
**THE ROLE OF THE STATE TOWARDS VICTIMS OF ELECTRONIC-BASED SEXUAL VIOLENCE IN LAW NO.
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ABSTRACT

Sexual violence is a complex reality that immensely affects the integrity of human dignity for victims. Victims of sexual violence, mostly women and girls, show that there is a gender discriminatory construction issue in society that affects the problem of legal protection both in abstracto and in concreto. There are 3 (three) problems in this paper, such as: First, what is the current condition of protection for victims of sexual violence? Second, what is the current form of the policy on sexual violence protection in Indonesia? Third, how is the criminal law policy to protect victims of sexual violence based on Pancasila justice? This research is juridical-normative through a literature study using legal materials, and then the descriptive analysis is completed to answer the problems. Based on the results of the discussion, it is concluded that the legal protection of victims of sexual violence is indeed hampered by factors of legal substance, structure, and culture. The current form of policy to protect victims of sexual violence is not nonetheless comprehensive and responsive to victims. The Act on the Crime of Sexual Violence (UU TPKS) as part of the reform of criminal law policies has maintained a progressive basis in terms of protection, undertaking, and recovery of victims. There are indeed substantive issues that have the potential to reduce the strengthening of protection for victims of sexual violence such as the absence of norms regarding rape, forced abortion and integration with other laws as a consequence of the existence of bridge articles.

Keyword : Sexual Violence, Legal, KBGS

INTRODUCTION

Philosophically, citizens' rights to receive protection from violence and freedom from violence, torture or treatment that degrades human dignity is guaranteed in the 1945 Constitution of the Republic of Indonesia. A form of violence and treatment that degrades human dignity is sexual violence which is contrary to divine, humanitarian and justice values. The National Commission on Violence Against Women report (Komnas Perempuan, 2019), indeed shows worrying figures. In 2018, there were 6,903 cases of sexual violence reported to this institution, 3,915 of which were committed in public spaces and 2,988 in the domestic sphere or in private relationships. Cumulatively from 2011 to 2019, there were a total of 46,698 cases of sexual violence reported to various victim services in Indonesia (Baleg 2021). These cases include rape, sexual assault, sexual harassment, incest, adultery, sexual exploitation, and forced abortion. In 2020, Komnas Perempuan also reported an increase in cyber sexual cases from 97 to 281 cases (Komnas Perempuan, 2020). These figures are believed to be the "tip of the iceberg", where more factual cases go unreported

Sexual violence is a violation of human rights, a crime against human dignity, and a major form of discrimination against women. There are various types and forms of sexual violence, and the majority of victims are women and girls. The high number of victims of violence against women shows that there are serious problems regarding power relations and gender roles in the structure of a patriarchal society. In such conditions, women who experience sexual violence are vulnerable subjects both in terms of position and function in society. This causes sexual violence to become a repetitive cycle and has the worst impact on women. Physical, mental, health, economic and social and political suffering are the impacts of sexual

violence. The impact of sexual violence is very large and also affects the lives of victims. The impact is greatest when the victims are part of society that is economically, socially and politically marginalized, or those who have special needs, such as children and people with disabilities (Baleg, 2021). This can destroy the entire integrity of the victim's life, causing the victim to feel unable to continue his life.

As an effort to strengthen protection for victims of sexual violence, on April 12, 2022, the Draft Law (RUU) concerning the Crime of Sexual Violence (TPKS) was passed into law (Baleg, 2021). The TPKS Law is an extraordinary provision which is expected to provide material and a formal basis at the same time so as to guarantee legal certainty and fulfill the community's need for a sense of justice. There are 5 (five) objectives for the establishment of this Law, namely: 1) preventing all forms of sexual violence; 2) handle, protect and recover victims; 3) enforce the law and rehabilitate perpetrators; 4) imagine an environment without sexual violence; and 5) ensure that sexual violence does not recur. It is hoped that the Sexual Violence Crime Law (UU TPKS) can ensure progressive strengthening of victims' protection against the regulation of criminal acts. However, there is indeed an incomprehensible annotation that risks have consequences in their implementation. The existence of bridging articles that do not regulate rape and forced abortion challenges integration with the RKUHP. There are 3 (three) focus issues in this research, namely: First, what is currently happening with the condition of protection for victims of sexual violence in Indonesia? What are the criminal law policies to protect victims of sexual violence based on Pancasila justice? This research is juridical-normative through literature study using legal materials, then descriptive analysis is carried out to answer these problems.

