



Legal protection for women victims of sexual violence during the covid 19 pandemic in Surakarta City

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ABSTRACT

Protection of sexual violence is a human right guaranteed by the constitution. Non doctrinal research with qualitative descriptive. The aim is to find out and analyze the legal protection of women victims of sexual violence during the Covid 19 pandemic in the city of Surakarta according to statutory regulations. The results of the 2020 study totaled 40 cases with 26 cases of domestic violence, 6 cases of rape, 5 cases of sexual abuse, and 3 cases of dating violence. Legal protection for victims of rape sexual violence in Surakarta City began with the stages of investigation, prosecution and trial. However, the right to a new identity, reimbursement of transportation costs as needed, determining the form of protection and security support was almost never given. In addition, the government's policy of limiting the conditions of the Covid 19 pandemic has slowed down the handling of victim protection. The investigative phase is carried out face to face with health protocols, while the prosecution and examination courts and trials are conducted online by maintaining the confidentiality of the victim's identity but causing limited interaction between victims, prosecutors and judges. The right to legal protection for victims of female sexual violence during the Covid 19 pandemic has not been fully fulfilled in Surakarta City.

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1. INTRODUCTION

The State of Indonesia is a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia (Situmeang & Nurkusumah, 2021). This is as explained in the provisions of Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia regarding "Indonesia is a country of law" (Andhini & Arifin, 2019). Law is part of the concept of a legal state which must be commander in chief throughout the dynamics of state life. Thus the law must be enforced more actively in realizing the ideals of a rule of law state (S, 2019).

The concept of a rule of law in Indonesia is by upholding moral and cultural values as the basis for controlling law enforcement (Rizqian, 2021). One of the concepts of this form is to provide protection for its citizens as also explained in the objectives of the Indonesian state in the provisions of the Preamble to the 1945 Constitution of the Republic of Indonesia, paragraph 4 (four) is to protect the entire Indonesian nation and all of Indonesia's bloodshed, promote public welfare, educating the life of the nation, and participating in carrying out world order based on freedom, eternal peace, and social justice (Suparji, 2019).

The existence of legal regulations has consequences for the community to comply with and because the law has the nature of providing protection as well as forcing every human being

(Arifah, 2018). One of the things that is a fundamental constitutional issue is the form of protection of constitutional rights (Gimon, 2018). Interests are the basic thing in every citizen of the protection of human rights (Purnamasari, 2017). The legal rights of citizens who are given protection by the constitution in a sovereign country are constitutional rights (Husni, 2020). Constitutional rights referred to as human rights are important elements and must be owned and protected by a modern legal state contained in the constitution of each country (Munte & Sagala, 2021).

Protection from various forms of sexual violence is part of human rights to the right to individual safety, the right to freedom, personal security, and self protection for the honor and dignity of a person which has been guaranteed by the constitution (Khristianti Weda Tantri, 2021). The state provides a form of protection for the community, one of which is by providing legal protection through the judicial process if a crime occurs. Victims of criminal acts really need protection in criminal acts that occur because they are aggrieved parties by being given efforts in the form of attention and protection services for their interests (Suryani, 2020).

The constitutional affirmation as mentioned above is not enough which of course must be implemented in the following legal products below it and in concrete laws in society. The form of protection for citizens is the protection of the right to be free from threats and violence. Even though the 1945 Constitution of the Republic of Indonesia emphasized this right as one of the constitutional rights, not every citizen is free from violence.

Sexual violence is an issue that causes concern in society, which of course is against women. In Indonesia, the guarantee of legal protection for criminal acts of sexual violence is stated in several provisions of laws and regulations. The Criminal Procedure Code (KUHAP) does not provide an understanding of victim protection, even though it provides protection in a substantive and limited manner.

