



**REALITY OF PROTECTION FOR SEXUAL VIOLENCE VICTIMS:
COMPREHENSIVE PROTECTION ANALYSIS FOR SEXUAL
VIOLENCE VICTIMS**

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Article Information Abstract

History of Article:

Received September 2017

Approved October 2017

Published November 2017

Keywords:

Protection, Victim, Sexual
Violence

Lack of research on victims, especially victims of sexual crimes, whereas cases of sexual crimes are increasingly prevalent in the community. Victim protection is urgently needed to address the increasing number of victims who are not immediately noticed as law enforcers pay more attention to the perpetrators, while victims who suffer physically and psychologically, materially and spiritually, are largely ignored. There are two things that make the offer of protection become important for the victim. First, how to make victims for whom the protection is held, they feel that they are given a sense of security and comfort as citizens protected from the evil that constantly lurks. Second, how to ensure that protection institutions can be achieved with adequate social, economic and cultural aspects.

This research aims to find two important things: (1). Finding framework and system of victim protection innovation in Semarang (2). Find and understand the most urgent needs of victims for psychological and physical recovery so that victims can reactivate like other citizens. The benefit of this research is to provide scientific information about the opportunities and barriers to the application of innovative protection for victims in the environment. Thus, the institution can be built especially for victims of sexual violence, as well as the preparation of aspirative and compatible programs

The research method used is qualitative research that rely on information from the first hand, both concerning the application of innovation protection and efforts to find the framework of innovation, it will be pursued stages of research stages, ranging from the determination of the object and place of research, the determination of unit analysis and observation unit, to intensive research in the field. Preliminary information was collected through a survey with questionnaires and interview guides. In addition, focus groups will be set up based on the diversity of informants. The deepening of the data is done by combining in-depth interviews and focused discussions.

The findings of this research will result in a model of protection that has legitimacy for the community. The protection model is in great demand and beneficial to victims who have not been noticed.

INTRODUCTIONS

The current criminal act of sexual violence is a crime that has received considerable attention among the public. Often in newspapers or magazines reported there was a criminal act of sexual violence. If you study history, this type of crime has always existed, or it can be said as a classic evil that will always follow the development of human culture itself, it will always exist and develop at any time although may not be too much different from before.

The issue of protection against victims of sexual violence has always been an interesting issue to observe, since the issue of protection against victims of sexual violence is not only concerned with the provision of protection alone, but in relation to the constraints faced. It is not easy to provide protection against victims of sexual violence because there are several factors that become obstacles.

The victim factor plays an important role in overcoming or resolving this case of sexual violence, it requires the courage of the victim to report the incident that happened to the police, because in general the victim is threatened with more sexual violence from the perpetrator and this makes the victim fear and trauma. Some of the following factual conditions become the starting point for researchers to address the issue of victim protection for examination. **First**, so far in a legal event the treatment of the victim has not been suitable to realize justice, whereas it is the victims who suffer physically and psychically, materially and spiritually, but its existence is much neglected. **Second**, as one of the global issues, the issue of crime victims has been the problem of many countries. That is why the demand for protection of crime victims in the

last decade has become an issue that has so much attention, not only among human rights observers but also in academic discourse at national and international levels.

Third, The criminal justice process which is a series of stages ranging from investigation, investigation, arrest, detention, prosecution, examination in court, to punishment, is a very complex and not easily understood activity that is sometimes frightening for ordinary people, Such a public perception can not avoided as a result of the public image, that the judicial process is a "scary" activity is more due to the fact that the community as justice seekers undergo the judicial process is often confronted with unpleasant conditions, both because of their ignorance of the law and the unsympathetic treatment of law enforcement officers.

Fourth, the fact shows that crime victims are only placed as evidence only as witnesses. In this condition the possibility for the victim to gain freedom in fighting for his rights is very small. This is because theoretically and practice in the Indonesian criminal justice system the interests of crime victims are represented by the Public Prosecutor as part of the social protection argument and social solidary argument. in the perspective of the victim, such a system of victim's interest is only as represented by the Public Prosecutor, in which the effort to prosecute the perpetrator of a criminal offense, has been regarded as a legal protection effort for the victims and the wider community. Whereas in fact the loss suffered by the victim is very neglected.

In various regulations in Indonesia are known various types of terminology which explains about criminal acts related to sexual

violence.¹ At least currently there are at least four types of laws regulating crimes related to sexual violence, namely the Criminal Code (KUHP), Act No. 23 of 2002 as amended by Act No. 35 of 2014 on Child Protection, Act No. 23 of 2004 on Elimination of Domestic Violence and Act No. 21 of 2007 on Trafficking in Persons. The Criminal Code does not provide specific explanation or definition of criminal acts related to sexual violence,² as well as the Child Protection Act which only refers to the Criminal Code. While Act No. 21 of 2007 on Human Trafficking only regulates violence in the context of human trafficking for the purpose of sexual exploitation.