This research refers to Law no. 12 of 2022 which has been researched by several other researchers, such as research conducted by Nurisman, (2022), regarding the Minutes of Challenges to Law Enforcement of Sexual Violence Crimes After the Birth of Law Number 12 of 2022. Apart from that, there is also research conducted by Rizal (2022) concerning Legal Protection for Victims of Sexual Violence After Ratification of the Sexual Violence Crime Law: Implementation and Effectiveness. Based on this, this research will expand the discussion regarding Law No. 12 of 2022 concerning sexual crimes based on electronic-based sexual violence. This research has never been carried out by research researchers, so this research will be an update on related topics.

In this case the author is interested in discussing electronic-based sexual violence as stated in Law no. 12 of 2022 concerning Sexual Crimes. Based on the description above, the author is interested in discussing the role of the state in protecting victims who experience electronic-based sexual violence according to Law no. 12 of 2022 concerning Criminal Acts of Sexual Violence in a research contained in a legal writing entitled "The Role of the State towards Victims of Electronic-Based Sexual Violence in Law no. 12 of 2022 concerning Crimes of Sexual Violence"

RESEARCH METHODS

The approach used by the author in this research is a normative juridical approach, namely a legal research method carried out by examining library materials or mere secondary materials. This type of research uses analytical descriptive research using a library study data collection method which is analyzed using qualitative methods. This research is also supported by using legal sources in Indonesia.

RESULTS AND DISCUSSION

Current Condition of Protection for Victims of Sexual Violence in Indonesia

The World Health Organization (WHO) sets limits on what is meant by violence. the use of physical force and force, threats, or actions against oneself, an individual or a group of people or society that results or is expected to result in bruising/trauma; death; psychological harm; developmental disorders or deprivation of rights. Briefly, the definition of sexual assault is defined as "nonconsensual conduct of a

sexual nature” (National Resource Center, 2012) or “physical sexual acts without the consent of another person or when the other person is unable to provide consent.”

Mansoer Fakhri presents a framework of thinking that violence is related to the social roles and functions of men and women as well. Along with these social roles, there is also a close relationship between violence and discrimination, especially gender (Fakhri, 2001). These differences in gender roles give rise to gender injustice, one of which is gender-based violence, where women are targets of violence because of the gender roles and values attached to them (Fakhri, 2001). Victims of sexual violence are subjects who are directly harmed physically, psychologically, mentally and socially. The worst condition of victims of sexual violence results in the loss of the integrity of the victim's human dignity. The complex problem of protecting victims of sexual violence can be analyzed through Friedman's legal system theory which states that there are three elements that form a legal system, namely legal substance, legal structure; and legal culture (Friedman, 2009). Normatively, Law no. 23 of 2004 concerning Eradication of Domestic Violence (UUPKDRT); UU no. 23 of 2002 which has been amended by Law no. 35 of 2014 concerning Child Protection, and Law no. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons explicitly contains sexual violence. All three have limitations because the reasons only refer to their respective scopes, such as households, children (0-18 years), and human trafficking. Meanwhile, the current Criminal Code (KUHP) is no longer adequate because it does not explicitly regulate the development and complexity of sexual violence that is currently occurring. The meaning and interpretation of rape only accommodates the act of forced sexual intercourse in the form of penile penetration into the vagina and with evidence of physical violence resulting from penetration (See and Soesilo, 2013). Protection for victims of sexual violence can refer to the provisions of Law no. 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. The law provides a right to restitution for victims. LPSK data from the 2018 annual report shows that 41 victims of sexual violence received restitution. In 2019 there were 125, in 2020 there were 194 respondents who were victims of sexual violence. Rights of victims of violence