The provisions of Article 1 paragraph 2 of Law Number 13 of 2006 concerning Protection of Witnesses and Victims mean that a victim is a person who experiences physical, mental and economic suffering as a result of a crime. Then in the provisions of Article 1 paragraph 3 of Law Number 13 of 2006 concerning Protection of Witnesses and Victims, the duties and authorities of the Witness and Victim Protection Agency (LPSK) are to provide protection and rights to witnesses and victims as stipulated in the Act. Followed by the provisions of Article 1 paragraph 6 of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims that protection is all forms of efforts in the form of fulfilling rights and providing assistance to feel safe for witnesses and as well as victims which must be carried out by witness and victim protection institutions (LPSK) or others in accordance with the provisions of the Act. Thus, based on this matter, it can be seen that actually in the provisions of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims it has been regulated and given an elaboration of the existence of an institution that provides protection for women victims of acts of sexual violence and its protection has also been regulated in the Law Invite.

The provisions of Article 1 paragraph 9 of Central Java Governor Regulation Number 18 of 2014 concerning Procedures and Requirements for Establishing Integrated Services and the Commission for the Protection of Victims of Gender Based Violence and Children in Central Java Province explain that protection is a form of effort to provide a sense of security and fulfill the rights of victims carried out by family members, integrated services, advocates, social institutions, police, prosecutors, courts, or other parties, either temporary or based on a court order. Then it was reaffirmed in the provisions of Article 1 paragraph 11 of Central Java Governor Regulation Number 18 of 2014 concerning Procedures and Requirements for Establishing Integrated Services and the Commission for the Protection of Victims of Gender Based Violence and Children in Central Java Province that the implementation of protection as a form of a series of activities to be able to prevent violence and provide protection and recovery services with social reintegration as well as coordinating cooperation to increase participation in the community carried out by the Commission for the Protection of Victims of Gender Based Violence and Children and Integrated Services. So that it can be seen that at the regional level regional regulations have also been issued that regulate the protection of women.

The provisions of Article 1 paragraph 20 of the Surakarta Mayor Regulation Number 14 of 2006 concerning the Implementation of Commercial Sexual Exploitation Rehabilitation explain that

protection is an effort to provide a sense of security to victims carried out by family, advocates, social institutions, police, prosecutors, courts or other parties, both temporarily or based on a court order. So that it is known that at the Surakarta Municipality level a form of protection for women has also been issued.

From the aspirations of the legislature makers above, it seems that they are very concerned about and provide definitions for women who are victims of sexual violence, but in fact it is inversely proportional to the reality where cases of reporting sexual violence increase every year so that the implementation of protection against criminal acts of violence against women is still has not been carried out properly. For example, there is still no handling and protection for women victims of sexual violence, there is still discrimination against women who are always blamed, there are still many women who are embarrassed and don't even know what to do and where to report complaints about their problems that cause women to behave silent and instead become a victim.

Being one of the cases that increased significantly was dominated by sexual violence against women, especially during the Covid 19 pandemic. The Covid 19 pandemic not only had an impact on the health sector but also had an effect on the social and economic sectors. As a result of the reduction in manpower due to the economic crisis, women have the potential to become an outlet for gender-based torture violence, such as sexual violence and domestic violence (KDRT). So far, there has been no action by law enforcement officials or the government to overcome this problem. Thus it becomes a common problem to be able to help socialize even though the laws and regulations have explained in detail, in reality there are still many women and the general public who do not know about these regulations.

Research that has been done before is an analysis of the applicability of the RKUHP and RUU PKS in regulating acts of sexual violence by providing an explanation regarding the increasing number of sexual violence against women in the last 10 (ten) years and the making of laws and regulations as a form of action in prevention of sexual violence is considered effective (Wardani et al., 2019). While the focus of this research is on the protection of victims of sexual violence against women and the implementation of laws and regulations relating to sexual violence against women in particular as well as the involvement and participation of related parties.

Based on the description above, the purpose of this research is to find out and analyze the form of legal protection for women victims of sexual violence during the Covid 19 pandemic in the city of Surakarta in accordance with statutory provisions.