Different types of formulation in Act No. 23 of 2004 on Elimination of Domestic Violence. The Act contains a relatively new term of sexual violence. The Act also provides little explanation for sexual violence.³ However, the existence of this Act does not provide a clearer understanding of sexual violence.

Discussions about the rights of victims seem to escape the attention, squeezed by the

problem of criminalization. Nowadays there are so many Acts that regulate the criminalization of an conduct, each law explains in detail the actions that can be criminalized, but not many laws and regulations that explicitly explain the victim and his rights, it is also occurs in a law containing sexual violence. The Criminal Code and Criminal Procedure Code do not provide the definition of the victim,⁴ in the Criminal Procedure Code, the victim is only considered as a witness, Act No. 23 of 2002 on Child Protection, which first regulates the crime of sexual violence outside the Criminal Code, in general provision does not explain the definition of victim or child victim, this error is also repeated in Act No. 35 of 2014 which is a change of the Act. As if the victims and their rights are unnecessary, even though sexual violence is a crime that must involve the victims⁵ who have an impact on

¹ from crimes against morality in the Criminal Code, crimes against honor in several translations of the Criminal Code, sexual crimes in the Law on Child Protection, sexual violence in the Law on the Elimination of Domestic Violence and the Law of Pornography

² directly describe it in accordance with the formulation of the article, including rape and obscenity,

³ the act of coercion of sexual intercourse in an unfair and or inappropriate manner or coercion of sexual intercourse with another person for a specific commercial purpose or purpose

⁴ There is no word "Victim" in the Criminal Code, while the word "Victim" in the Criminal Procedure Code is contained in only 4 articles, namely Article 160: about witness statements, Article 108 on the submission of reports, Article 133 on expert information, Article 134 on autopsy, the position of the victim is limited only as

a supporter of proof, not regulated on the privileges of the victims. The implications of an understanding that only placing the victim as a proof support can have an impact on the treatment of the victim as an object to facilitate the parties to the dispute. The role of these disappeared victims can be the source of the victims' frustration over the criminal justice system, which also results in continued victimization, in Jo-Anne Wemmers, Victims' rights are human rights: *The importance of recognizing victims as person*, <http://www.doiserbia.nb.rs/img/doi/1450-6637/2012/1450-66371202071W.pdf>

⁵ it can be concluded that sexual violence is committed in the event of attack (done without free consent) to a person in the realm of sexuality. Sexual violence occurs not from sexual desire but rather an act of expressing power and dominance over victims, WHO, World Report on Violence and Health

physical⁶, mental⁷ and social health⁸. In such situations the victim is a citizen with special rights,⁹ so that his right is a part of human rights¹⁰ that must be fulfilled by the state.

The spreadings of the formulation of the rights of victims and their fulfillment in various laws and regulations, as well as the variety of institutions that organize cause the rights of victims of sexual violence to become uncoordinated and not comprehensive. In addition, the formulation of the rights of victims is only regulated by sector law, there is no basic provision which specifically guarantees that the fulfillment of victims' rights can be realized for all victims of sexual violence. The hypothesis constructed by the author on the basis of preliminary observations, is that "comprehensive victim protection" that accommodates proportionally and fairly the formal and informal aspects, is a form of protection that people expect to obtain justice and legal certainty agreed upon on the principle of equilibrium between perpetrators and victims.

The protection of victims of sexual violence, will be limited to social issues related to victims of sexual violence which in

fact require the active participation of the parties in determining the direction and substance of the settlement. To this end, this study focuses on the aspirations and needs of the community on the mechanisms and framework of the victim protection innovation system that should exist. Among others; (1) the reality of protection of victims of sexual violence in Indonesia; (2) factual needs of victims of sexual violence; (3) and systems, patterns and mechanisms in establishing "protection innovations for victims of comprehensive sexual violence"

RESEARCH METHOD

The method of approach in this research is sociological-juridic so that it can determine the protection system of the comprehensive victim, by taking tiered research stages, starting from the determination of object and place of research, determination of unit analysis and observation unit, intensive research in the field, to the analysis and interpretation data.

The data collection activities will take place in three stages. In the first stage, data collection will rely on quantitative methods,

⁶ Physical impact increases the risk of both sexual and sexual disease short-term and long-term

⁷ Impact mentally lead to psychological problems that can take place continuously

⁸ The social impacts affect the survival of the victims, as the victims generally get stigmatized by their families and communities.

