

Legal Protection of Women as Victims of Sexual Violence in Madadan Tana Toraja

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Article	Abstract
<p>Keywords:</p> <p>Law, Legal Protection of Women, Victims of Sexual Violence.</p> <p>Artikel History Received: Nov 2, 2024; Reviewed: Apr 15, 2025; Accepted: Apr 27, 2025; Published: Apr 30, 2025.</p> <p>DOI: https://dx.doi.org/10.20961/jolsic.v13i1.94729</p>	<p>This research aims to find out and analyze how women are protected as victims of sexual violence in Madandan Tana Toraja. This is on the one hand because most victims of crimes against women, besides acts of violence, are sexual acts starting from acts of harassment (sexual harassment) to acts of sexual violence in the form of rape. Violence is any unlawful act with or without the use of physical and psychological means that poses a danger to life or body or results in the deprivation of a person's freedom. The Law No. 12 of 2022 Criminal Act of Sexual Violence (UU TPKS) as a whole reflects a progressive approach to dealing with sexual violence in Indonesia and is a significant step forward in efforts to prevent and handle sexual violence. This research is legal research, which examines it from a legal perspective using a normative juridical approach because the problem studied is closely related to law in books. Normative legal research is library research, namely research conducted from secondary data. The results of this research show that efforts to protect women as victims of sexual violence in Madandan Tana Toraja include each village having different traditional councils and rules regarding sexual violence. In fact, in this community, there is the highest customary sanction "ma'rambulangi" imposed on perpetrators and victims of crimes who are deemed to have polluted the traditional values that the local community upholds. If you look closely, especially for victims, apart from the psychological burden, the family also has to pay money for the victim's care costs, transportation costs during trials that are far away and the costs of the victim's psychological recovery.</p>

INTRODUCTION

Sexual violence is an issue that has long been discussed in Indonesian society. In Indonesia itself, the word sexual harassment is familiar because almost every year cases of sexual harassment occur. Sexual violence comes from English, namely sexual hardness which one says hardness itself means violent and unpleasant. Reveals that sexual violence is an act of violence committed by someone by forcing them to carry out unwanted sexual contact. Violence is a type of behaviour that is contrary to the law, whether only in the form of threatening actions or actions that have led to real actions that result in physical damage, or objects, or can also cause someone's death. Cases of sexual violence, do not only involve physical violence but also indirectly attack the victim's mental state. The cognitive impact experienced by the victim as a result of sexual violence is not easily eliminated compared to the physical violence they also experienced, it takes quite a long time for the victim to truly recover from the incident they experience (Rosania & Eko, 2022: 61).

Sexual violence itself can be defined as unwanted sexual advances by someone towards another person. Sexual approaches do not always have to be physical, but can also be verbal. Therefore, sexual harassment can come in various forms, for example, rape, touching another person's body on purpose, teasing or joking about things of a sexual nature, personal questions about sexual life, and making sexual movements with the hands. or facial expressions, sexually suggestive voices, and much more. Official data from the Resort Police Tana Toraja, throughout 2022 until early 2025, there were 82 recorded cases of sexual crimes handled. If you look at the details, in 2022 there were 25 cases. Then, in 2023 there were 30 cases, in 2024 there were 25 cases. Meanwhile, for 2025, from January 1-8, there were 2 cases of sexual crimes recorded (Hardani & Supriadi, 2025: 1).

Quoted from the official website of the National Commission on Violence Against Women, from 2001 to 2012 there were at least 35 women victims of sexual violence per day, whereas in 2012, there were 4,336 cases of sexual violence, of which 2,920 cases occurred in the group/public sphere with the majority of cases violence in the form of sexual abuse and violence. Meanwhile, cases of violence in 2013 rose to 5,629 cases, which means 2 instances of violence against women occur every 3 hours. Often the ages that experience sexual violence are 13-18 years and 25-40 years (Rosania & Eko, 2022: 61-72)

Before the UU TPKS was born, several articles in the Criminal Code/KUHP were also used to handle cases that opened up sexual insight, although the scope was limited. Example: "Article 289 of the Criminal Code/KUHP concerning indecent acts against others with violence or threats of violence. Articles 281 and 282 of the Criminal Code/KUHP concerning indecent acts in public places or against minors". However, due to the many shortcomings in the Criminal Code (for example, not recognizing non-physical), UU TPKS concerning was born as an improvement.