2. RESEARCH METHOD

The research method used in this research is empirical or non-doctrinal legal research (Nawi & Salle, 2020) who analyzes and examines the operation of law in society (Disemadi, 2022). The characteristics of non doctrinal or empirical legal research are the gaps between *das sollen* and *das sein*, namely theory and reality (Nasip et al., 2020) on community compliance with legal norms with the aim of measuring the effectiveness of the applicable legal arrangements (Benuf & Azhar, 2020) especially using valid and rigorous data justification (Tan, 2021) regarding legal protection for victims of sexual violence during the Covid 19 pandemic in accordance with statutory regulations in the City of Surakarta.

The data used in legal research are primary data and secondary data (Santi et al., 2019). Primary data obtained directly from the results of interviews with informants or respondents (Lubis & Siregar, 2020) to objects that are strongly related to legal protection for women victims of sexual violence in Surakarta City, especially in interviewing rape victims conducted by researchers. Then for secondary data or library data obtained from literature search activities (Lasatu, 2020) primary, secondary, and tertiary legal materials consisting of : a) Primary legal material is authoritative legal material whose authority consists of statutory regulations, official records or treatises in making laws and judges decisions (Salam, 2019) including the 1945 Constitution of the Republic of Indonesia, Law Number 13 of 2006 concerning Protection of Witnesses and Victims, Central Java Governor Regulation Number 18 of 2014 concerning Procedures and Requirements for Forming Integrated Services and the Commission for the Protection of Victims of Gender-Based Violence and Children in Java Province Tengah, Surakarta Mayor Regulation Number 14 of 2006 concerning the Implementation of Commercial Sexual Exploitation Rehabilitation, Surakarta City

Regional Regulation Number 23 of 2006 concerning Commercial Sexual Exploitation, Law Number 31 of 2014 as amended to Law Number 13 of 2006 concerning Witness Protection and Victims, the Criminal Code (KUHP), and the Criminal Procedure Code (KUHP). b) Secondary legal material is legal material related to primary legal material to assist analysis and understanding of primary legal material in the form of legal science literature and concepts (Hidayat et al., 2020) This research is related to legal protection for women victims of sexual violence in the city of Surakarta. c) Tertiary legal materials are legal materials that support the understanding of primary legal materials and secondary legal materials including the legal dictionary and the Big Indonesian Dictionary (Ubwarin et al., 2021).

The location of the research was conducted in Surakarta City, Central Java on women victims of sexual violence in a number of cases handled by the Tur Murniningsih Law Office and the ZAP & Partner Law Office.

This type of research study is descriptive in nature, clearly explaining matters related to the object under study of sexual violence against women based on the selection of qualitative models for various information in the form of descriptions of document concepts and stories from informants and from within (Aedi et al., 2020) to conduct interview observations view the survey as a complex and comprehensive research instrument (Adiyanta, 2019). This research is also the result of literature and field research so that the data sources come from legal documents, laws and regulations, literature, scientific journals and observations, thus this research is a combination of empirical juridical. From the data that has been collected and analyzed qualitatively outlining the research discussion in solid sentences clearly guided by the juridical level and field research on the effectiveness of the law, a final conclusion is made using the inductive method with thoughts according to facts that are general in nature to specific decisions (Harefa, 2021).

3. RESULTS AND DISCUSSIONS

With the spread of the Covid 19 outbreak that occurred in Indonesia it caused a drastic increase in crime rates especially in the Surakarta City area.