⁹ Loraine Wolhuter, Neil Olley, dan David Denham, *Victimology: Victimization and Victim's Rights*, Oxon : Routledge Cavendish, 2008, hlm.28 dalam Supriyadi W. Eddyono, *Penanganan Anak Korban: Pemetaan Layanan Korban di Beberapa Lembaga*, <http://icjr.or.id/data/wp-content/uploads/2017/02/Penanganan-Anak-Korban-Pemetaan-Layanan-Anak-Korban-di-Beberapa-Lembaga.pdf>

¹⁰ The long journey from the early 1940s of the movement of the group advocated the rights of the victims in the criminal justice system which, along with the disregard of victims in the judiciary (formerly in the "golden age for victims" conflict only involving the litigants) caused the punishment imposed on the perpetrators as if it had no impact on the victim, on the other hand the victim was also victimized. On November 29, 1985, the General Assembly of the United Nations adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34), *Handbook on Justice for Victims*, https://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf Assembly resolution 40/34,

with the preparation and operation of interview guides and field surveys. In addition, there will also be data collection on the state of the organization, as well as recording of documents and secondary information from the police organizations examined. These quantitative approaches will form the basis for research in the second and third stages.

In the second phase, based on the results of first-stage data collection, semi-involved observation and observation approaches will be applied to develop a deeper understanding of the activities and socialization of victims' protection in the form of guidance, education, and in the form of dissemination through other media. In the third stage, a focused interview method will be applied to the information source. At this stage, intensive visits to informants will be made to reveal further the reasons behind the observed facts. At the same time, quantitative approaches are still to be utilized, more specific quantification of management structures and qualifications of personnel is available within an organization.

FINDINGS AND DISCUSSIONS

Reality of the Protection of Victims of Sexual Violence in Indonesia

Sexual violence in Indonesia is a serious matter, each year there are thousands of cases that occur related to sexual violence, especially rape and obscenity. Existing data are very minimal and do not specifically describe all forms of sexual violence that exist, but once the figures indicated by the small amount of data have also given an idea of the importance of giving special efforts to the handling of sexual violence. Below is the

data on the crime of sexual violence available at the Central Bureau of Statistics.

The first regulation to regulate the rights of victims related to sexual violence was Act No. 23 of 2003 promulgated in response to the adoption of the Convention on the Rights of the Child. This law contains criminal provisions on sexual violence against children, namely intercourse and lewd acts against children. However, this Act does not specifically regulate the rights of child victims of sexual violence. Then in 2004 promulgated the Act on the Elimination of Domestic Violence No. 23 of 2004 the law is substantially better by regulating the rights of victims and declaring the interests of victims as one of the principles of this Act. However, the victims' rights set forth in this law are only for victims within the scope of the household, therefore victims of sexual violence that are criminalized are not regulated in this Law fail to obtain such special rights. Act No. 21 of 2007 also regulates one form of sexual violence, namely sexual exploitation, the Act also regulates the rights of victims such as the right to protection in safe houses and LPSK, procedural rights to provide information without the presence of defendants and the right to apply restitution, but once again this law can only be applied to victims in the context of sexual exploitation in the crime of trafficking in persons. Furthermore, Act No. 30 of 2014 on Witness And Victim Protection Agencies (LPSK) also reaps many problems, although regulating the rights of victims in more detail, but the fulfillment is still limited to the central level, this means there is permasalahan affordability of LPSK services for victims in the region. These safeguards are coupled with other criminal acts which ultimately lead to the heavy workload of LPSK and do not focus on the

fulfillment of the rights of victims of sexual violence.

Rights of Victims of Sexual Violence in the Law on Child Protection and the Law on the Criminal Justice System of Children

Act No. 23 of 2002 on Child Protection still minimizes the rights of child victims of sexual violence, as if the affairs of the victim will be finished by itself with the perpetrator's punishment. However, this law does not specifically categorize victims of child sexual violence, Act No. 23 of 2002 in Article 64 Verse (1) only states that the effort to fulfill the special protection for the victims is the obligation and responsibility of the government and the community without stipulating the terms of its implementation. Then through Act No. 35 of 2014, previous child protection laws are strengthened, one

of which is about the regulation of child protection which is the responsibility of the central government and local government.¹¹ Some provisions on child victims of sexual violence also strengthened,¹² one of which is regulated in Article 59 Verse (2) of Act No. 35 of 2014, where in point j expressly stated that the government and local governments are obliged and responsible to provide special protection to children victims sexual crimes. Unlike the previous Law, this Act differentiates the category of Children Faced with the Law with the Child Victim of Sexual Crimes.¹³

Article 71D of Act No. 35 of 2014 also stipulates that the child of the victim of a sexual crime is entitled to apply for the restitution¹⁴ which is the responsibility of the perpetrator of the crime to the court. However, this law itself does not explain in

¹¹ Article 1 Sub-Article 12 of Act No. 35 of 2014 stipulates that the fulfillment of the rights of the child is one of the obligations of the government and local government, previously the number 12 only mentions the government, in Article 21 paragraph (3) and (4) Act No. 35 of 2014 also described division of duties of central government and local governments, the central government is obliged to formulate and implement child protection policies, local governments are obliged to support and implement the policy. Article 22 of Act No. 35 of 2014 also stipulates that the central government and regional governments are obliged and responsible to support the availability of facilities and infrastructure and the availability of human resources in the implementation of child protection. Article 71E then confirms that funding for the implementation of child protection consists of APBN, APBD and other sources of legitimate and non-binding, Article 73A which is an additional article also explains the coordination, monitoring, evaluation and reporting conducted by ministries conducting government affairs in the field of protection child.