In structural aspects, the National Police, Prosecutor's Office and Courts have not fully implemented the handling of sexual violence cases from a perspective that does not have the victim's perspective. The approach taken is only limited to doing it against the perpetrator. Limited access, capacity and power worsen the situation for the protection of victims of sexual violence in law enforcement structures. Many cases of sexual violence have ended peacefully and marriage to criminals has had a negative impact on the victim (Annisa, 2015). Delayed cases result in indecisive action against the perpetrators and in the end, they repeat their actions. According to Rochaeaty, structurally, the obstacle to protecting victims of violence is because the understanding of society and law enforcement officials is not yet gender sensitive, and there is a tendency not to side with women as victims (Rochaeaty, 2014). Moreover, cases related to violence against women are only approached through physical approaches, so they are unable to capture non-physical aspects such as psychological, socio-cultural, economic and political (Rochaeaty, 2014). Moreover, based on assistance records, revictimization is also often experienced by victims who are struggling to seek rights and justice. The Research Report on the Experiences of Women Victims of Violence in Accessing Services carried out by LRC-KJHAM, and the Law Enforcement Providers Forum (FPL) often blames the victim; doubting and denying the victim's statement; consider sexual violence to be consensual; Informal compensation from the perpetrator is always used as the basis for reducing the perpetrator's sentence, in order to stop this case, indeed. Some victims interviewed said that they experienced trauma after being questioned in court as well (FPL, 2014). Moreover, findings from MAPPI FH UI show that the sexual history or stigma of the victim is used by judges to reduce or terminate the acquittal of the defendant in cases of sexual violence. This happened in the decision (MAPPI, 2016). victims have begun to understand and fight for it, but the number of requests for restitution is as much as the fulfillment of procedural rights which continues to increase every year (Maria, 2021). In the context of victims of sexual violence, what is regulated in Article 2 paragraph (2) only applies to sexual violence against children. This condition can raise doubts about its implementation if the victim is an adult.

Moreover, the problem of substance, the protection of victims of sexual violence is also hampered by problems with the structure of law enforcement and culture. In institutional legal services, there is a Women and Children Services Unit (UPPA) for handling sexual violence. The availability and quality of this unit is inadequate at all levels of law enforcement and has not been supported by an adequate victim handling perspective (Sulistiyowati, 2006). As a result, the attitude towards this case does not show empathy for the victim and even tends to blame the victim, judge the victim, and make the victim a victim. In many cases, the strong influence of cultural/patriarchal perspectives has an impact on the role of society which is not optimal in maintaining support (support system) for female victims (Sulistiyowati, 2006).

Based on the explanation above, it shows that the protection of victims of sexual violence is a problematic complexity. This is a combination of gender-biased social construction, conditions that influence society's perspective, the physical and psychological dynamics of victims, and ineffective access to legal protection. This is a strong push for reform of sexual violence criminal policies to prioritize victim protection

Problematic Annotation to Law Number 12 of 2022 concerning Violent Sexual Crimes

Substantially this law regulates the prevention of all forms of sexual violence; implement, protect and restore victims' rights; coordination between the government and regional governments; and international cooperation so that prevention and treatment of victims of sexual violence can be implemented effectively. Moreover, community involvement in the prevention and recovery of victims is regulated so as to create environmental conditions that are free from sexual violence as well. This refers to the development and paradigm of modern criminal law which is applied universally.

The orientation of punishment is not solely on retaliation but combines corrective justice, restorative justice and rehabilitative justice. Corrective justice is related to taking action and punishing the perpetrator, restorative justice emphasizes the recovery of the victim while rehabilitative justice is aimed at both the victim and the perpetrator (Eddy, 2022). Article 4 paragraph (1) of the TPKS Law regulates the formulation of criminal acts of sexual violence into 9 types of sexual violence, namely: non-physical sexual harassment; physical sexual abuse; forced contraception; forced sterilization; forced marriage; sexually harassing; sexual exploitation; sexual slavery; and electronic-based sexual violence.

There is no definition specifically created to define sexual violence. This understanding has been intended directly for the preparation of *bestandeel delict* (elements of offense) in every form of sexual violence. According to the author, apart from being efficient in construction, it also makes it easier for law enforcement officers to comply with the requirements for sexual violence actions. Therefore, it closes the possibility of ambiguity and retention between the formulation of the offense and the meaning of the general provisions. That is why Article 1 number 1 only states that: "Sexual Crimes are all acts that fulfill the elements of criminal acts as regulated in this Law and other acts of sexual violence regulated in the Law to the extent specified in this Law" Moreover What's interesting about the TPKS Law is that there is a bridging article that allows types of sexual violence in other laws to be subject to the provisions of that law, certain procedural laws regulated in the TPKS Law, including the crime of rape in the TPKS Law Criminal Code

The existence of Article 4 paragraph (2) is very decisive in accommodating all types and forms of sexual violence. The inclusion of this provision has an impact on legal compliance other than the TPKS which regulates sexual violence in the procedural law provisions contained in the TPKS Law and overrides the KUHAP. Experiential counseling shows that victim protection is in a risky situation during the reporting, investigation, prosecution and trial phases (Annisa, 2015).

