become victims of a crime (so it is identical to victim assistance). The form of compensation can be in the form of restoration of good name (rehabilitation), restoration of inner balance (including forgiveness), provision of compensation (restitution, compensation, social welfare guarantees/compensation) and so on.

Victim protection in the criminal justice process is inseparable from victim protection under applicable positive law. In current positive criminal law, victim protection is more abstract or indirect.⁴² This is said because, according to positive criminal law, a crime is not seen as an act that attacks/violates the legal interests of an individual (the victim) personally and concretely, but only as a violation of legal norms/order in the abstract. Consequently, victim protection is not direct and concrete, but only in the abstract.⁴³

³⁹Adil Lugianto, Op.Cit, 43 (4) October 2014, p 554

⁴⁰Bryan A Garner, Op.Cit, 2004, p 598.

⁴¹Barda Nawawi Arief, Problems of Law Enforcement and Crime Prevention Policy, Jakarta: Kencana Prenada Media Group, 2008.

⁴²Hamidah Abdurrachman, et.al. Strengthening the Role of the Police in Efforts to Prevent Sexual Violence Against Children and Women, Diktum: Journal of Legal Studies, 10 (1) May 2022, p. 33

⁴³Barda Nawawi Arief, Op.Cit, 2008

Crime victims are essentially the ones who suffer the most in a crime, as they lack the protection afforded by law to perpetrators. Consequently, even when a perpetrator has been sentenced by the court, the victims' well-being seems to be completely ignored. Yet, issues of justice and respect for human rights apply not only to perpetrators but also to victims.⁴⁴

In every handling of criminal cases, the Police are often faced with the obligation to protect two interests that seem to be contradictory, namely the interests of the victim who must be protected to recover his suffering because he has become a victim of crime (mentally, physically, or materially), and the interests of the accused/suspect, even if he is guilty, he remains a human being who has basic rights that must not be violated. Moreover, if there has not been a judge's decision stating that the perpetrator is guilty for his actions, therefore the perpetrator must be considered as an innocent person (the principle of presumption of innocence).

In resolving criminal cases, the law puts too much emphasis on the rights of the suspect or defendant, while the rights of the victim are ignored, as stated by Andi Hamzah in discussing criminal procedural law, especially those related to human rights, there is a tendency to examine matters related to the rights of the suspect without paying attention to the rights of the victims.⁴⁵ Many crime victims are found to lack adequate legal protection, both immaterial and material. According to Geis, "too much attention has been paid to offenders and their rights, to the neglect of the victims."⁴⁶ Crime victims are positioned as evidence that provides information, namely only as witnesses, so that the possibility for victims to obtain freedom in fighting for their rights is small.⁴⁷

In the context of sexual violence against women, victims are formally given authority and actively involved in the investigation and trial process based on mechanisms established by the Police through its Women and Children Protection Unit (PPA) in handling female victims of sexual violence. This allows them to fight for their rights and recover from the consequences of a crime of sexual violence. However, in reality, has the current legal framework for investigating crimes of sexual violence against women achieved optimal protection for women as victims? This dynamic requires sociological study and analysis of the representation of cases of sexual violence against women in the eyes of the law and social paradigm.

In theory, legal protection, according to R. La Porta in the Journal of Financial Economics, the form of legal protection provided by a country has two characteristics: preventive (prohibited) and punitive (sanction). The most obvious

⁴⁴Hamidah Abdurrachman, et.al. Op.Cit, 10 (1) May 2022, p. 34

⁴⁵Andi Hamzah, Protection of Human Rights in the Criminal Procedure Code, Bandung: Bina Cipta, 2006

⁴⁶G. Geis, Victims and Witness Assistance Program. New York: Encyclopedia of Crime and Justice, 2003

⁴⁷A. Gosita, Child Protection Issues, Jakarta: CV Akademika Pressindo, 2009

form of legal protection is the existence of law enforcement institutions such as courts, prosecutors, police, and other non-litigation dispute resolution institutions. The protection referred to as preventive (prohibited) is to create regulations, while the protection referred to as punitive (sanction) is to enforce regulations.⁴⁸

From a social perspective, discrimination significantly impacts the resolution of sexual violence cases against female victims. Consequently, sexual violence often leads to negative reactions such as trauma, psychological distress, irritability, and even suicide due to shame.⁴⁹ The targets of sexual violence are more often women, because they are considered weaker individuals than men.⁵⁰ In line with

Based on this understanding, society has a view that women are more often identified as objects of sexual violence. The view that often occurs in society is that there are factors of weak nature of women, the existence of opportunities, biological needs, wrong social circles, and the clothes worn by the victim.⁵¹

These factors cannot be considered entirely accurate, especially when the focus is on the clothing women wear. Many people blame the way women dress, often suggesting that this style of dress can potentially arouse the lust of sexually driven men.⁵² This paradigm is considered highly patriarchal because it favors men too much. Women, as victims who should receive protection and justice, are instead rejected and receive inappropriate feedback due to this discriminatory view. However, it's not entirely true that a woman's attire can be used as a primary indicator of sexual violence.⁵³ So without us realizing it, we are currently living in a mindset or perspective that is wrong but is considered normal and correct in the reality of society.