¹² Article 15 of Act No. 23 of 2002 does not specifically stipulate the protection of children from sexual

crimes, while Article 15 of Act No. 35 of 2014 in letter f explicitly provides that children are entitled to protection from sexual crimes, Article 54 of Law No. 35 2014 affirms that child protection of physical, psychological and sexual violence within the scope of the educational unit

¹³ Article 59 of Act No. 35 of 2014 states that special protection for children in emergency situations is one of the Children in Conflict with the Law (on point b) and the child who is the Victim of the Sexual Crime (on point j)

¹⁴ In this Act, refunds are defined as the payment of indemnity charged to the perpetrator, based on a permanent lawful decision on the immaterial loss of material suffered by the victim or his / her heirs. This provision is said to be further regulated in the PP, but until January 2017 this PP is still in the design stage, <http://infonitas.com/bekasi/laporan-utama/pp-restitusi-uu-perlindungan-anak-terus-digodok/35043>, <http://www.tigapilarnews.com/berita/2017/01/21/94429-Mensos-Kaji-PP-Restitusi-Dalam-UU-Perlindungan-Anak>, whereas PP provision of restitution has been regulated in Government Regulation No. 44 of 2008, it is better to compile the PP refers to the existing PP

general terms the definition of victim's child, especially child victims of sexual violence. To explore the victim's children and their rights, we can refer to Act No. 11 of 2012 on the Criminal Justice System of the Child which was then formed.

Several types of mechanisms offered by Act No 11 of 2012, Article 91 paragraph (3) states that medical rehabilitation, social rehabilitation and social integration can be implemented by institutions or agencies dealing with child protection,¹⁵ while for protection, Article 91 Verse (4) whereas Child Victims and Witnesses who can obtain protection from LPSK or the Protection House from the Ministry of Social Affairs. Coordination of the implementation of rehabilitation and social reintegration of children in conflict with the law in accordance with this Act is done under the coordination of the Ministry that organizes the affairs in the field of Child Protection namely the Ministry of Women Empowerment and Child Protection under Government Act No. 8 of 2017 which was enacted on March 8th, 2017.¹⁶

The conclusion from that both Child Protection Act and Act No. 11 of 2012 on the Juvenile Justice System contain provisions on the rights of child victims of sexual violence who differ from each other. Child Protection Act No. 35 of 2014 has better regulated specifically the special protection for child victims of sexual crimes, but the provisions on the guarantee of the implementation of such protection are only regulated normatively, this Act does not mandate expressly on the implementation of such protection, so this will cause problems,

especially on budgetary issues. Whereas Act No 11 of 2012 establishes the rights of child victims in the victim child level in a broad sense, there is no mapping of the special protection needs for child victims of sexual crimes, which definitely require different interventions from other victims of crime. The guarantee of the implementation of the rights of victims is actually regulated in this Act, but until now (April 2017) the presidential regulation governing the matter has not yet been ratified, so that the fulfillment of the rights of victims can not be implemented.

Rights of Victims of Sexual Violence in the Act on Elimination of Domestic Violence

Act No. 23 of 2004 is the first Act to contain terminology of sexual violence that is interpreted as coercion of sexual relations in an unnatural way and is not favored with or without commercial purposes. However, the form of sexual violence regulated in this Act is limited only if it occurs within the domestic sphere (household). The Act on Domestic Violence provides a special understanding of the victims of people who experience violence and the threat of violence within the household. This Act is also a milestone for the protection of victims, because this Act regulates the protection of victims when there is no specific rules regarding the protection of victims and victims protection agencies.

The Domestic Violence Act and its implementing regulations have been good enough to regulate the rights of victims, especially victims of sexual violence. For protection, this Act also regulates the

¹⁵ Article 93 letter e also states that rehabilitation and social reintegration efforts may be undertaken by community organizations

¹⁶ Article 94 Verse 4 of Act No. 11 of 2012

protection mechanisms that have been traced since the Police reporting process. The implementing regulations also explained that the fulfillment of the right of recovery for victims of Domestic Violence by the government and local government is charged to the state.

Rights of Victims of Sexual Violence in the Human Trafficking of Criminal Act

One of the crimes related to sexual violence regulated by Law No. 21 of 2007 is the trafficking of persons for the purpose of sexual exploitation. Especially for Women who are the most vulnerable groups to become victims of trafficking in persons, especially those sexually exploited such as pornography, prostitution or other forms of sexual exploitation.

