



The Protection to Victims of Violence Based on Gender as a Fulfillment of the Constitutional Rights in the Perspective of Human Rights in Boyolali's District, Indonesia

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Article Info

Submitted on June 2016
Approved on December 2016
Published on May 2017

Keywords:

Gender Violence; Protection;
Service; Boyolali District

Abstract

Cases of Gender-based violence increase from year to year and this raises concerns. The phenomenon that puts Boyolali as the district with the highest number of gender-based violence to former residency Surakarta need for follow up. This study aims to get information form of protection and the efforts that have been undertaken by the government of Boyolali District to meet the Constitutional Rights for victims of gender-based violence in Boyolali; Fulfillment of Constitutional Rights for victims of violence against women by the government of Boyolali Regency, among others; Complaint service spread in 19 districts in Boyolali District. Social Rehabilitation Services are given by officers and social rehabilitation. Spiritual guidance services provided by Spiritual guidance counselors are trained for women and Child victims of violence in the integrated service unit. Law enforcement from the level of investigation to court decisions on cases of violence against women and children has been carried out according to the procedure. Legal aid service to women and children of victims of violence. Repatriation of women and children Victims of violence. According to standard that has been set in SPM by 75%. Social re-integration services for women and child victims of violence, according to standards set out in the SPM at 100%

INTRODUCTION

¹ PhD Candidate from Universitas Sebelas Maret (UNS), Surakarta, Indonesia. I would like express my thankfulness to Universitas Negeri Semarang, especially for Research and Community Engagement Office, and also to all parties involved on this research especially for State Official of Boyolali District.

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THE STRUGGLE for human rights is essentially part of the demands of history and culture, including Indonesia. Therefore, fighting for human rights is the same as fighting for the nation's culture or cultivating the nation, among others, humanity and humanity all over the world and one. Given the difference and culture, when there is a culture that is contrary to the spirit of human rights, it is necessary to incrementally and continuously the dialogue, approach, and completion.

In the 1945 Constitution both before or after the amendment of human rights occupy an important position, it has even been presented in some organic rules or in positive law. In the 1945 Constitution there are 11 Articles on Human Rights from Articles 28, 28A to Article 28J. In 28J "obliged to respect the rights of others and subject to the restrictions set forth in the law".

Then to implement the Law Number 39 of 1999 concerning to Human Rights and in Indonesia there is also a Human Rights Commission (Komnas HAM) which has a position as an independent institution that ranks as the other state institution that performs research, research, counselin, monitoring, and mediation of human rights.

This country has prepared all devices related to human rights enforcement in Indonesia. The hope is to honor the human rights of all citizens without exception. So violations of human rights in Indonesia can be minimized in this country.

But the fact that it is in the society is so ironic that there are many cases of violence that occur in society and we can not turn a blind eye to some of the violent, especially gender-based violence that occurs in our country today.

Gender-based violence is a very common human rights violation, a public health crisis, and challenges to equality, development, peace and peace. The term "violence against women" and "gender-based violence" is used to describe a series of persecutions committed to women rooted in gender inequalities and women's subordination within society against men. Violence against women included in the war was used as a tool for spreading fear, terrorizing and embarrassing women, their families and communities.

In 1993, the UN Declaration on the Elimination of Violence Against Women defines violence against women as "gender-based violence that results in or is likely to result in physical, sexual, or psychological injury or suffering against women, including the threat of doing such acts, coercion or Discrimination on a random basis, whether in public or private." This definition covers violence that occurs in the family, in the general public, and the violence done or left by the State.

Gender-based forms of violence include but are not limited to: domestic violence, sexual abuse, rape, sexual abuse, trafficking, forced prostitution, and harmful acts against women. These forms of violence can lead to problems in reproductive health and physical, mental, sexual, and other health problems. More than that, the plurality of women's identity and

their affiliation with various other identity factors such as class, race, ethnicity, religion, age, sexuality and citizenship status can be something that increases their vulnerability to violence.

Gender-based violence has been increasing year by year from the data that researchers get. There is a significant increase in gender-based violence cases in Boyolali.

Based on the data obtained there is an increase of gender-based violence cases in Boyolali Regency, in 2012 there are 40 cases, in 2013 there are 60 cases, in 2014 there are 62 cases. Gender-based violence cases rise from year to year and this raises concerns. The phenomenon that places Boyolali Regency as the Regency with the highest number of gender-based violence as Surakarta Residency is very concerned.