Sexual violence in Indonesia occurs in various circles. Starting from children, and teenagers, to adults. It doesn't only happen to women, but also to men. Not only various groups, sexual violence can also occur anywhere, namely the workplace, public places, places of study and even in the family environment. Sexual violence is increasingly common, in general cases of sexual violence occur more often in children or young women. Sexual violence is a form of sexual threats

and coercion. In other words, sexual violence is sexual contact that is unwanted by either party. The essence of sexual violence lies in "threats" and "coercion" (Ismantoro, 2018: 1). Sexual violence is a problem that occurs in people's lives. Sexual violence includes rape, molestation and sexual harassment. The victims of sexual violence that often occurs are children. Children still need a lot of love and attention from family and society. It is known that children are the young generation who will carry forward the nation's ideals in the future, and who need to have the widest possible opportunities to grow and develop properly both spiritually, physically and socially.

Prevention of deviant behavior must be carried out in such a way considering that the number of victims of sexual violence is increasing every year. Not only the role of government but also the role of society needs to work together to overcome this problem. One of them is the protection of victims of sexual violence by traditional institutions. As is done by the Madandan Tana Toraja indigenous community, which has customary regulations regarding the safety of victims of violence. However, it is known that this regulation excludes ordinary crimes, thus giving rise to the problem of having no deterrent effect for perpetrators. Some perpetrators repeat these actions to the victim. Therefore, in this research, the author will discuss this problem with the title "Protection of Women as Victims of Sexual Violence in Madandan Tana Toraja".

RESEARCH METHODS

This research is legal research, which examines it from a legal perspective using a normative juridical approach because the problem studied is closely related to law in books. The legal approach is used to analyze and understand legal rules that are relevant to the research topic, especially those related to regulations and policies governing sexual violence against women. This approach is important because it focuses on applicable laws and regulations to provide a legal basis for the phenomenon being studied. In the context of sexual violence, this approach will involve analyzing laws such as the Law on the Crime of Sexual Violence (UU TPKS Number 12 of 2022), as well as other regulations related to harassment/violence against women.

Normative legal research is library research, namely research conducted from secondary data. According to Ronny Hanitijo Soemitro, secondary data in the legal field (viewed from the point of view of its binding strength) can be divided into primary legal materials, secondary legal materials and tertiary legal materials, therefore the research specifications used are analytical descriptive, then these materials will be analyzed qualitatively (Ronny, 1994: 11-12).

ANALYSIS AND DISCUSSION

1. Sexual Violence

Sexual violence is any act that includes sexual harassment to the act of forcing someone to have sexual relations without the victim's consent or when the victim does not want to, and/or carrying out sexual relations in ways that are unnatural or disliked by the victim and distance them from their sexual needs. Sexual violence is an action, whether in the form of words or actions, carried out by someone to control and make another person involved in sexual activities where the activity is not desired by that person. There are two important elements in sexual violence, namely first, the element of coercion or the element of lack of consent from

the other party, and second, the element of the victim being unable or incapable of giving that consent (Siti Amira, 2018: 38)

The Draft Law on the Elimination of Sexual Violence (RUU PKS) states that sexual violence is any act that humiliates, insults, attacks, and/or other acts against a person's body, sexual desires, and/or reproductive function, by force, which is against a person's will, which causes a person to be unable to give consent in a free state, due to unequal power relations and/or gender relations, which results in or could result in suffering or misery whether physical, psychological, sexual, economic, social, cultural or political loss.

One form of sexual violence is sexual harassment. Sexual harassment or sexual harassment is a behaviour or attention carried out by someone of a sexual nature that is undesirable and unwanted by that person and has the effect of disturbing the recipient of the harassment. Sexual harassment includes but is not limited to, sexual payment if you want something, coercion to carry out sexual activities, derogatory statements about sexual orientation or sexuality, requests to perform sexual acts that the perpetrator likes, in the form of remarks or behaviour that has a sexual connotation, all of these things can be classified as an act of sexual harassment (Riyan, 2022: 69-83).

2. Legal Protection

Legal protection is the protection of honour and dignity, as well as the recognition of human rights possessed by legal subjects based on legal provisions of authority or as a collection of regulations or rules that will be able to protect one thing from another. According to Satjipto Raharjo, legal protection is protecting human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law. In formulating the principles of legal protection in Indonesia, the basis is Pancasila as the state ideology and philosophy. The concept of legal protection for people in the West originates from the concepts of constitutional state and "Rule of The Law". (Satjipto, 2000: 53).