Rights of Victims of Sexual Violence in the Act on the Protection of Witnesses and Victims

The first Witness and Victim Protection Act is Act No. 13 of 2006. It defines the victim as someone who suffers physical, mental and economic harm caused by a crime. While the protection of all efforts to fulfill the right and provision of assistance to provide a sense of security to Witnesses and Victims that must be implemented by LPSK or other institutions in accordance with the provisions of the Act. Then in 2014 this Act is revised by Act No. 31 of 2014 which one of them provides strengthening for the fulfillment of the rights of victims, by regulating the specificity of the rights of victims of sexual violence.

Weakness of the Victims' Rights in Various Regulations

The existence of various types of Acts that have been applied did not guarantee the fulfillment of victims' rights. For example, the Overview of the Child Protection Act provides sufficient guarantees of rights for child victims of violence, but if seen further, the arrangement is only limited to normative provisions that are not clear how the implementation. Government regulations that should be formulated on the coordination of special protection and protection for children (including child victims of sexual crimes) are not yet a priority for the government.

The Act on the Elimination of Domestic Violence in Article 43 mandates the preparation of a Government Regulation on the recovery of victims of domestic violence. Further provisions are stipulated in Government Act No. 4 of 2006 on the Implementation and Cooperation of Victims of Domestic Violence Recovery which describes in detail the recovery facilities¹⁷ for victims coordinated by the Ministry of Women's Empowerment and Child Protection (KPPPA). Furthermore, coordination can also be done by the local government through the establishment of a special agency in charge of empowerment of women and children. The establishment of recovery facilities for victims of domestic violence should be based on victim convenience, effectiveness and efficiency for the recovery process and the creation of coordination in the recovery of victims.¹⁸ Any type of cost of implementing the

¹⁷ The facilities consist of health services; victim assistance; counseling; spiritual guidance; and resocialization.

¹⁸ Article 20 of Government Act No. 4 of 2006

recovery of victims is borne by the State or other valid sources.

The rights of victims of sexual violence in procedural form have not met the needs of victims of sexual violence. In the case of ease of reporting, from some of the laws above, only the Act on Elimination of Domestic Violence regulates the specificity of reporting of cases by victims, in which the victim is not necessarily direct, but can be authorized to his / her proxy. This is regulated differently probably because the offense in the Domestic Violence Act is a complaint offense, so there needs to be a guarantee that the victim can still report the case even though the perpetrator is the victim's nearest person.

Factual Needs of Victims of Sexual Violence

The factual needs of the most important victims of violence, one of which is the specificity of the victim's rights that can be accessed by the victims and financed by the state. These rights are coupled and integrated into a multidisciplinary, coordinated and sustainable process, victims and victims. The fulfillment of this right is held in every stage of the criminal justice including the need for coordination in the provision of recovery for victims. The following factual needs of victims of violence include:

Treatment for the Victims

The treatment of victims is an integral part of the judicial process that must be done as soon as possible. The treatment is done continuously to victim and victim's family in accordance with result of identification to condition and requirement of victim. However, in Article governing the right to handling is not specified who will fulfill the right to receive treatment. Such as; right to

information on all processes and outcomes of treatment, protection and recovery; right to obtain document handling; the right to counsel and legal assistance; the right to psychological reinforcement; the right to health care includes medical examinations, actions and care; the right to services and facilities in accordance with the special needs of the victim; followed by the operation of *visum et repertum*, certificate of psychological examination and / or psychiatric certificate.

Victim's Right for Protection

Victims receive protection, among others; provision of information on rights and protection facilities; provision of access to information on the provision of protection which it obtains; protection from threats or violence of perpetrators and other parties and recurrence of violence, including Provisional Protection Orders; protection of identity confidentiality; protection from attitudes and behavior of law enforcement officers who degrade and / or strengthen the stigma of victims; protection from job loss, job mutation, education, or political access; protection of the victim from criminal prosecution or civil lawsuit for any reported sexual assault.

Right to Restoration

The recovery provided includes physical recovery; psychological; economy; social and cultural rights; and restitution, divided into, before and during the judicial process, and, after the judicial process. As; provision of health services for physical recovery; psychological reinforcement to victims on a regular basis; providing information on the rights of victims and the judicial process; providing information on recovery services for victims; legal assistance; providing transportation

assistance, living expenses or other necessary expenses; provision of decent and secure shelter; providing spiritual and spiritual guidance to victims and their families; provision of educational facilities for victims or child victims; provision of population documents and other supporting documents required by victims; the implementation of psychological reinforcement to the victim's family and / or the victim's immediate community; strengthening community support for victim recovery; monitoring, examination and physical and psychological services of the victims on a regular and ongoing basis; monitoring and providing continued support to the victim's family; strengthening community support for victim recovery; assistance in the use of restitution; provision of population documents and other supporting documents required by victims; provision of social security services in the forms of health, housing and other social assistance; provision of educational facilities for victims or child victims, including for victims who are persons with disabilities or other special needs; economic empowerment; provision of other needs based on identification results of assistance and / or service.