Approach Method

APPROACH method used by writer in this research is juridical empirical method. According to Ali (2009: 30) empirical juridical method consists of: (1) Research on legal identification that is intended to know the unwritten law which is based on applicable law in society, and (2) Research on the effectiveness of the law is a study that discusses how the law that operates in society. As in this study using a more focused juridical empirical research on the effectiveness of the implementation of the law is to discuss how the legislation in force.

Research Specification

ACCORDING to Ali⁴ a *descriptive analytical* research is research that revealed the legislation relating to the legal theories that became the object of research, and also in the implementation of law in the society with regard to the object of research.

Therefore, specification of research used in this research is *descriptive*, because the legal facts of data obtained from this study seeks to provide an explanation to give an idea or express a variety of factors that are considered closely related to the protection of victims of gender-based violence.

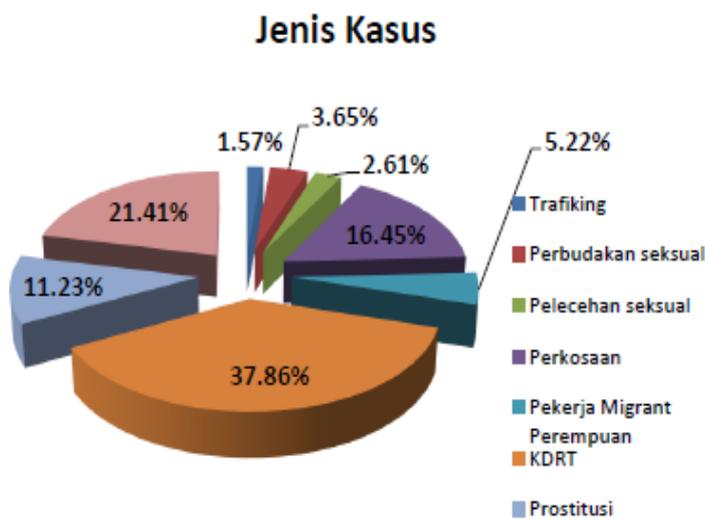
Descriptive because the research is intended to illustrate in more detail, systematically and comprehensively on all matters relating to the protection of victims of gender-based violence. The term implies *analytical* grouping, connect, compare and giving meaning to aspects of the legislation relating to the implementation of the protection of victims of gender-based violence in Boyolali

⁴ Ali, Zainuddin. 2009. *Metode Penelitian Hukum*. Jakarta: Sinar Grafika, p. 105

PROTECTION FOR VIOLENCE *OF* GENDER VIOLENCE IN BOYOLALI REGENCY, INDONESIA

CASES of violence against women spread across 35 districts / cities in Central Java. Based on the monitoring and handling of cases of LRC-KJHAM IN 2015, that Semarang City with the highest cases of violence against women with 125 cases. Followed by Wonosobo District with 62 cases, Surakarta with 33 cases, Kendal District with 20 cases, Semarang District with 11 cases, Pekalongan City, Pekalongan District, Batang District, Brebes Regency with 10 cases, Klaten Regency, Demak District with 9 cases .

There are still many cases of unreported violence against women or victims who dare not report the case. Because it is still considered taboo or even the victim is still blamed by the community if the victims of violence. It is this situation that suppresses the number of reports of violence against women. As a result, many cases have not been addressed and the lack of protection and even post-violence recovery of women has occurred.



Cases of violence against women were classified into 8 types of cases. Among them are: Rape, Sexual Slavery, Trafficking, Sexual Harassment, Women Migrant Workers, Domestic Violence, KDP, and Prostitution. Of the 8 types of cases of violence against women the highest was the case of domestic violence with 37.86% or 145 cases, followed by KDP cases with 21.41% or 82 cases, 16.45% or 63 cases of rape, Prostitution with 11.23% or 43 cases, female migrant workers

with 5.22% or 20 cases, sexual slavery with 3.65% or 14 cases, sexual harassment with 2.61% or 10 cases and trafficking with 1.57% or 6 cases. Cases of violence against women increased the type of sexual slavery. Where since 2014 found a new type of case that is sexual slavery.

