

**REVIEW ARTICLE**

# CHILDREN AS VICTIMS OF SEXUAL VIOLENCE COMMITTED BY PARENTS: A CRIMINOLOGICAL PERSPECTIVE

Joko Susanto<sup>1✉</sup>, Indah Sri Utari<sup>2</sup>

<sup>1</sup>Community Movement Against Corruption (GMPK), Semarang, Indonesia

<sup>2</sup>Faculty of Law, Universitas Negeri Semarang, Indonesia

✉ [bungjoko69@gmail.com](mailto:bunjoko69@gmail.com)

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## ABSTRACT

As the technology progress and human civilization, crime which is happened not only involve a crime towards life and property, but also a crime towards morality that is increasing. As a social problem criminal act of sexual violence in nowadays has been done by adult or elderly, even from a father to his children, and most of the victim are women and children. Sexual violence is a violence which is happened because of sexuality issues. The subject of this journal is to know how the protection law for the young victim of sexual violence which is done by their parents. Discussion method which is used is Act Approach (The Statute Approach). Sexual violence usually is done toward their partner. This violence includes all of sexual violence types which are done by anyone to his sexual partner. Including sexual violence which is done by a husband to his wife, just because he wants to satisfy his biological lust. Criminal act of rape is worried, moreover when the victim are children which are still underage, because it will affect the developing of children's psychology, inflict lifelong trauma, and the more pitiful is the children of sexual violence victim can be a prostitution worker. So that it ruins their future.

Keywords: *Protection Law, Young Victim Sexual Violence, Victimology*

## TABLE OF CONTENTS

ABSTRACT .....	353
TABLE OF CONTENTS .....	354
INTRODUCTION .....	354
CRIMINAL ACT OF RAPE AND RAPE CHARACTERISTIC .....	358
LAW PROTECTION FOR CHILDREN AS VICTIMS OF SEXUAL VIOLENCE .....	362
THE FACTOR OF SEXUAL VIOLENCE TOWARDS CHILD IN VICTIMOLOGY PERSPECTIVE .....	364
CONCLUSION .....	366
REFERENCES .....	367

## INTRODUCTION

Child is the next generation of nation and a father is a protector for his child if the child is still under his parent's responsibility. As is arranged in Convention of Rights of the Child which has ratified by government through Presidential Decree Number 36 in 1990 and Act of Child Protection Number 23 in 2002, declare that children are those under 18 years old (Art 1 Paragraph 1, Law No. 23 of 2002). The term "children" is referred to those underage, which means have not rational maturity, emotional, social and moral as adult yet.

Wide-spread sexual violence toward children needs serious attention considering the consequences of violence toward children will cause the children experience prolonged trauma. The more pitiful when the sexual violence is done by a parent toward their children. There are penalties for sexual violence or sexual abuse and morality in the Criminal Code that has taken hold since Indonesia's Independent, sexual abuse and other criminal act of morality still develop from time to time and it tends to increase. Indicator of the increase is seen from how much publication via both print and electronic media about pornography, porno action, sexual abuse, and other morality crime.

Also in the middle of Bill for Elimination of Sexual Violence which is never authorized by House of Representatives, shows that the protection law for sexual abuse is still lack in Indonesia. According the data from Legal Resources for Gender Justice and Human Rights noted I Central Java by 2018 there are 9 (nine) morality cases which are done by a father to his own daughter, this amount consists of 10 (ten) victims and 9 (nine) perpetrators. While until September 2019 there are 9 (nine) cases consist of 8 (eight) and 9 (nine) perpetrators.

Sexual violence which is done by father to his daughter not only can strike down a poor family or uneducated parents, but also can strike down wealth and educated family. Whereas, a father supposed to be the keeper and protector of his family. Yet, he gives bad effect for his children future, because they are forced to satisfy their father's lust.

Table 1  
sexual violence cases which are done by father to his children  
(Art. 1(1) Indonesian Child Protection Law).