Apart from that, to strengthen protection for victims of sexual violence, the rights of victims are also regulated in the TPKS Law. Victims' rights as intended in Article 67 include the right to protection, therapy and recovery. These three rights are then explained comprehensively in the following article. In short, in the TPKS Law there is a commitment to maintain victim protection through comprehensive inclusion of victims' rights. The TPKS Law has the character of a special procedural law that facilitates and protects

victims from the stages of reporting, investigation, prosecution and examination at trial to the execution of court decisions. In the TPKS Law, the protection and recovery of victims is fulfilled simultaneously with the legal process. In fact, to guarantee protection for victims, Article 23 of Law No. TPKS Law explicitly states that TPKS cannot be resolved outside the court process, except for child perpetrators. This accommodates the fact that many fair TPKS cases pass when the perpetrator has received compensation, even though this could actually be done because of unequal power relations and because the perpetrator comes from a wealthy background.

The existence of bridging articles brings big challenges for harmonization and integration. The article on rape in the Criminal Code and RKUHP which confirms that forced abortion in the RKUHP is sexual violence, integrates physical sexual harassment with sexual exploitation in the RKUHP, is integrated with the revision of the ITE Law, and is integrated with the RKUHAP. This integration is of course material in that the elements of the offense in question must be in line with the elements of the offense as regulated in the TPKS Law which guarantees strengthening the protection of victims of sexual violence. In general, several developments in this Law include:

- a) There are other criminal acts which are expressly declared as sexual crimes which are regulated in the provisions of other laws and regulations, including types of sexual crimes as regulated in this law as well.
- b) There are comprehensive arrangements starting from the stages of investigation, prosecution and examination in court with the principles of human rights and victim protection
- c) There is a state obligation to fulfill victims' rights to treatment, protection and recovery. In addition, there are rights to restitution and compensation
- d) It is impossible to resolve cases of sexual violence outside the judicial process, except for child perpetrators

Moreover, in existing developments, there are indeed gaps related to this substance which have the potential to weaken the protection of victims of sexual violence in the future. The lack of understanding or elements of the rape article in the TPKS Law is a particular problem. In fact, historically, one of the rationales for drafting the TPKS Bill (the Elimination of Sexual Violence Bill at that time) started from the fact that many rapes occurred. The reason is Article 4 paragraph (2) and its legal doctrine and therefore rape is not regulated in the TPKS Law, so it is dangerous to give rise to multiple interpretations of the problem. It must be ensured that the norms regarding rape and other sexual violence implied in other laws must "breathe" with the basic idea of the promulgation of the TPKS Law. It needs to be emphasized that the difference between the TPKS Law and the Criminal Code in looking at rape is that if rape is included in the TPKS Law then it becomes a crime against humanity. However, if rape becomes the norm of the Criminal Code, it will become a public decency offense. Article 285 of the Criminal Code is included in CHAPTER XIV concerning crimes against morality. Moral violations are violations related to (issues of) decency (Tongat, 2003). According to Barda Nawawi Arief, this brief definition does not describe the scope of crimes of decency, considering that the meaning and boundaries of decency are quite broad and differ according to the views and values prevailing in society (Arief, 2005).

Referring to Barda Nawawi Arief's opinion, it can be concluded that the boundaries of the scope of morality crimes are not clearly visible. The ambiguity of the boundaries and scope of decency crimes stems from the fact that the issue of decency is an issue related to the values that exist in society, so the extent to which the scope of decency crimes is limited is susceptible to how diverse society's views are in viewing the problem. Based on the resolution of sexual violence only on upholding decency in society, it is feared that this will have an impact on disparities in justice. The attitudes experienced by victims and perpetrators of violence in one situation and in another situation are different, depending on the social conditions of society. It is hoped that philosophical moral values can be interpreted in various ways. Together with a patriarchal social structure, it is possible that the victim's recovery will be delayed and there is the possibility of repetition of violence. Apart from rape, there are also records of forced abortions that have occurred, identified from the start as a type of sexual violence. It is indeed more fatal if an

abortion is forced, it is not a type of violence which is also regulated in the bridging article (Article 4 paragraph 1). 2). The biggest possibility is to accommodate this norm in the RKUHP.