Table 1. Data on violence cases handled by Tur Murniningsih Law Office and ZAP & Partner Law Office in 2017 - 2020

Year	Domestic Violence (KDRT)	Human trafficking	Rape	Dating Violence	Fornication	Total
2017	35	7	1	5	3	51
2018	18	1	5	1	2	27
2019	19	0	1	6	4	29
2020	26	0	6	3	5	40

The data above shows that a number of cases handled by the Tur Murniningsih Law Office and the ZAP & Partner Law Office have experienced ups and downs over a period of 4 (four) years but are more likely to increase. In particular, in 2020 there was an increase of 17% of cases compared to 2019. Cases of violence against women are an iceberg phenomenon, namely the violence that appears on the surface is only a small part compared to the amount of violence that does not or has not surfaced, especially in cases of sexual violence, which so far there are still many cases of violence against women that have not been reported because it is a taboo matter if it is known by the public the general public in society.

In general, the handling of cases at Advocates seeks to divide into 5 (five) types of violence experienced by victims.

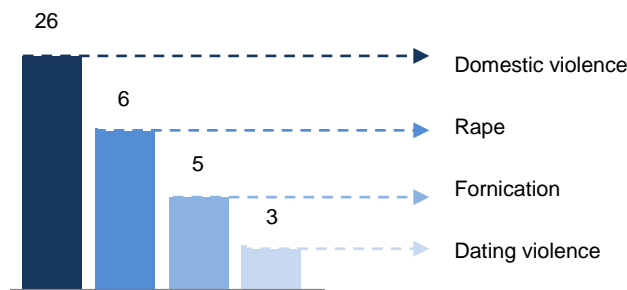


Figure 1. Handling of cases of violence in 2020

From the data above, it can be seen that in 2020 there were a total of 40 cases, including domestic violence (KDRT) which still dominated 26 cases, 6 cases of rape, 5 cases of sexual immorality, and 3 cases of dating violence. So that the sexual violence handled experienced a significant increase indicating more and more cases were reported and a stronger statement that cases of sexual violence in the household were no longer a problem in the private sphere that should be a common concern.

Cases of violence against women also occur with a dual nature in which they experience forms of sexual violence such as being subjected to cigarette butts in certain parts and torture before having sexual intercourse by being bitten until they bleed in certain parts. Thus the violence is a form of physical and mental violence that has an impact on the psychological condition of the victim.

From the data described above, there are still several cases of acts of violence against women that have not been touched by laws and regulations, such as abusive treatment of wives before having sexual intercourse, smoking cigarettes on women's genitals, biting them until they bleed or using harsh words against women. In the provisions of the Criminal Code (KUHP) it has not been specifically regulated regarding the crime of sexual violence which only regulates criminal acts that violate decency in the provisions of Article 281 paragraph 1, obscenity in the provisions of Articles 290, 292, 293, 294 and 296. From criminal acts violating decency and obscenity can only extend to physical sexual acts and not reach non physically as in the case above. Thus of course this is very detrimental to victims of criminal acts of sexual violence.

The provisions of Article 1 point 2 of the Law of the Republic of Indonesia Number 13 of 2006 concerning Protection of Witnesses and Victims explain that a victim is someone who experiences physical, mental and economic suffering as a result of a crime. The provisions of Article 1 point 2 of the Law of the Republic of Indonesia Number 13 of 2006 concerning the Protection of Witnesses and Victims are blurred because they do not clearly describe aspects that can be called criminal acts. However, it has been explained that anything that causes physical, mental, and economic suffering is a crime. So that often the settlement of cases of sexual violence stops on the part of the investigation causing it to go unresolved because it is constrained by a lack of evidence, witnesses, and the victim's lack of courage to reveal what happened openly.

The provisions of Article 1 number 3 of Law Number 13 of 2006 concerning Protection of Witnesses and Victims states that there is a Witness and Victim Protection Agency (LPSK) as an institution with the duty and authority to provide protection and other rights to witnesses and victims as regulated in the legislation. However, in reality, there is often no protection for victims of sexual violence who receive protection for the problems they are experiencing the victim should receive proper protection.