No	Perpetrator initial/father	Incident/Residence	The motives
1	ML	Denizen of Blora District	Sexual immorality over three years toward his own child.
2	AL	Denizen of Kaliboto Village, Bener Sub-district, Purworejo,	Raping his own child from third grade of Elementary School for 6 years.
3	PRO	Denizen of Soka Sidorejo Lor Village, Sidorejo Sub-district, Salatiga	Raping his own child since the victim was 10 years old in 2014. Until the victim was 15 years old.
4	RSO	Denizen of Pingit Village, Pringsurat, Temanggung District	Raping his own child until pregnant.
5	AS	Denizen of Tahunan Village, Sale Sub-District, Rembang District	Raping his own child who was still 14 years old.
6	BJR	Denizen of South Kaliwungu Sub-district, Kendal District,	Raping his own child who was 16 years old. He did it 8 times in 8 months.
7	YAP	Denizen of Leyangan Village, East Ungaran Sub-district, Semarang District	Raping his two own children who were 14 and 16 years old since 2008 until 2014.
8	WP	Denizen of Karangkepoh, Gondoriyo Village, Jambu Sub-district, Semarang District, is a teacher of Islamic Elementary School	Raping his stepchild, TQ, until she was 15 years old.
9	PSH	Warga Kecamatan Srumbung Kabupaten Magelang	For a year and a half , the victim was raped by her biological father six times in total .The victim was 16 years old.
<b>Incidents in Semarang City</b>			
10	PS	North Semarang	Raping his own child who was still in the junior high school until four and a half months pregnant,

			and she was still 15 years old.
11	HGW	Denizen of Graha Candi Golf, Semarang City	Raping his own child when she was in elementary school for a year since 2014 until 2015.
12	AP	Denizen of Siwalan Village, Gayamsari Sub-district	Raping his stepchild in the house when there was no people.
13	AG	Denizen of Jomblang, Candisari	Raping his two own children in turn, they were forced to serve their father's lust for two years.
14	IAR	Denizen of Graha Estetika Pedalangan, Banyumanik, Semarang City	He did sexual intercourse to his stepchild from junior high school through college.

Sexual violence is a violence which is happened because of sexuality issues. Sexual violence usually is done toward their partner. This violence includes all of sexual violence types which are done by anyone to his sexual partner. Including sexual violence which is done by a husband to his wife, just because he wants to satisfy his biological lust.

Sexual abuse is the type of persecution which is usually categorized based on the perpetrator's identity, it consists of:

1. Familial Abuse

Familial Abuse is incest sexual violence. Someone which become surrogate parents, such as step-father or boyfriend are included in the definition of incest.

2. Extrafamilial Abuse

Extrafamilial Abuse is a violence which is done by another people outside the family. Sexual Abuse which is done by adult is called as Pedophile, which the main victims are children.

The National Commission for Anti-Violence for Women noted that there are 15 (fifteen) types of sexual abuse, such as :

1. Raping;
2. Sexual intimidation includes threats or rape attempts;
3. Sexual harassment;
4. Sexual exploitation;
5. Women trafficking for sexual purposes;
6. Forced prostitution;
7. Sexual slavery;
8. Forced marriage;
9. Forced pregnancy;
10. Forced abortion;
11. Forced contraception and sterilization;
12. Sexual prosecution;

13. Inhuman and sexually punishment;
14. Sexually tradition practices which endanger or discriminate women; and
15. Sexual control, includes through discriminative rule which is reasoned morality and religion

Many kind of sexual violence lead to criminal case which reveals so far, commonly, it is done by people who still have a close relation or have known well with the victim, even in both family relation and neighbors, or the relation between the perpetrators with the victims who have known each other before. According to Arif Gosita (1985), victim is:

“They who are suffered both physical and spiritual as a result of others act which are looking for self-interest fulfillment or other people, which is contradicted with that suffering’s interest and rights. They can be individual, or group of people of Pvt. or government.”

Care and protection towards the victim of sexual violence is one of the important needs in every country to provide compensation, restitution and service for the victim of sexual violence, but actually, it is still difficult to contend the rights and interest of victim in the criminal justice system.

Victimology as a field of science which is studying all of the aspect related to the victim in every part of life and livelihood. Protection towards the victim of sexual violence is an activity of developing human rights and obligation of human rights. Care and protection towards the victim of sexual violence must be noticed because they are very sensitive with the various threats of mental disorder, physical, and social. Moreover, they often do not have ability to take care, defend, and guard themselves.

From the perspective of victimology, about the victim of sexual violence according to the author, includes in the types of victims:

1. Non-participation Victims, they who do not care with the effort of criminal surmount.
2. Latent Victims, they who have specific character so that tend to be victims.
3. Proactive Victims, they who caused stimulation of the crime.
4. Participating Victims, they who become a victim because of their attitude which makes them easy to be a victim.
5. False Victims, they who become a victim because of their own deed they made themselves.