Legal protection is a very important element in regulating citizens who are victims of criminal acts. In the 1945 Constitution, Article 1 Paragraph 3 reads: Indonesia is a legal state. This means that Indonesia is a country based on law. Naturally, legal protection becomes an essential element and a consequence of the rule of law and the State is obliged to guarantee the legal rights of its citizens (Diana, 2020: 619-639).

By using Western conceptions as a framework for thinking based on Pancasila, the principle of legal protection in Indonesia is the principle of recognition and protection of human dignity which is based on Pancasila. The principle of legal protection against government actions is based on and originates from the concept of recognition and protection of human rights because historically in the West, the emergence of concepts of recognition and protection of human rights was directed at limiting and placing obligations on society. and government. Legal protection for the people includes 2 (two) things, namely: (Philipus, 2000: 25).

- a. Preventive legal protection, namely a form of legal protection where the people are allowed to submit objections or opinions before a government decision takes a definitive form;

- b. Repressive legal protection, namely a form of legal protection which is more aimed at resolving disputes.

Thus, a protection can be said to be legal protection when it contains the following elements: (Andi Wiwin et al., 2020: 14-30)

- a. There is protection from the government for its citizens;
- b. Guarantee of legal certainty;
- c. Related to the rights of citizens;
- d. There are punitive sanctions for those who violate them.

3. Law Enforcement Against Perpetrators of Sexual Violence

Sexual harassment behaviour is a disgraceful act that can be measured by violations of rules or norms that are rooted in socio-cultural values as a system of behaviour and guidelines for the actions of community members, which can involve religious, moral and legal norms. In an article entitled "Sexual Violence: Myths and Reality", Ratna Batara Munti stated that the criminal act of sexual harassment is not regulated in the Criminal Code, not even one article mentions the words sexual harassment or sexual violence, only There is the term obscene act which is regulated in Articles 289 to 296 of the Criminal Code. Meanwhile, obscene acts themselves can be interpreted as behaviour that is not in accordance with a sense of decency or cruel behaviour that is carried out solely because it fulfils uncontrollable desires.

The formulation contained in the Criminal Code, in general, the classification of sexual violence is divided into, adultery, sexual intercourse, obscenity, and pornography. Regarding sexual violence or sexual harassment, it is not regulated in the Criminal Code, the Criminal Code only regulates Crimes Against Morality. Crimes Against Morality are regulated in CHAPTER XVI Book II of the Criminal Code, namely as follows: a). crimes resulting from open violations of public morality (Article 281); b). pornography crime (Article 282); c). crime of child pornography (Article 283); d). the crime of pornography while carrying out his livelihood (Article 283b); e). crime of adultery (Article 284); f). crime of committing rape for sexual intercourse (Article 285); Next g). the crime of having sexual intercourse while unconscious and helpless without consummating marriage (Article 286); h). crime of sexual intercourse with a female child (Article 287); i). the crime of having sexual intercourse with a woman who is not old enough to marry, causing minor or even serious injuries (Article 288); j). the crime of rape is committing fornication or behaviour that attacks the honour of morality (Article 289); k). the crime of committing lewd acts against a person who is unconscious and not old enough to marry (Article 290); l). If the crimes in articles 286, 287, 289 and 290 result in serious injury (Article 291); m). the crime of committing sexual immorality against a child of the same sex (Article 292); n). the crime of encouraging people to commit lewd acts with people who are not yet of legal age (Article 293); o). crime of committing lewdness with a child (Article 294); p). the crime of making obscenity easier for children (Article 295); q). crime makes it easier to commit obscenity as a livelihood or habit (Article 296); r). the crime of buying and selling women or men who are not old enough (Article 297); s). crime makes it

a source of employment from obscene activities carried out by other people (Article 298). (Rosania & Eko, 2022: 61-72).

Not only is it related to criminal law, but sexual violence also violates the human rights of victims. The Indonesian legal system guarantees the human rights of every citizen. It is stated in the 1945 Constitution of the Unitary State of the Republic of Indonesia in Articles 28A-28J. Article 28A explains that every person has the right to live and the right to defend his or her life and life. Furthermore, Article 28B paragraph (2) explains that every child has the right to survival, growth and development, and the right to protection from violence and discrimination. A child should receive protection and dignity in the surrounding environment so that he can grow and develop both physically and psychologically. Even Frans Magnis Suseno believes that protecting children's rights is part of defending human rights. Then in Article 28G it is explained that every human being has the right to personal protection, honour, family, honor and dignity, and has the right to feel safe and protected from the threat of fear of doing something or not doing something which is a human right. Then it is emphasized again in Article 28I paragraph (1) that the right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted. based on retroactive law, it is a human right that cannot be reduced under any circumstances. It can be seen from the various articles above that the Indonesian legal system is against violence, including sexual violence.