Protection for victims of crime is provided by prevention and recovery efforts carried out by the community and the government through law enforcement officials by providing protection and supervision from various threats that can endanger the lives of victims, providing medical assistance, adequate law, due process of examination and fair trial of perpetrators of crimes.

Basically, victims of crimes of sexual violence have rights that must be upheld due to pain, suffering, fear and various kinds of bad effects that befall victims so that victims cannot be ignored but must fight for their fate and get help from law enforcement officials. Attention to and protection

of the interests of victims of sexual violence crimes through the criminal justice process and through means of social care are an absolute part that needs to be considered in criminal law policies and social policies by both the executive, legislative and judicial institutions as well as other social institutions.

The form of legal protection for victims of sexual violence in Surakarta starts from the stages of investigation, prosecution and trial as a form of right granted by laws and regulations to victims in providing a sense of security and legal certainty.

In the case of rape, the investigative stage provides legal protection for victims of sexual violence in the city of Surakarta, including direct assistance, placement in the Special Service Room (RPK), the right of the victim's interests to post mortem et repertum, identity kept secret, free from ensnared questions. victims, receive information on the progress of cases from legal counsel, receive court decisions, and obtain temporary residence at the Regency or City Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA). Furthermore, the stages of the prosecution sub-system include concealment or not disseminating identity, obtaining information from the Public Prosecutor handling the case at hand, and during the examination obtaining protection. Then while the sub-system of court stages includes being treated fairly without discrimination, getting the right not to meet with the perpetrators, giving statements without any pressure from anywhere, and trials being held closed to the public.

Based on the results of interviews with victims of sexual violence crimes in the example of rape and obscenity crimes in the city of Surakarta, the investigation, prosecution and trial have been given to the victim, but from the victim's confession regarding the legal protection provided, it has not been able to run optimally because the right to rehabilitation is not given, but the victim only identified by information and placed in a temporary residence that lasts for 5 (five) days at the Surakarta City Regional Technical Implementation Unit. In addition, there is no psychological treatment for the victim by only being given food and drink, the victim lives at home with family supervision, and the victim's identity remains confidential so that life support, physical and psychological rehabilitation has not been fulfilled. Then, in the investigation phase, the victim only made reports and was interested in visum et repertum, the cost of psychological needs incurred by the victim because there were no medical services related to clinical psychology.

The problem of legal rights and protection for victims of sexual violence, rape and obscenity in Surakarta City with conformity in the provisions of Law Number 31 of 2014 as amended to Law Number 13 of 2006 concerning Protection of Witnesses and Victims is by obtaining a new identity, replacing transportation costs as needed and in the process of determining the form of security support protection but not provided to victims of criminal acts at the stages of investigation, prosecution and trial.

Related to Surakarta City Regional Regulation Number 23 of 2006 concerning Commercial Sexual Exploitation supported by Surakarta Mayor Regulation Number 14 of 2006 concerning Implementation of Sexual Exploitation Rehabilitation in Article 1 points 26 and 27 that assistance is an activity carried out by companions and rehabilitation as an effort to recover victims. The form of victim services provided by the Integrated Service Center (PPT) includes medical services for treating and recovering physical injuries as a way to restore the victim's physical condition by medical personnel, medical services for the purpose of proving the law, services for recovering the victim's trauma condition by providing a safe home to provide victim protection. from various threats and intimidation as well as receiving social support so that victims feel confident, empowered and independent in solving problems, legal services assist victims in undergoing the legal process, as well as economic independence services with skills training and economic access.

Surakarta Mayor Regulation Number 14 of 2006 concerning the Implementation of Commercial Sexual Exploitation Rehabilitation states that the forms of services provided to women and children victims of acts of violence include complaint services, health, legal aid, repatriation, social reintegration rehabilitation, identification, and psychological services as well as forms of services carried out in accordance with minimum service standards set by the government by the Regional Work Units (SKPD) and Regional Work Units (UKPD) whose duties and functions are in the social, health, women's empowerment, child protection, and mental and spiritual fields.