Then, according to Arif Gosita’s opinion, the types of rape victim are:

1. Pure victim, consists of:
  - a) Rape victim who is never in touch with the perpetrator before rape.
  - b) Rape victim who had in touch with the perpetrator before rape.
2. Multiply victim

The rape victim not only experiences suffering when raped, but also experiences various suffering such as mental, physical, social. For instance, she experiences threats which disturb her soul, gets bad service during the Court

examination, does not get compensation, spends medical treatment money, is being isolated from sociality because of particular flaw, etc.

3. Pseudo victim, who are actually both perpetrator and victim. She acts like she's being raped. She did that with the aim to gain something from the perpetrator.
  - a) There is a possibility if she did that based on her own desire.
  - b) There is a possibility if she has been commanded, forced to do that for the commander's interest. In other word, the perpetrator becomes the victim of another criminal deed.

Many victims of sexual violence are children and women. Those, violence are not only happened in play circle, but also have happened in domain of education which should protect children from threat of sexual violence. Therefore, it is needed regulation or Act which can protect children and women from being the victim of sexual violence.

Law protection is the most important elements in a legal state, because law protection is the right of all citizens and the obligation from the country as the protection giver. The country provides protection by regulating it in various laws, one of which is in Section 76 D of the Law Number 35 in 2014 about Amendment of Law Number 23 in 2002 about Child Protection which declares: "Everyone is forbidden to do violence or violence threat to force children to do sexual intercourse with him or others."

Based on the above description, there are some problems that can be identified from that problem, it is about the factor of rape towards children from aspect of victimology and the effort which can be done to give law protection towards the child victim of criminal rape.

This research refers to normative judicial research which is also called library research or document study because it does more towards secondary data inside the library. In normative research, secondary data as an information source can be primary law and secondary law source. Normative research is also supported with empirical data, so the research gets adequate result as scientific content. Data of this research is from secondary data which includes:

1. Primary law material, binding material which consists of Regulation of Law.
2. Secondary law material, which gives explanation about primary law material, like results of research, treatise from circle of criminal law and other secondary law material which related to another objects.

## CRIMINAL ACT OF RAPE AND RAPE CHARACTERISTIC

Criminal act of rape, as it regulated in Criminal Code Section 285 is:

**"Any person who by using force or threat of force forces a woman to have sexual intercourse with him out of marriage, shall, being guilty**

of rape, shall be punished with a maximum imprisonment of twelve years.”

Elements inside the Criminal Code Section 285 are:

- 1) Any person  
Is the subject in the criminal act, which is in the Criminal Code there is no explanation about that but can be concluded that what “any person” or the subject in the criminal act means is person or human. The reason is to show that the subject of criminal act is first person is, for criminal offenses requires a mistake or responsible ability in criminal punishment as required by the principle of *Geen Straf Schuld*. Secondly, criminal type as required in Criminal Code Section 10 just only means when applied to person or human.
- 2) Violence  
Is a physical power or physical action which caused other person physically helpless and cannot do against or defense. Manifestation of violence in the rape crimes are, can be in the form of leaning, binding, drugging, squeezing, holding, injuring, and other physical action which objectively and physically caused someone helpless. In the rape crimes, this violence is done by the perpetrator as an effort to embody his purpose or his intent to rape.
- 3) Violence threat  
Is physical attack which caused someone becomes afraid so that he/she cannot do against or defense which not be done yet but caused other people are oppressed and have no choice except following the person who threatens them with violence.
- 4) Forcing  
Elements in rape show that there is a contradiction of will between the perpetrator and the victim. There is no rape if there is no enforcement in the meaning of relationship is done with liking each other. There is no violence or violence threats if there is none who forces.
- 5) That who is forced to for sexual intercourse with woman out of marriage or there is not bound by marriage with the perpetrator.
- 6) Had to happen sexual intercourse between the perpetrator and the victim. In a sense of no rape crime if there is no intercourse. This case is an intentional case implied, which is with violence or violence threat. Acts which are forbidden in this section is the act which force woman out of marriage to have sexual intercourse with the perpetrator violently.