Restitution

Restitution covers finances as material and immaterial damages; recovery services required by victims and / or families of victims; an apology to the victim and / or the victim's family; and the recovery of the victim's and / or the victim's family name. In the event that the offender has no good faith to fulfill the verdict of restitution, the seizure of execution may be applied to the defendant's property. If the defendant's property does not exist, then the judge ordered the Witness and Victim Protection

Agency or the company where the defendant was working to bail restitution.

Various forms of factual needs of victims of sexual violence seem to have been unable to accommodate by existing regulations. In addition to containing procedural rights, each Act that criminalizes these various forms of sexual violence also provides for the rights of victims to protection, recovery and restitution services. Each law that criminalizes some form of sexual violence contains some form of service for the victim. Unfortunately, this form of service only applies to criminal acts regulated in the law. For example, the Child Protection Act and the Criminal Justice System Law will only provide services to children. The Domestic Violence Act only makes the service subject to victims of domestic violence. The Human Trafficking Act only regulates services to victims of trafficking in persons relating to sexual violence is the victim of sexual exploitation. Victims of sexual violence whose crimes are not regulated in the Act are automatically not subject to regulated services, for example for rape victims whose perpetrators are foreigners, the prevailing provisions are the Criminal Code, while the Criminal Code does not provide protection for victims' rights. There is no basic law that comprehensively regulates the rights of victims of sexual violence, the distribution of arrangements using only the Sectoral Act that does not reach all types of victims.

The existence of various types of Acts that have been applied does not guarantee the fulfillment of the rights of victims. For example, the Overview of the Child Protection Act provides sufficient guarantees of rights for child victims of violence, but if seen further, the arrangement is only limited to normative provisions that are not clear

how the implementation. Government regulations that should be formulated on the coordination of special protection and protection for children (including child victims of sexual crimes) are not yet a priority for the government.

Systems, Patterns and Mechanisms of "Protection Innovation for Victims of Comprehensive Sexual Violence"

Based on the prior rights of victims and the service standards of the victims, it can be concluded that there are certain services that must be met by the state to the victims of the crime, especially the victims of sexual violence. Efforts to deal with cases of sexual violence that are selective on the protection of victims are not comparable with the many arrangements on the effort not to stigmatize victims, such as the prohibition arrangements for law enforcement officials to blame the victim, extracting the victim's sexual history and publicizing the identity of the victim.

One of the things that should be strengthened is the "victim for victims" principle which confirms that in the handling of sexual violence the victim has a big role, this is obviously a breakthrough, because in the previously discussed sectoral Act, the arrangement of the victim's rights is simply formulated, the interests of the victims as a principle, in some Acts there is no guarantee that the right fulfillment should involve the role of the victim. It is therefore imperative that improvements be made to optimize the strengthening of rights for victims of sexual violence, especially the regulation of victims' rights to treatment, protection and restoration.

Reformulating the Right to have Treatment, the Right to have Protection and the Right of Victim Recovery

Provisions on the right to treatment, protection rights and restoration rights outline only the normative rights of victims. Reflecting on existing arrangements, regulations that only set normative points tend to be potentially difficult to implement. The regulation of the rights of the victims tends to reposition the rights of the victims but has not yet facilitated the victim, or the victim's companion in accessing those rights.

The arrangement of the rights of the victims should be modeled in what is stipulated in the Law on the Elimination of Domestic Violence, in the chapter on protection, this law explains the victim process in a sense of protection, so that the arrangement becomes more applicable and easier to implement.

In the regulation of the right of handling, due to the purpose of providing integrated, multisectoral and coordinated services and supporting the victims through the whole process of criminal justice, it would be better if the preparation of handling rights is further redefined all the rights of victims in the criminal justice cases of sexual violence (the right to remedy and protection rights) in the context of criminal proceedings.

Then it can be arranged further that the right to this treatment is organized multisector by all parties involved in criminal justice cases of sexual violence. In the ensuing article it can be spelled out that the right to protection and restoration rights will be further regulated in a separate section. This rearrangement is necessary because with the current arrangement, it will create confusion for its implementation.

The more applicable further option is to re-elucidate the rights given to the victim

more clearly, consisting of the Procedural Rights, the Right to Protection and the Right to Restore. It is also necessary to note that procedural rights are rights granted to victims free of charge in the context of a person becoming a victim of sexual violence and / or undergoing criminal proceedings of a case against him. Such procedural rights shall be complied with regardless of the conditions of any natural victim.

Then the next right is the right to protection, which is a right that gives to the victim as a form of guaranteeing the fulfillment of security for the victim, in the criminal justice process and the after life. This right can be petitioned by the victim if the victim needs such protection. The fulfillment of this right involves other institutions, and the fulfillment is done in the form of providing special facilities for the victims, in this case the placement of victims in the institution, such as Witness and Victim Protection Agency, Safe House, Shelter of temporary victims, Special Room of the victims to the police, or other places.