The number of victims of cases of violence against women in Central Java during November-June 2015 recorded 66.67% or 723 age unknown victims, Adults with the number 22.44% or 243, and 10.71% or 116 while the age of the elderly victims 0.09% or 1 victim.

Law No. 13 of 2006 *jo.* Law. No. 31 of 2014 concerning to the Protection of Witnesses and Victims, Article 5 regulates the rights of witnesses and/or victims in general, including witnesses, reporters, and experts are also entitled to the right of witnesses and/or victims. This law gives special rights to special crime victims as well. Article 6 provides for the special protection afforded to this particular crime victim, one of whom is a victim of a criminal act of sexual violence, in addition to general protection as set forth in Article 5, the victims of sexual assault also enjoy special protection as set forth in Article 6 of this Act which is entitled to receive medical assistance and rehabilitation, psychosocial, and psychological assistance.

Special protection is necessary for victims of sexual violence because in addition to physically suffering victims of sexual violence also suffer psychically so that requires special attention and protection. Law No. 13 of 2006 *jo.* Law. No. 31 of 2014 concerning to the Protection of Witnesses and Victims in addition to giving the rights to witness and/or victim either general or special also gives sanction to every person who will make witness and/or victim lose or do not get their rights. This provides a sense of comfort to the victim and/or witness to guarantee the rights granted by Law.

Given that violence against women can not be eliminated from the root of the problem, that is discrimination, so members of alliance / forum / network always make efforts to increase gender awareness and women's rights, both at government apparatus level and community in their respective environment. In addition to efforts to popularize legal products that protect victims of violence, such as Law No. 23 of 2002 concerning to the Child Protection and Law No. 23 of 2004 on the Elimination of Domestic Violence This is done with the awareness that it is important to make changes both structurally (government) and culture, both of which are necessary to eradicate discrimination against women.

This awareness-raising effort has always been emphasized that both the state through the local government (village/sub-district, district, district/city) and community (community) have responsibility in preventing and handling cases of violence against women. The State has an obligation:

1. Take non-legal or socio-cultural steps in community life in his country;
2. Punish or sanction any perpetrator of gender based violence, whether committed by a person, organization or company; and
3. The State may be held accountable, if: public officials engage in acts of gender-based violence, the state fails to enforce or enforce the law in the prevention of a human rights violation committed by a person, the State fails to investigate and punish such offenses (National Commission for Women, *Komnas Perempuan* 2006: 7).

While the responsibility of the community, especially in the effort of prevention and handling of domestic violence, as mentioned in article 15 Law No. 23 of 2004 on Elimination of Domestic Violence:

Anyone who has heard, seen or acknowledged the occurrence of domestic violence shall make efforts in accordance with the limits of its ability to prevent crimes, provide protection to victims, provide emergency assistance, and assist in the process of applying for safeguards.

THE EFFORTS THAT DESIGNED BY THE GOVERNMENT OF BOYOLALI REGENCY

VIOLENCE of women and children in Boyolali District tends to decrease. In 2014 there were 77 cases and in 2015 decreased to 53 cases of violence and in 2016 until the first quarter only 6 cases occurred. Head of BP3AKB Kabupaten Boyolali, the decrease of Domestic Violence cases and child violence in Boyolali decreased thanks to the socialization of BP3AKB on anticipation of physical, psychological and sexual violence against women and children.

Through the *Three Ends* program that ends the free sex, ending human trafficking and end the economic access gap women. Anticipating juvenile delinquency and free sex is done with the socialization of the Three Ends to students ranging from junior high, high school and universities as well as community targets incorporated in youth. In this way the community, especially students and youth memahmi regulation at the same time expected not to perform the forbidden action.

In addition, the decrease in violence in Boyolali was also caused by the increasingly critical of the community to report every case that occurred around the environment to the Integrated Service Center for Women and Children Empowerment (*Tim Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak*, TP2P2A) Boyolali District. With the report can give deterrent effect to the perpetrator not to do violence as well as give lesson to society that to do acts of violence is unlawful action.