This patriarchal perspective has become a heated gender debate between men and women. Men defend their position by using the analogy of "there's no smoke without fire," meaning that men won't have lust or commit harassment if women don't provoke them first by dressing in an indecent manner. Meanwhile, women often reject the link between dress and sexual violence, believing they deserve the freedom to express themselves through their attire. Clothing shouldn't be the primary factor in sexual violence; they hope there won't be any statements that marginalize victims based on their attire.

⁴⁸Rafael La Porta. Investor Protection and Corporate Governance, Harvard University, Journal of Financial Economics, 58, 2000

⁴⁹Eprina Mawati, Lies Sulistiani, and Agus Takariawan, Op.Cit, 5 (2) 2020

⁵⁰Utami Zahira et al. Noviani P, Op.Cit, 5 (1) 2018, pp. 48–55

⁵¹Endra Amalia, Fatimah Laila Afdila, and Yessi Andriani, Op.Cit, 5 (2) 2018

⁵²Sacred Flower Shopiani, Wilodati, and Udin Supriadi, Op.Cit, 11 (1) 2021, pp. 940–955,

⁵³Bella Teofani, Op.Cit 13 (1), 2019, p 54–64.

In society, there is still widespread discrimination against women, with some believing that the primary cause of sexual violence is the way women dress, which is provocative, seductive, and provides opportunities. While clothing is a personal right for each individual, it must be limited by societal norms that consider wearing revealing clothing in public taboo.⁵⁴

Guamarawati argues that women still bear the burden of being a marginalized group, such as discrimination, harassment, exploitation, and so on. Furthermore, violence against women involves gender-based violence that will result in physical, sexual, or psychological harm or suffering for women, including threats, coercion, and arbitrary deprivation of liberty, whether occurring in public or in private life. In accordance with the definition that has mentioned the unequal power relations between men and women historically, violence against women can be said to be rooted in the division of roles that has been carried out even since prehistoric times. The biological fact that men are much stronger than women has led humans since ancient times to associate the role of hunting wild animals as a male task, while women are responsible for caring for and raising children, as well as tending fires, especially when they no longer live nomadic lives.⁵⁵

Guamarawati⁵⁶ strengthens this statement by stating that without us realizing it, this division of roles creates a social mechanism where men are superior in many ways to women, and then men abuse their power to commit acts of violence. These acts of violence are constructed through social interactions between patriarchal societies—systemic domination and power by men.⁵⁷

This patriarchal culture has traditionally shaped differences in behavior, status, and authority between men and women in society, which then become a gender hierarchy, which also influences the paradigm of victim blaming in law enforcement circles. Victim blaming occurs when victims of a crime are blamed and held responsible for the crime they experienced, and often occurs in the context of sexual violence. In this issue, several parameters determine how blameworthy a woman is, for example: availability to engage in consensual romantic contact, the type of clothing worn during the incident, and inviting or accompanying a date to her residence.

The paradigm, customary, cultural stigmatization that has been explained by the researcher above which has grown in the sociological sphere and even the law enforcement circle against female victims of sexual violence has a great impact on the realization of legal protection for female victims of sexual violence in the

⁵⁴Wahyu Andari, Sri Rahayu, and Budi Suharno, Determining Factors in the Incident of Sexual Violence Against Children, *Health Education*, 6 (2) 2017, p. 107

⁵⁵NA Guamarawati, A Criminological Study of Violence Against Women in Heterosexual Dating Relationships. *Indonesian Journal of Criminology*, 5 (1) 2009, pp. 43-55

⁵⁶Ibid

⁵⁷BR Harnoko, Behind Acts of Violence against Women. *Muwazah*, 2 (1) 2010, pp. 181-188

authority of the Police as the initial gateway for legal instruments in realizing legal protection and legal certainty which is undeniably the last hope for female victims to obtain legal certainty and justice.

Women who come into conflict with the law, particularly in cases of sexual violence, often find little clarity in resolving their cases. Instead of resolving their cases legally, women, often victims, are far from protected. In cases of sexual violence, law enforcement officers (APH) resort to victim blaming, criminalization, and even ask questions that seem to corner the woman (victim) who is in a position of guilt. Imagine, having already suffered physically and psychologically, victims still have to prepare themselves mentally to face the law enforcement officers.⁵⁸

Women generally encounter law enforcement officers who lack a gender perspective. Female victims are often perceived as the cause or enabler of crime because of their dress, body language, social relationships, marital status, occupation, or presence at a particular time and location. Women are also perceived as condoning the incidents/crimes they experience due to their powerlessness to resist and are easily persuaded by the perpetrator's promises and/or deceptions.⁵⁹ The original goal of seeking justice through litigation actually makes women fearful, as they learn about the law enforcement officers' attitudes toward female victims of sexual violence. Worse yet, they are persuaded to take the peaceful route, in other words, to marry the perpetrator. Imagine the context in which a victim of a crime is directed to marry a perpetrator who committed a crime against her, a situation that defies legal logic.⁶⁰