4. Protection of Women as Victims of Sexual Violence in the Madandan Traditional Community of Tana Toraja

Women who are victims of violence who have a high need for protection will have the urge to fight for their rights to be free from violence and escape the trauma they have experienced. In line with the results of interviews with victims who said that assistance is a means for victims to complain and tell about all their problems in the hope of being free from the cases and trauma, they have experienced so they can return to living in society.

Even though various legal instruments have been created to protect women, the facts on the ground show that the legal reality in Indonesia is still very weak and very biased in protecting women's rights, this was further researched by Nur Rochaety (2014) entitled *Upholding Human Rights through Legal Protection for Women Victims of Violence in Indonesia.* In this research study, it is acknowledged that in reality, the law is still very weak in protecting women so that they are free from all forms of violence that often befall them. Several factors that hinder the process of enforcing this law are substance, structure and culture so that it still gives rise to forms of violence against women, including physical, sexual, economic, political and psychological performance that can be carried out by individuals, society and the state, so that it is hoped that the government's efforts will pay more attention to and resolve the issue of women's protection legally and with gender justice which can realize preventive, protective and remedial measures for women victims violence (Diany Catur & Oksiana, 2022: 64-79).

Protection Assistance for Victims of Sexual Violence in Madandan Tana Toraja. Each village has different traditional councils and rules regarding sexual violence. One of the traditional councils explained that it was the parents who were fined, but we looked closely at the lives of children who were victims of sexual violence and still depended on their parents. In fact, in this community, there is a customary sanction "ma'rambulangi" imposed on perpetrators and victims of crimes who are deemed to have polluted the traditional values that the local community upholds. Sexual violence in this region is often seen as an act of adultery.

So that both perpetrators and victims of sexual crimes are subject to the same customary sanctions. If we look closely, especially for victims, apart from the psychological burden, the family also has to pay money for the cost of caring for the victim, transportation costs during the trial which are located far away and the costs of the victim's psychological recovery. However, none of this is regulated by custom. Experience in several previous cases, the perpetrator repeated his actions against the same victim while still paying the victim the fine in instalments. In connection with this case, the Chair of the Madandan Traditional Institution, Saba' Sombolinggi, said that the Ma'rambulangi' customary sanctions were given based on customary deliberations by all traditional leaders on 30 October 2023 which was attended directly by the Chair of the Toraya Archipelago Indigenous Community Alliance (AMAN), Mrs. Romba Marannu Sombolinggi. "This ritual has gone through a deliberation process by all the traditional leaders in Madandan, and this is a form of social sanction for the perpetrator and a deterrent effect so that in the future something like this does not happen and repeat itself," he added that the highest customary sanction was imposed. It is the perpetrator, not his family, because the indecent act was of his own free will, only the perpetrator is subject to sanctions (Jufri Tonapa, 2023: 1).

CONCLUSION

Legal Protection of women as victims of sexual violence in Madandan Tana Toraja. Each village has different traditional councils and rules regarding sexual violence. One of the traditional councils explained that it was the parents who were fined, but we looked closely at the lives of children who were victims of sexual violence and still depended on their parents. In fact, in this community, there is a customary sanction "ma'rambulangi" imposed on perpetrators and victims of crimes who are deemed to have polluted the traditional values that the local community upholds. Sexual violence in this region is often seen as an act of adultery. So that both perpetrators and victims of sexual crimes are subject to the same customary sanctions. If we look closely, especially for victims, apart from the psychological burden, the family also has to pay money for the victim's care costs, transportation costs during trials that are far away and the costs of the victim's psychological recovery. However, none of this is regulated by custom. Experience in several previous cases, the perpetrator repeated his actions against the same victim while still paying the victim the fine in instalments.

The Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS) is a strong legal basis in handling cases of sexual violence, the role of the police, the judicial system, and child protection institutions is very important in providing appropriate protection and recovery

for victims. However, to implement this law requires support and supervision from the relevant community. Therefore, there are still obstacles such as problem identification, reporting, legal processes. It is hoped that cooperation in implementing women's protection laws on sexual violence can minimize acts of sexual violence, create a healthy and safe environment from sexual crimes.

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