From the explanation above, if it is related to the crime of sexual violence, it is clear that the victim must receive adequate service from the complaint service process, health, legal assistance, repatriation, rehabilitation, social reintegration, identification services, and psychological services.

The rights of victims of sexual violence to rape outside the Criminal Code (KUHP) are contained in the Law of the Republic of Indonesia Number 31 of 2014 as amended to Law Number 13 of 2006 concerning Protection of Witnesses and Victims in the provisions of Article 6 paragraph 1 and Article 7 A paragraph 1. While the form of legal protection for victims of criminal acts of rape in Surakarta City begins with the investigation, prosecution and court stages, it has been given to victims but has not received legal protection such as new identities, reimbursement of transportation costs as needed, participating in the selection process to determine protection Security support is almost never given to victims of sexual violence, rape or other victims of sexual crimes. Apart from these factors, there is a government policy factor that limits certain conditions of Covid 19 which limits the reach of face to face meetings, thereby worsening the condition of victims because it slows down the handling and protection of victims of crimes of sexual violence in the city of Surakarta.

At the investigation stage, it is still being carried out face to face by implementing health protocols. Meanwhile, at the prosecution and trial stages, many examinations and trials are carried out online, which has a good impact on the confidentiality of the victim's identity. However, online examinations limit the interaction between the victim, the Public Prosecutor, and the Judge examining the case. So that victims rights and legal protection in criminal acts of sexual violence during the Covid 19 condition cannot be fulfilled optimally because of the social distancing health protocol policy.

4. CONCLUSION

The spread of the Covid 19 pandemic has led to an increase in the crime rate of sexual violence in 2020 with a total of 40 cases, including domestic violence (KDRT) which still dominates 26 cases, 6 cases of rape, 5 cases of sexual abuse, and 3 cases of dating violence. The form of protection from the crime of sexual violence against victims is to provide adequate services in the process of complaints, health, legal aid, repatriation, rehabilitation, social reintegration, identification and psychology. Meanwhile, the form of legal protection for victims of sexual violence in the city of Surakarta starts from the stages of investigation, prosecution and court has been given to victims of rape sexual violence. However, there are still other forms of legal protection, such as the right to obtain a new identity, reimbursement of transportation costs as needed, participating in the selection process and determining the form of security protection and support. treatment, protection and recovery stages.

In addition, the government's policy of limiting certain conditions of the Covid 19 pandemic has worsened the condition of victims because it has further slowed down the handling of the protection of victims of criminal acts of sexual violence in the city of Surakarta. At the level of investigation handling stages, it is still carried out face to face by implementing health protocols, while at the prosecution and court levels, many examinations and trials are carried out online. Even though the confidentiality of the victim's identity is indeed more profitable for examinations to be carried out online, it causes limitations in interaction with both the victim or the public prosecutor and the examining judge.

The contribution of the research results is expected to be able to provide input, suggestions, solutions to problems in overcoming and preventing sexual crimes in the Surakarta City community, socializing the application of laws and regulations regarding sexual violence which still use domestic violence regulations, socializing regulations at the level of regional regulations and regulations made by the mayor of Surakarta, and provided input regarding the ideal form of legal protection for women who are victims of sexual violence.

The implication of the research is that the rights and forms of legal protection for women victims of sexual violence during the Covid 19 pandemic in Surakarta City which are in accordance with statutory provisions have not been carried out properly and have not been fulfilled optimally due to social distancing policies.

In order for the research to be more focused than the intended discussion, it limits the legal protection of women victims of sexual violence during the Covid 19 pandemic in the city of Surakarta.

It is hoped that in the future this research can provide a new reference for the scientific field regarding the handling and legal protection of women victims of sexual violence during the Covid 19 pandemic with the concept of the pure theory of law by Hans Kelsen which combines the facts with what should be in accordance with existing laws and regulations. especially in Surakarta City.

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