In fact, the problem of legal certainty does not arise from the incompleteness, non-specificity, or lack of substance of a national legal product in accommodating legal handling for female victims of sexual violence, but rather from the patriarchal culture that is the source of all problems that occur in the practice of legal protection for female victims of sexual violence. In addressing this problem, it is necessary to shift the paradigm of every Police personnel as a whole involved in the legal process for crimes of sexual violence against women in instilling a counter-patriarchal paradigm towards women. This is very important for the Police's contribution in an effort to change the patriarchal cultural paradigm that has grown in the community's perspective, which means the Police provide concrete examples in terms of concepts, socialization, and implementation to the community with the output:

⁵⁸HM Yusuf Daeng, et al.: Human Rights Protection for Women in the Trap Criminal Law from a Feminist Perspective/Feminist Legal Theory, MOTEKAR: Multidisciplinary Journal of Technology and Architecture, 2 (2) November 2024, p. 453

⁵⁹Ibid

⁶⁰Asit Defi Indriyani, <https://syariah.iainponorogo.ac.id/perlindungan-bagi-perempuan-yang-berhadapan-dengan-hukum/>, Accessed on August 29, 2025

- 1) That patriarchal culture in the social sphere and the sphere of law enforcement is a fallacy of thinking and a paradigm that has been formed so far;
- 2) That the Police are a safe place for women who are victims of sexual violence to seek justice and truth.

This solution also indirectly shapes the image of the Police in the eyes of women as a destination for placing high hopes and being right to get help for incidents experienced by women who are victims of sexual violence.

This systemic problem can be understood as the result of unequal power relations that have been entrenched in society for decades. This unequal power relations have shaped a societal mindset that tends to ignore women's rights.⁶¹ This condition is not ideal and must be addressed continuously and it cannot be denied that the Police are obliged to change all the chaotic thinking and direct it towards all aspects of siding with women in the scope of women victims of sexual violence because the polemic that occurred over sexual violence has become a full element of a criminal offense as the authority of the Police in resolving this problem.

There's still a long way to go to provide justice and legal certainty for all Indonesian women. One concrete step to optimize the Indonesian National Police's human resources is to prepare the National Police Chief's Staff for Human Resources (SSDM Polri) as a supervisory and assistant element to the Chief of Police at Headquarters. This begins with increasing the number of female police investigators and improving their quality through training, gender-responsive education, and investigator certification. These are some concrete steps expected to increase human resource capacity in handling sexual violence cases.

Optimization efforts to address the problems identified in the aforementioned analysis have implications for the essence of legal certainty. Based on the principle of standard priorities, Gustav Rebruch reiterated that initially the basic idea of law was a shared legal objective. However, after development, he taught that we must use the principle of priority, where the first priority is justice, second is utility, and finally is legal certainty. Legal certainty and utility must not conflict with justice, nor must legal certainty conflict with utility.

Referring to the theories of legal certainty above, legal certainty that can be given to women victims of sexual violence is not only limited to a written criminal law norm, but legal certainty needs to be realized through the implementation of legal product implementers in this case the Police in carrying out and fighting for the rights of women victims of sexual violence to obtain legal protection and justice practically and concretely. In narrative terms, the researcher's opinion is that

⁶¹Muhammad Rifa'at and Adiakarti Farid, Violence against Women in Unequal Power Relations: A Case Study at the Rifka Annisa Women's Crisis Center, SAWWA: Journal of Gender Studies, 14 (2) 2019, p. 179

"what is the meaning of legal certainty that is physically written but not realized concretely for the entity of women as victims of sexual violence".

4. Conclusion

In the material criminal law product, the crime of sexual violence is not clearly regulated in the latest Criminal Code of 2023, not even one article mentions the words sexual harassment or sexual violence, there are only terms in several articles, including Article 406 concerning public decency, Article 414 concerning indecent acts with force, and Article 407 concerning indecent acts published as pornography, with an emphasis on acts that violate moral norms and cause discomfort. Article 463 concerning abortion, Article 473 concerning the expansion of the definition of rape with the substance that every person who with violence or the threat of violence forces someone to have sex with him, is punished for committing rape, with a maximum prison sentence of 12 (twelve) years. The phrase "sexual violence" is found in Article 599 (d) regarding sexual violence which is included in crimes against humanity, including rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization, or other forms of sexual violence of equivalent magnitude, or forced disappearance of persons with a minimum prison sentence of 5 (five) years and a maximum of 20 (twenty) years. The ratification of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS) aims to strengthen the handling of sexual violence by providing a clearer and more comprehensive legal basis. The TPKS Law covers various forms of sexual violence, such as rape, sexual harassment, domestic violence, and cyber-based sexual violence. Constitutionally, legal protection for women from acts of sexual violence is also accommodated in Article 28G of the 1945 Constitution of the Republic of Indonesia.

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