The next right is the right to restore the right granted to the victim to help the victim continue her life and help the victim to recover and restore her life according to the condition before having a case involving herself.

The Importance of Strengthening Health Services in the Right to have treatment

Emergency health services for victims of sexual violence should also include emergency contraception services, prevention of pregnancy, prevention and or treatment of sexually transmitted diseases (in accordance with Health Act No. 36 of 2009 Article 75, Act No. 64 of 2014 on Reproductive Health Article 29 Verse (3) letter d).

This service must be stated expressly to ensure the implementation of this right, since the normative right formulation has always been bad at the implementation level. Guarantees on the state-borne visa must be stated explicitly, since this problem often makes the victim unable to process his case of further impact, such as the victim not undergoing recovery.

Command of Temporary Protection Mechanism

Rights belonging to the right to protection shall be the protection of the institution which involves the role of the Witness and Victim Protection Institution as well as the protection held by the Law Enforcement Officers, in the form of Provisional Protection Orders. how to fulfill the right of temporary protection order, and must be assured that the victim may also request such temporary protection to the police.

Regulations Regarding Treatment Institution

The formulation of the fulfillment of the rights of victims organized by the Service Provider Institute was quite confusing. This new terminology makes it difficult for the organizers to understand what law enforcement agencies mean by the Service Providers, whether to refer to the established Integrated Treatment Centers (PPT), or to mandate the establishment of a new Integrated Treatment Center.

Recovery within an Integrated Treatment Center may refer to the Ministerial Regulation on Women Empowerment and Child Protection No. 1 of 2010 on Minimum Service Standards of Integrated Services for Women and Children Victims of Violence and the Regulation of

the Minister of Women Empowerment and Child Protection No. 5 of 2010 on Guidance on Establishment and Development Integrated Treatment Centers, since both regulations have ensured service standards for PPT. The assignment of delegated tasks to existing PPTs in each province will strengthen existing PPT institutions and reinforce the duties and functions of these institutions, and most importantly ensure that the fulfillment of victims' rights to remedies is undertaken without first awaiting the formulation of government regulations.

Implementation of victim recovery must also be harmonized with the role of other institutions, such as law enforcement officers in this case the police. Not yet accommodated the role of police in the case of police conduct referral to treatment provider institutions. So far as has been explained that the coordination between Central Java Police in particular has been done quite well with an integrated treatment center. This means that recovery efforts other than being petitioned by victims, identification by counterparts and information from the village apparatus may also be requested by the police or investigators. It will also be in harmony with the obligation of the investigator to identify the victim's needs and coordinate with the treatment Provider.

Reporting

Any form of report to the police must obtain the consent of the victim. The process of responding to sexual violence must be victim-oriented. There are times when the victim does not want his case to be resolved through a legal process. The main focus is to accommodate the victims' efforts to continue their lives in a humane way, so that absolute reporting efforts become the victim's right as

a disadvantaged party. Do not let this arrangement of obligations actually make the victim uncomfortable, so the recovery becomes problematic. Given this problem, it must also be firm in regulating the reporting and fulfillment of the rights of victims in a comprehensive manner. Determination of criteria for a victim must be specially regulated with regard to the right of the victim not to report the case. Nevertheless, the alignment of data on casualties between the police and the service provider institutions must be coordinated.

Restitution and Compensation

Regarding the restitution, a fairly recent issue describing the mechanism of restitution restitution from where the defendant works when the Defendant does not have the willingness to pay restitution and the defendant has no property for confiscation. It is quite interesting to discuss whether the implementation will not cause any problems, because in accordance with Act No. 13 of 2006 jo Act No. 31 of 2014 it is stated that Witness And Victim Protection Agencies is an independent institution responsible for handling the provision of protection and assistance of Witness and Victim. Assistance and Protection provided by in Article 12A of Act No 31 of 2014.

Whereas the guarantee the regulation of compensation for victims of sexual violence. Because however, as has been explained earlier that the rights of victims included in the human rights that must be met by the state. Countries can easily budget for chemical castration, rehabilitation in Child Protection Laws, but never state obligations to provide special compensation to victims. However, compensation should be given to the victim as has been explained that compensation is one aspect that the state

must meet in accordance with the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Arrangements that focus only on the imposition of restitution to perpetrators will only make the state absent in an attempt to recover the victim.

Insurance Issues, Health Insurance and Doctor's Note

Things that have not been regulated in other laws are about the existence of insurance positions for victims of sexual violence, especially health insurance for victims. Regulation of the Minister of Health No. 71 of 2013 on Health Services on National Health Insurance states that the visum-making service enters into advanced health care services covered by national health insurance, meaning that there are victims of the opportunity to obtain health services for the handling and recovery for free through national health insurance. The right to a permit for rehabilitated victims should in fact be regulated in order to conclude protection from job loss, job mutation, education and political access.