Criminal Code Section 285 regulated about criminal act of rape generally. The section emphasizes that any person who by using force or threat of force forces a woman to have sexual intercourse with him out of marriage, shall, being guilty of rape, shall be punished with a maximum imprisonment of twelve years. Thus, it is known that rape according to judicial construction of constitution law in Indonesia (Criminal Code) is act to force a woman who is not his wife to have sexual intercourse with him violently or violence threat. Words “force” and “violently and “violence threat” have showed how horrible the rape is.

Wirdjono Prodjodikoro revealed that rape is a man who forces a woman who is not his wife to have sexual intercourse with him, so that the victim cannot resist, so the victim wants to do sexual intercourse unwillingly. Soetandyo Wignjosebroto, defines rape is an effort to vent sexual lust of a man toward a woman by breaking the prevailing moral and or legal laws. Black's Law Dictionary, formulated rape as follows:

“...unlawful sexual intercourse with a female without her consent. The unlawful carnal knowledge of a woman by a man forcibly and against her will. The act of sexual intercourse committed by a man with a woman not his wife and without her consent, committed when the woman's resistance is overcome by force of fear, or under prohibitive conditions...”

In view of the perpetrator's motives to do a rape, criminology Mulyani W. Kusuma divided them into some types, which are:

1) Seductive Rape

A rape which happened because the perpetrator feels horny, and it is very subjective. Usually, the types of rape like this is happened between those who have known each other, for example rape towards girlfriend, friend, or closest people. Factor of intercommunication or social interaction really influence in the rape.

2) Sadistic Rape

A rape which is done sadistically. In this case, the perpetrator gets sexual satisfaction not because of have sexual intercourse, but because a violence activity which is done towards the woman's body, especially in her genital organ.

3) Anger Rape

A rape which is done as the expression of the perpetrator's anger. This type of rape usually comes with brutal activity physically. Sexual satisfaction is not the main goal of the perpetrator's, but it is to vent his anger.

4) Domination Rape

In this case, the perpetrator wants to show his domination towards the victim. Physical violence is not the main goal of the perpetrator's, because he just wants to control the victim sexually. Thus, the perpetrator can prove to himself that he has power of controlling some people, for instance the rape victim of a boss to his maid.

5) Exploitation Rape

This type of rape can happen because of an addiction from the victim towards the perpetrator, both economically or socially. In this case, without using physical violence, the perpetrator can enforce his will to the victim. For instance, a rape from the boss to his worker. Even though there is a deal, it is not because there is a sexual will from the victim, but there is a fear of being fired from her job.

The types of rape victim can be seen from these things:

1. Pure victim
  - a. Rape victim who is never in touch with the perpetrator before rape.
  - b. Rape victim who had in touch with the perpetrator before rape.
2. Multiply victim
 

The rape victim not only experiences suffering when raped, but also experiences various suffering such as mental, physical, social. For instance, she experiences threats which disturb her soul, gets bad service during the Court examination, does not get compensation, spends medical treatment money, is being isolated from sociality because of particular flaw, etc.
3. Pseudo victim
 

Who are actually both perpetrator and victim. She acts like she's being raped. She did that with the aim to gain something from the perpetrator.

  - a. There is a possibility if she did that based on her own desire.
  - b. There is a possibility if she has been commanded, forced to do that for the commander's interest. In other word, the perpetrator becomes the victim of another criminal deed
4. Invisible victim
 

Is the victim which actually feels violence, persecution, but because of certain things, it is not considered as suffer violence based on certain groups of people. For instance, in giving a corporal punishment, forcing sexual satisfaction by a husband towards his wife, etc.

Main characteristic (specific) of the criminal act of rape according to Kadish is not the expression of the aggressive expression of sexuality, but sexual expression of aggression. It means, manifestation of sexual will which is done aggressively, offensive or coercive the opposite sex which can consider able to fulfill his lust-interest (Atmasasmita, 1995). General characteristic of the criminal act of rape:

1. Aggression, is an inherent trait in every criminal act of rape.
2. Violence motivation stands out more than just sexual motivation.
3. Psychologically, criminal act of rape contains more emotion control and anger than lust.
4. The criminal of rape can be charged into three forms, which are: anger rape, power rape, and sadistic rape, and it is reduced from anger and violation , control and domination, erotic.
5. The characteristic of the rape perpetrator: misperception of the perpetrator towards the victim, experienced bad experience especially in personal relationship (love), emotional.
6. The victim is the participant, according to Meier and Miethe, about 4-19% criminal acts of rape are happened because of the victim's negligence (participation).
7. The criminal act of rape legitimately is difficult to prove.