Articles regarding restitution, especially promising protection for victims, have the potential to cause problems and on occasion there is no guarantee of payment of restitution for perpetrators who are unable to pay compensation. The concept of compensation used in Article 35 which is used to replace restitution to victims originating from the victim's trust is not interpreted as bailout funds that must be replaced by the perpetrator through efforts or other actions. As a result, the impression appears that the state, through compensation, facilitates the payment of restitution for crimes committed by perpetrators of sexual violence. Based on the juridical aspect, although substantially there has been a TPKS Law that has been passed and provides a spirit of progressive victim protection, referring to the analysis in the previous sub-chapter, there are punitive annotations which have the potential to reduce the strengthening of protection for victims of sexual violence. Together with these reasons, it is necessary to do the following things: First, ensure the strengthening of the formulation of rape in the RKUHP. Article 4 paragraph (2) of the TPKS Bill states that rape is a type of sexual violence in other laws. The formulation of rape norms in the RKUHP must be in line with the UUTPK which contains elements of coercion to achieve power relations and psychological violence as well, not only penile-vaginal penetration and not only can occur outside of marriage, and placing it is not part of a crime of morality. Rape should be defined as a type of sexual violence as well.

Second, there is certainty regarding the regulation of forced abortion in the RKUHP as a sexual violence offence. UITPKS does not include forced abortion as sexual violence or sexual violence in other laws. There is a reformulation of norms in the RKUHP (Article 469 paragraph 1). (2)), which can emphasize that the act of forced abortion is a form of sexual violence so that victims of forced abortion are the subject of the TPKS Bill. Third, integrate the regulation of physical sexual harassment with sexual exploitation in Indonesia's RKUHP. This needs to be done considering that its closeness to the regulation of acts in the UUTPKS still carries different criminal threats. Fourth, integration of online-based sexual violence with a revision of the deletion of Article 27 paragraph (1) of the ITE Law in view of the fact that it is only oriented towards content, not consent. Publication of personal contacts must be agreed upon with consent/approval, if it is not done on the basis of consent/consent then the person has been confirmed as a victim, not a perpetrator. Fifth, the RKUHAP must stipulate that the examining judge previously assesses the suitability of evidence as validation of a criminal case. As a refinement of the UUTPKS, he does not separate evidence and validation. Article 24 paragraph (1) letter c UUTPKS introduces a rule stating that evidence can be used as attestation as well. Along with the function of the preliminary examination, the judge assesses the suitability of the evidence in the case, in this way the tenacity of the evidence can be ensured. Sixth, the RKUHAP must also include statements from witnesses with disabilities that achieve the same evidentiary strength and expert assessment mechanisms for intellectual disabilities as regulated in Article 25 paragraph (4) of the TPKS Law. The RKUHAP must be guaranteed to no longer be formulated with stigmatizing articles as in Article 171 of Law No. KUHP.

The Urgency of Regulating Cyber Gender Based Violence (KBGS) in the Legal System in Indonesia

Several laws and regulations have indeed regulated the issue of cyber gender-based violence (KBGS), but all of these regulations are very limited and have not yet comprehensively understood the deep problems related to Cyber Gender Based Violence (KBGS). Apart from that, existing laws and regulations still need to be supplemented both materially and formally, need to be improved and do not yet provide prevention, protection and treatment mechanisms that are pro-victim. Next, there is a big problem, how the existing law provides a deterrent effect and breaks impunity for perpetrators of sexual violence so that it does not happen again.

The objectives of the law will be achieved if the law has been implemented effectively. The effectiveness and success of legal system enforcement must touch on the three legal components presented by Lawrence M. Friedman which include: (a) Legal structure, in the sense that legal structure is a legal institution that supports the legal system itself, consisting of legal forms, institutions law, legal

instruments, as well as processes and performance. (b) Legal substance, namely the content of the law itself, meaning that the content of the law must be something that aims to create justice and can be applied in society. (c) Legal culture, this is related to the professionalism of law enforcement officers in carrying out their duties, and of course the public's awareness of obeying the law itself. Therefore, regarding the effectiveness of handling cases of gender-based violence in cyberspace (KBGS), there are at least several things that can be done as a basis, namely:

1. *Legal Structure*

This problem illustrates that in terms of handling cases of cyber gender-based violence (KBGS) and protecting victims, law enforcement, both police, prosecutors and justice, there are not yet fully available reference services specifically for gender-based violence in cyberspace (KBGS). Even though it already exists in several places, the facilities are inadequate. For example, in handling cases of cybergender-based violence (KBGS) there is a special section for cyber crime, but there are still obstacles in handling it to detect the identity of the perpetrator if in that case the account or media used to carry out the violence does not use the real identity. In the cyber violence evidence system, digital forensics is needed, but the cyber crime unit is only at the Regional Police level, so the limited human resources and equipment at the Regional Police make it difficult for victims to collect evidence. Regarding facilities for assisting victims, they are still limited, for example, the number of clinical psychologists is limited. Even though this is important to bring relief and recovery.

2. *Legal Substance*

National laws do not yet comprehensively regulate the scope of gender-based violence in cyberspace (KBGS). The material substance in several laws contains problems, including the limits of the scope of cyber gender-based violence (KBGS) regarding various forms of gender-based violence in cyberspace (KBGS) regulated in Law no. 44 of 2008 concerning Pornography, Law no. 11 of 2011 concerning Electronic Information and Transactions, and Law no. 12 of 2022 concerning Crime of Sexual Violence. Legislation still does not fully regulate and comprehensively accommodate the various forms of cyber gender-based violence (KBGS) that occur. Second Law no. 11 of 2008 jo. Law No. 19 of 2016 concerning Information and Electronic Transactions (UU ITE) and Law no. 44 of 2008 concerning Pornography is not in line with the spirit of protecting victims of cyber gender-based violence (KBGS), because specifically both Laws no. 11 of 2008 jo. Likewise Law no. 19 of 2016 concerning Electronic Information and Transactions (UU ITE) and Law no. 44 of 2008 concerning Pornography specifically regulates forms and handling to protect victims of cyber gender-based violence (KBGS).

Law Number 12 of 2022 concerning Sexual Violence also does not comprehensively regulate forms of cyber gender-based violence (KBGS). Law No. 12 of 2022 concerning Sexual Violence is only limited to regulating electronic-based sexual violence (KBSE) in the form of recording and/or taking sexual images or screenshots that are charged, transmitting electronic information and/or electronic documents with sexual content that is against the recipient's wishes, and stalking and/or tracking using electronic systems for sexual purposes. The limited scope of regulations related to gender-based violence in cyberspace (KBGS) limits the problems experienced by victims, for example related to sextortion, namely blackmail with the threat of misuse of the victim's sexual content with the aim of getting money or having sex with the victim through coercion. In many cases, if the threat is only limited, then the case cannot be processed until there is an action to disseminate content carried out by the perpetrator. Thus, victims will find it difficult to get protection when they receive threats.

3. *Legal Culture*

To be able to carry out a holistic study of legal culture, an approach from the empirical legal aspect is needed which allows the application of law in society. Legal culture or legal culture (31legal culture) is a living law that is adhered to in a society (Sulistyowati, 2006). Legal culture, in this case, is related to the professionalism of law enforcers in carrying out their duties, and of course the public's awareness of obeying the law itself (Friedman, 1969). The legal cultural factor that becomes an obstacle in cases of gender-based violence in cyberspace (KBGS) is the development of an attitude of

blaming the victim.

At the level of social construction, Indonesian society still uses the patriarchal paradigm. Basically, patriarchy is a power relationship that subordinates women and places men in a more prominent and superior position. Patriarchal culture is the root of men's domination over women. Finally, women are only considered a cult group and everything that women do is underestimated or not taken into account. At the individual level, patriarchy is the cause of various injustices and violence experienced by women.

CONCLUSION

Regarding the importance of regulating cyber gender-based violence (KBGS) in Indonesia, there are several problems at the level of legal substance, legal structure and legal culture which show that the legal system is not yet running well, so there is an urgency in terms of regulating cyber gender-based violence (KBGS). Structurally, the limited understanding of investigators and cyber crime unit equipment regarding the issue of cyber gender-based violence (KBGS), as well as the clinical limitations of psychologists, cause several obstacles in providing protection. In terms of legal substance, the available legislative tools have not been able to provide legal certainty that covers the various forms and complexities of gender-based cyber violence (KBGS) cases and the protection of victims' rights. So many cases have not been processed properly and there is even the potential for criminalization of victims. Culturally, there is still victim blaming towards victims, whether carried out by families, the community or law enforcement officials, resulting in many victims not having the courage to report the incident, this is what is happening which really hinders the right to justice.