Based on Boyolali Regent's Regulation No. 21 of 2015, various services are carried out by the Boyolali District Government as an effort to emphasize the violence of women and children, as well as efforts to fulfill the constitutional rights for victims of gender violence in Boyolali District, such as:

1. Women and Children Victims of Violence who receive complaints handling by trained officers within the Integrated Service Unit, the data shows that victims of violence against women and children in 2012 are 70%, in 2013 being 75%. In handling complaints Victims of Violence against women and children have been handled and followed up according to procedure but not all officers in UPT get training. For the year 2015 will be held training development of an integrated training center in 19 Districts.

2. Women and Children Victims of Violence who have trained health services at Puskesmas are able to manage KIP/A and PPT/PKT at the Hospital. Violence victims of women and children have received health services but there is no coordination/MoU in the health treatment for victims so that victims in the divisum process at the Hospital or Puskesmas are still treated as other general patients.
3. Social rehabilitation services provided by trained rehabilitation and social workers for women and children victims of violence within integrated service units not all victims of violence have rehabsos services because there is no/limited infrastructure, trained officers in UPT/Dinas concerned (*Dinas Sosial*, Social Unit).
4. The spiritual guidance service provided by trained spiritual guidance officers for women and children victims of violence within the integrated service unit is given so far is to provide motivation and spirit for the peace of his soul but have not yet had a special room / shelter to handle the victims.
5. Law enforcement from the level of investigation to court decisions on cases of violence against women and children has been implemented according to the procedure, which has been handled in 2013 by 92%.
 - a. This is beyond the interpretation and standard of 20%, for cases of violence against women and children, there is already a special unit of PPA from the Polres and the judges of the children in the Court and according to the rules already exist Law No. 23 of 2002 of Protections to the Children and the Law of Domestic Violence No. 23 of 2004.
6. Legal aid services for women and children who are victims of violence Obtaining legal aid services in 2013 can already be handled by 67.46% according to the standard set by 50%, because not all cases of victims of violence against women and children have legal aid services. This is seen from the cases faced, and most victims refuse to be processed to the realm of law.
7. Repatriation of women and child victims of violence. In accordance with the standard set in the SPM of 75%, but until the year 2014 Boyolali region there has been no case of repatriation of women and children Victims of Violence, and if there are cases like this the Government facilitates through Technical Satkers have prepared the necessary tools.
8. Social reintegration services for women and child victims of violence, according to the standard set in the SPM of 100%, based on reports that have been received in the Year 2013 can already be served by 40%. For the reintegration of social we provide an understanding of the family, the community in the victim environment through the provision of information, motivation.

CONCLUSIONS

EFFORTS to build awareness of forming a protection of victims of gender violence, always stressed both countries through local governments (rural/village, district, county/city) and communities (communities) have a responsibility to prevent and deal with cases of violence against women, including: (1) take non-legal or socio-cultural steps in community life in his country; (2) punish or sanction any perpetrator of gender based violence, whether committed by a person, organization or company, and (3) State may be asked for the responsibilities to the people.

The fulfillment of Constitutional Rights for victims of violence against women conducted by the government of Boyolali District, including:

1. Complaint service spread in 19 districts in Boyolali District.
2. Women and Children Victims of Violence who receive services
3. Social Rehabilitation Services provided by rehabilitation and social workers.
4. Spiritual guidance services provided by trained spiritual guidance officers for women and child victims of violence within an integrated service unit.
5. Law enforcement from the level of investigation to court decisions on cases of violence against women and children has been carried out according to the procedure.
6. Legal aid services for women and child victims of violence.
7. Repatriation of women and child victims of violence. Appropriate standard set in the SPM of 75%.
8. Social reintegration services for women and children victims of violence, according to the standard set in the minimum servicees standard (*standar pelayanan minimal*, SPM) of 100%.

Suggestions for this case, for people in Boyolali District, be aware of the increasingly prevalent gender violence, identify the symptoms that occur in the environment. Parents immediately protect their children from promiscuity and reduce unnecessary activities with unclear friends. For Forum/Community of caring women, should immediately identify the symptoms of deviance in the form of violence against gender among students and students, and for the Government, should immediate forms of community service for the recovery and further development of victims of gender violence.

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Law Adagium

**Judex Herbere Debet Duos
Sales, Salem Sapientiae, Ne
sit Insipidus, et Salem
Conscientiae, Ne sit
Diabolus**

A judge should have two silts; the salt of wisdom, lest he be foolish; and the salt of conscience, lest he be devilish