Violence which happened not only give bad effect on physical endurance, but also her psychological endurance, the victim will be afraid to report the case that had happened to her because she worries of her physical flaw or her psychological which will be known by the public, law enforcement authorities also will experience

difficulty while looking for the evidences to reveal criminal act of rape which is not supported by the victim parties.

## LAW PROTECTION FOR CHILDREN AS VICTIMS OF SEXUAL VIOLENCE

Law Number 23 in 2002 about Child Protection Jo. Law Number 35 in 2014 about Amendment on Law Number 23 in 2002 about Child Protection not only regulated sexual violence which is a sexual exploitation. Sexual exploitation is explained in Law Number 35 in 2014 Number 43 Section 66:

“Any form of sexual organ use or other organ from child to gain benefit, is included but not limited on every activity of prostitution and rape.”

Besides sexual exploitation, the same Section also explains about economic exploitation which is “the action which is with or without the child’s agreement who becomes the victim which includes prostitution, work or forced service, slavery or practice like slavery, or similar practice of slavery, bullying, extortion, physical exploitation, sexual, organ reproduction, or against the law transplant or move organs and/or body tissue or harnessing a child’s energy or ability by others to achieve material advantages”.

Although the type of sexual violence is a sexual exploitation as noted in the Law of Child Protection, this regulation can only be used to give protection to the victim of sexual exploitation if the victim is still a child.

The Law of Child Protection uses words “sexual intercourse” and “obscene acts” to show sexual violence toward children. Besides, law Number 35 in 2014 also declares a phrase which is sexual violence, but does not give the definition of what sexual violence means. But in criminalization, this law just regulated about criminal threat toward anyone who forces child to do sexual intercourse with him and children exploitation.

Therefore, this law cannot be used to ensnare the perpetrator who does sexual violence outside of activities as sexual intercourse or sexual exploitation. This law is also not regulated prevention in order to prevent the child from sexual violence activity. Though, formulated the norm of parents’ obligation to prevent underage marriage, this regulation is not accompanied with the form of criminalization if the parents do not prevent underage marriage.

According to Soerjono Soekanto which is quoted by Mulyana W. Kusuma, the cause of criminal with violence are:

- a. There is an orientation toward thing that caused a desire to achieve material easily.
- b. There is no distribution of desire and there is a mental pressure towards someone.

- c. A courage of taking a risk.
- d. The lack of guilty and there is a bad exemplary (Kusuma, 1982).

Violence towards women obstructs or vanishes the possibility of women to enjoy her freedom and rights (Sadli, 2001). In the criminal acts of rape, the most suffered is the victim. Declaration of Basic Principles of Justice for Victims of Crime and Abuses of Power defines victim as below:

“Victims” means persons who, individually, or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

Related to the protection of criminal victim, it needs to make an institution which especially handles it. But, it needs to be delivered first an adequate information about what rights which is owned by the victim and her family, if someday they experienced lost or suffer as the result of the criminal which is happened to her.

What can be done to give law protection toward child victim violence are (Zuleha, 2015):

- a. Rehabilitation effort, both inside the institution or outside of the institution;
- b. Protection effort from identity suffer through mass media and to prevent labelling;
- c. Provides assurance of safety for witness victim and witness expert, both physical, mental, or social; and
- d. Provides accessibility to get information about the developing of the case.

Law protection towards child victim of sexual violence stated that a child who becomes the victim of the criminal act of rape has a right to get rehabilitation from the government both physically, mentally, spiritually, and socially. Moreover, her privacy and her good name must be protected and must be cared, her safety as the witness victim becomes the responsibility of the government, and she has a right to know the developing of her case and entitled to be notified if the perpetrator has been released or taken out of prison (if the perpetrator is convicted).

If the perpetrator is not convicted, for instance, because the proof is not strong enough, the victim should be given an access to get protection, so a revenge from the perpetrator will not happen. Coordination with police must be done, so that the police will look for help when the police got violence towards woman report. This institution need to be supported as least with the social worker, psychologist, jurist, and doctor. In the condition of areas which are not allowed, it must be strived for placing the people with the same qualify as the professional above, in the order to make this institution reach its goal which is well needed. Funding for this institution must be started from the government itself, both central and regional, and certainly, it can involve the community, both individual or as a group.