CONCLUSIONS

An efforts to improve the protection of victims of sexual violence must be done to ensure the fulfillment of the rights of victims. The recommendations provided include; Recommends to recast the rights of victims, in particular the right to deal with in more detail, consisting of procedural rights with the perspective of the victim, the right to protection and the right of remedy. The explanation of these rights should be explained in detail for the ease of fulfillment of such rights in the future

In the case of the right to treatment in the form of health services it is necessary to add the rights of the victims in the form of emergency contraception, prevention of pregnancy, prevention and / or handling of sexually transmitted diseases (in accordance with Health Act No. 36 of 2009 Article 75, Regulation No. 64 of 2014 on Reproductive Health Article 29 Verse (3) letter d). There needs to be a harmonization of the protection in which it explains the Provisional Protection Order with the authority of the Investigator to impose certain restrictions on the suspect.

Integrated service system as much as possible to strengthen the existing Integrated Service Center institutions and has been regulated in other legislation, so as to reinforce the function of the institution and strengthen the institutional institutions to carry out the fulfillment of victims' right to restoration

Prioritizing the role of the police as one of the parties who make the victim reference to the Service Provider and as the party receiving the victim's report. The formulation of the reporting mechanism should still take into account the victim's interests and consent. There should be arrangements on the guarantee of victims getting compensation. It is necessary to formulate the rights of the victim on health insurance whose contributions are borne by the Government. It is necessary to affirm the right of the victim to obtain a doctor's license to undergo rehabilitation to ensure the victim's protection from job loss, protection, job transfer, education and or political access.

ACKNOWLEDGEMENT

With finished this research which is outlined in this paper, the authors would like to thank all those who provided support.

BIBLIOGRAPHY

- Andrew Karmen, Estimate of the Incidence, Prevalence and Seriousness of Rape dalam Crime Victims: An Introduction to Victimology, CA: 2010
- Annex, UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, number 8.
- Arif Tri Cahyono, Implementasi Penggantian Biaya Transportasi Saksi Perkara Pidana Dalam Sistem Peradilan Pidana Di Indonesia: (Studi di Grobogan dan Surakarta)
- Handbook on Justice for Victims, https://www.unodc.org/pdf/crimina1_justice/UNODC_Handbook_on_Justice_for_victims.pdf
- Jo-Anne Wemmers, Victims' rights are human rights: The importance of recognizing victims as person, <http://www.doiserbia.nb.rs/img/doi/1450-6637/2012/1450-66371202071W.pdf>
- Mboiek, Pieter B., "Pelecehan Seksual Suatu Bahasan Psikologis Paeda-gogis," makalah dalam Seminar Sexual Harassment , Surakarta 24 Juli (Surakarta : Kerjasama Pusat Studi Wanita Universitas Negeri Surakarta dan United States Information Service, 1992).
- Peraturan Pemerintah Republik Indonesia Nomor 44 Tahun 2008 tentang Pemberian Kompensasi, Restitusi, dan Bantuan Kepada Saksi dan Korban.
- Siswanto Sunarso, 2014, Viktimologi dalam Sistem Peradilan Pidana, Sinar Grafika, Jakarta
- Stanko, Elizabeth A., "Reading Danger: Sexual Harassment, Anticipation and Self -Protection," dalam Marianne Hester (ed.) Women Violence and Male Power: Feminist Activism, Research and Practice (Buckingham: Open University Press,1996).
- Statistik Kriminal BPS tahun 2012, 2013, 2014. BPS, Statistik Kriminal 2014, (Jakarta, BPS)
- Supriyadi, dkk, Penanganan Anak Korban: Pemetaan Layanan Anak Korban di Beberapa Lembaga, Jakarta: Desember, 2016
- Undang-Undang Nomor 31 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 13 Tahun 2006 tentang Perlindungan Saksi dan Korban.
- UU No 13 tahun 2006 tentang Perlindungan Saksi dan Korban
- UU No 21 tahun 2007 tentang Tindak Pidana Perdagangan Orang
- UU No 31 tahun 2014 mengatur secara umum hak saksi dan korban
- UU No 35 tahun 2014 tentang Perlindungan Anak
- UUNo 23 tahun 2004 mengatur hak-hak korban kekerasan dalam Rumah Tangga
- V. V. Stanciu, 1976, Victim Producing Civilizations and Situations, dalam Emilio C. Viano, (ED), Victim and Society, Visage Press, Inc., Washington D.C.
- WHO, World Report on violence and health: Chapter 6: Sexual Violence, http://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf

Suparman Marzuki (Ed.) Pelecehan Seksual (Yogyakarta: Fa-kultas Hukum Universitas Islam Indonesia, 19 95). <http://www.komnasperempuan.go.id/wp-content/uploads/2014/12/15-Bentuk-Kekerasan-Seksual1.pdf>