REFERENCES

1. Arief, Barda Nawawi, 2005, Bunga Rampai Kebijakan Hukum Pidana, Bandung, Citra Aditya Bakti
2. Badan Legislasi (Baleg) Dewan Perwakilan Rakyat Republik Indonesia, 2021, Naskah Akademis Rancangan Undang-Undang Tentang Tindak Pidana Kekerasan Seksual, Jakarta, Baleg DPR RI
3. Eddy OS Hiariej, 2022, Keunggulan UU TPKS, artikel dalam <https://www.kompas.id/baca/artikelopini/2022/04/17/keunggulan-undang-undang-tindak-pidana-kekerasan-seksual> diakses pada 18 April 2022
4. Fakhri, Mansour, 2001, Perubahan Sosial Perspektif Gender, Makalah Lokakarya Kekerasan Terhadap Perempuan Dalam Hukum Pidana Suatu Pembahasan Kritis Terhadap Rancangan KUHP; diselenggarakan atas kerjasama Fakultas Hukum UGM dan LHB APIK; Yogyakarta; 11 – 13 Maret 2001.
5. Friedman, Lawrence M, The Legal System: A Social Science Perspective, Russel Sage Foundation, 1969, New York, hlm.241.
6. Friedman, Lawrence M. 2009, Sistem Hukum; Perspektif Ilmu Sosial. Bandung: Nusa Media. Hal. 12
7. In Tongat, 2003, Hukum Pidana Materiil Tinjauan Atas Tindak Pidana Terhadap Subyek Hukum Dalam KUHP, Jakarta, Djambatan, hal.117
8. Komnas Perempuan dan Jaringan Masyarakat Sipil, 2019, Catatan Kekerasan terhadap Perempuan Tahun 2019, Jakarta, Komnas Perempuan
9. Komnas Perempuan dan Jaringan Masyarakat Sipil, 2020, Catatan Kekerasan terhadap Perempuan Tahun 2020, Jakarta, Komnas Perempuan
10. LRC-KJHAM dan Forum Pengada Layanan (FPL), 2014, Laporan Hasil Penelitian tentang Pengalaman Perempuan Korban Kekerasan Seksual dalam Mengakses Layanan tahun 2014, yang diselenggarakan oleh LRC-KJHAM dan Forum Pengada Layanan (FPL)
11. MAPPI, 2016, Laporan Hasil Analisis Penelitian tentang Putusan Pengadilan Mengenai Isu Kekerasan Seksual, MAPPI FH Universitas Indonesia, Juni, 2016, laporan tidak diterbitkan
12. Maria Novita Apriyani, Implementasi Restitusi Bagi Korban Tindak Pidana Kekerasan Seksual, Risalah

- Hukum, Volume 17, Nomor 1, Juni 2021, hal. 7
13. Rifka Annisa WCC, 2015, Memoar Pendampingan Korban, Yogyakarta, Yayasan Sakinah
 14. Rochaety, Nur, 2014, "Menegakkan Ham Melalui Perlindungan Hukum Bagi Perempuan Korban Kekerasan di Indonesia", Jurnal PALASTREN, Vol. 7, No.1, Juni 2014
 15. Sakina, A. I., & Siti, D. H. (2007). Menyoroti Budaya Patriarki di Indonesia. Share Social Work Vol. 7 No. 1, 1-29
 16. See R. Soesilo, 2013, Kitab Undang-Undang Hukum Pidana Serta Komentarkomentarnya Lengkap Pasal Demi Pasal, Bogor: Politea
 17. Sulistyowati Irianto dan Lidwina Inge Nurtjahyo, 2006, Perempuan di Persidangan: Pemantauan Peradilan Berperspektif Perempuan, Jakarta: Nzaid, Convention Watch Universitas Indonesiadan Yayasan Obor Indonesia
 18. Sulistyowati Irianto, Women and Law (Towards The law that Perspective Equality and Justice), Work with The Convention Watch, University of Indonesia and Foundation Domain Twitter, 87
 19. Understanding the Nature and Dynamics of Sexual Violence, Missouri Coalition Against Domestic and Sexual Violence <http://sexualviolence.universityofcalifornia.edu/faq/index>