## THE FACTOR OF SEXUAL VIOLENCE TOWARDS CHILD IN VICTIMOLOGY PERSPECTIVE

Sudarto thinks that to overcome violence needs an effort which is rational from the community, it is criminal politic way. Regulation or effort to overcome violence actually is the part of integral from the effort of social defense. In other words, the main goal of criminal politic is social defense to reach social welfare (Arief, 2002).

Some results which are happened are the victim feels embarrassed and does not want her lack which is happened to her is known by everyone, or the victim feels afraid because has threatened by the perpetrator that she will be murdered if she reports the incident to the police. This case, certainly, will affect the developing of the victims' mental and also will affect to the process of law enforcement itself to embody the sense of justice for the victim's family and the community.

The victim's factor is important to overcome or finish this rape case, it needs courage from the victim to report the incident which is happened to her to the police, because, commonly the victim is experienced threats which the rape will happen again, and in this case, the perpetrator makes the victim feels afraid and trauma. From this report, we expected that the case will be opened and the assessment process can be done, so that the victim will get justice from what has happened to her.

According to positive laws, the victim parties can prosecute for the lack or compensation towards the convict parties. Criminal Act of Rape is one forms of violence towards women, which is as the example female vulnerabilities position, especially for men's sexual interest. Sexual image of women which has put as a sexual object for men, evidently is affected towards the women's life, so they are forced to always face violence, force, and persecution both physical and psychological.

Care and protection for the victim of rape's importance through criminal justice process or way of social concern is the absolute part which needs to be considered in the criminal law policy and social policies, both by executive institutions, legislative, and judicial or by the social institutions which exist.

The National Commission for Anti-Violence for Women said that the status of "urgency of sexual violence" is resulted from the weakness of the conducting effort from the country, including law enforcement against perpetrators. The National Commission for Anti-Violence for Women noted that there are 15 (fifteen) types of sexual abuse based on the observation result, such as:

1. Raping. Rape can be called as an assault in the form of coercion of sexual intercourse. In that sexual assault there are forced effort, violence, psychological pressure, self-abuse, or take a chance from the environment which is full of coercion. Rape often identified with another rape in Indonesia Law.
2. Sexual intimidation includes threats or rape attempts. There acts of sexual assault to create fear and psychological distress of the victim which can be delivered directly or by short text. Threats or attempted rape are including to this category.
3. Sexual harassment. This is a physical or non-physical sexual acts with the target is victim's sexual organs. The National Commission for Anti-Violence for Women

put whistling, flirt, sexual innuendo, and show pornography content in this category.

4. Sexual exploitation. It is misuse of undeveloped power, or misuse of trust, for sexual satisfaction, or to gain benefit. The most often type which is happen is using the poverty of the woman's family to put her in the prostitution or pornography business.
5. Women trafficking for sexual purposes, covering recruiting action, transporting, retrieving, forwarding, moving, or accepting someone with force or persuasion for the purpose of prostitution and other sexual exploitation.
6. Forced prostitution, is a condition where the victims are manipulated, threatened, violent, to became sex workers.
7. Sexual slavery, is a condition where the perpetrator feels become the "owner" on the victim body, so that he has right to do anything include gets sexual satisfaction through rape or other ways.
8. Forced marriage. This early marriage or forced marriage toward someone underage because inside of that will be sexual force. Suspended divorced also includes this category.
9. Forced pregnancy. A condition where the woman is forced to continue her pregnancy which is not wanted. For instance, it happens to woman rape victim.
10. Forced abortion, is the abortion which is done because there are pressure, threat, or force from another parties.
11. Forced contraception and sterilization. It is called a forcing when there is an installation of contraceptives or sterilization without full agreement from the partner, maybe because of the minimum information or because legally incompetent to give agreement. It can happen to woman who has HIV/AIDS.
12. Sexual prosecution, is an act who assault the victim's organs or her sexuality, which is done purposeful so it evokes pain or worst suffering.
13. Inhuman and sexually punishment this falls in category of sexual violence because the way of punishment which affect suffering, pain, fear, or huge embarrassment. Include caning law or another humiliating punishment.
14. Sexually tradition practices which endanger or discriminate women. Community habits, on occasion religious and tradition grounds which are sexually, and can create physical, psychological or sexual injury on the victim is put by The National Commission for Anti-Violence for Women as one of sexual violence.
15. Sexual control, includes through discriminative rule which is reasoned morality and religion. Perspective which accuses woman as the reason of sexual violence becomes the base to control women's sexuality.

If we talk about the criminal victim, so, our perspective cannot miss from victimology. Through victimology can be known various aspects which are related with the victim, such as: factors causing crime, how someone can be a victim, effort to decrease the victim of criminality, the victim's rights and obligation.

If we see it from victimology perspective, the victim of sexual violence include these types:

1. Non-participation Victims, they who do not care with the effort of criminal surmount.

2. Latent Victims, they who have specific character so that tend to be victims.
3. Proactive Victims, they who caused stimulation of the crime.
4. Participating Victims, they who become a victim because of their attitude which makes them easy to be a victim.
5. False Victims, they who become a victim because of their own deed they made themselves.

Then, taking the from Ezzat Abdul Fathah's opinion, he differentiate the victim of sexual violence category as follows:

1. Non-participation Victims, they who have refusal character or anti-criminal towards crime and criminal, also they who do not participate in the cause of crime which is directed against them.
2. Latent Victims, they who have specific character which put them as the victim from a criminal act.
3. Unrelated Victim, they who do not relate with the perpetrator at all. The perpetrator usually does his deed just based on his own decision, and it is unrelated with the victim's condition.
4. Provocative Victim, consists of the victims who have done something towards the perpetrator, so that the perpetrator is pushed to make them as the victim. Therefore, in this category, the victim does something so the perpetrator is pushed to do a crime.
5. Precipitation Victim, they who be a victim although they do not do something towards the perpetrator. Someone who is careless and reckless creates temptation for the perpetrator to do a bad thing to her.
6. A victim of physical weakness, consist of group of people who have specific physical or psychological characteristic so that with these characteristics can encourage someone to do a crime. They who includes to this category is women and underage children who become the victim of crime.
7. Victim of themselves, is the category of people who become both victim and perpetrator. For instance, drug addict, alcoholic, gambling, etc.

Basically, the term of sexual violence like rape has regulated in Section 289 to 296 Criminal Code. Then, Rape has regulated in Section 285, 286, 287, 289 and 290 Criminal Code. Besides, there are many legislations that regulate about Sexual Violence Crime outside the Criminal Code, such as Act Number 11 in 2012 about the Child Criminal Justice System, Act Number 23 in 2004 about Abolition of Domestic Violence, and Act Number 35 in 2014 about Amendment Act Number 22 in 2002 about Child Protection.

## CONCLUSION

The Abolition of Sexual Violence Law is needed to regulate some things which are not regulated yet in the Law of Child Protection and other legislations, so that all the rights of victim of sexual violence both children or adult can be fulfilled, on the truth, justice, recovery, sense of justice, and unrepeated guarantee. Reminding from the principal of *lex posteriori derogat legi priori*, so, the Act of Abolition of Sexual Violence

will fill the legal vacuum of Act of Child Protection and also updating the form of punishment in Act of Child Protection, also recovery and protection for child who become the victim of sexual violence which is not regulated yet specifically in Act of Child Protection. Factors of sexual violence toward children from victimology perspective, they are, the victim feels embarrassed and does not want her lack which his happened to her is known by other people, or the victim feels afraid because has threaten by the perpetrator that she will be killed if she reports that incident to the police. Of course, this is affected on the psychological development of the victim and also affected on the process of law enforcement itself to actualize sense of justice for the victim and community. The amendment of Act Number 23 in 2002 through act Number 35 in 2014 has declared special protection directed to children who are exploited sexually or economically, which include rehabilitation and recovery effort. Include regulating rules that the victim has right to propound right on the restitution to the court where the restitution is the perpetrator obligation. This law also explains what the effort are done to actualize the fulfilled of special protection for child the victim of sexual crime. This rule is accompanied by notes of unsustainable analysis about how the child's right of recovery technically and continuously ensured and enjoy by the victim. The efforts than can be done to give law protection towards victim of Criminal Act of Rape are: rehabilitation effort, both in the institution and outside it, protection effort from identity publication through mass media and to avoid labelling, give save guarantee for the victim witness and expert witness, both psychological or social and give accessibility to get information about the case progress.

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