



LEGAL PROTECTION FOR WOMEN VICTIMS OF SEXUAL VIOLENCE IN THE CITY OF MAKASSAR

Baharuddin Badaru¹, Rosmiati¹, Hambai Thalib¹

¹Faculty of Law, University Muslim Indonesia, Makassar

History Article

Article history:

Received Oct 3, 2023
Approved Nov 29, 2023

Keywords:

*Protection;
Women/Victims;
Policy & Sexual
Violence.*

ABSTRACT

Research objectives: (1) To analyze and explain whether existing regulations are able to provide protection for women victims of sexual violence. (2) To analyze and explain how the police provide legal protection for women victims of sexual violence. This study uses empirical research methods. This method is used to review or analyze primary data in the form of data in the field where the writer researched and the results of direct interviews and electronic questionnaires (e-questionnaires) submitted to respondents and then connected with secondary data in the form of legal materials to analyze legal protection women victims of sexual violence in the city of Makassar. The results of research related to legal protection for women victims of sexual violence in the city of Makassar have not been maximized, this is because the TPKS Law has not been implemented optimally, and during the last five years, the number of sexual violence has been quite high. In addition, there is no special room for examining victims (taking BAP), so the level of comfort and safety for victims during examinations is still minimal. Research Recommendations: Build a strategy to maximize the implementation of the TPKS Law and Strengthen the Capacity of APH and Facilitators; build maximum coordination of APH and related service institutions.

© 2023 Jurnal Ilmiah Global Education

*Corresponding author email: baharuddin.badaru@umi.ac.id

INTRODUCTION

Prior to the passing of the Sexual Violence Act (UU TPKS), several regulations were used as references for handling cases of sexual violence, such as; The Criminal Code (KUHP), the Child Protection Act (UU PA), the Law on the Elimination of Domestic Violence (UU PKDRT) and the Law on Trafficking in Persons (UU TIP). However, these regulations have not provided a deterrent effect or minimized crimes of sexual violence, and the punishments given have not been maximized for the perpetrators, instead creating disappointment for victims to

seek and obtain legal justice. Overcoming this problem, the government and DPRD RI formed the TPKS Law with the hope that it could be used as a legal umbrella by victims to get justice and legal protection. In 2022, on 9 May 2022, to be precise, the Draft Law on Criminal Acts on Sexual Violence (RUU TPKS) was passed into the Law on Criminal Acts on Sexual Violence or abbreviated as the UU TPKS, which has been championed for ± 10 years by Women Activists, Civil Society Organizations and other related parties and rolling in the DPR RI. In the TPKS Law, there were nine types of sexual violence that were accommodated, which had previously been adapted to the ten types of sexual violence that existed in other laws before the TPKS law was passed. The types of sexual violence contained in the TPKS Law are:

1. Non-physical sexual harassment;
2. physical, sexual harassment;
3. coercion of contraception;
4. forced sterilization;
5. forced marriage;
6. sexual abuse;
7. sexual exploitation;
8. sexual slavery; And
9. Electronic-based sexual violence.

There are several acts of sexual violence in other laws, such as:

1. Rape;
2. Obscene acts;
3. Sexual intercourse with children, obscene acts against children, and/or sexual exploitation of children;
4. Acts that violate morality against the will of the victim;
5. Pornography involving children or pornography that explicitly contains violence and sexual exploitation;
6. forced prostitution;
7. The criminal act of trafficking in persons aimed at sexual exploitation;
8. Sexual violence within the household;
9. Money laundering crime whose predicate offence is a Sexual Violence Crime; And
10. Other acts of violence that are expressly stated in the provisions of laws and regulations.

In terms of substance regulated by the TPKS Law, various progress and breakthroughs are accommodated therein. Starting from protection, treatment, and recovery, as well as victim prevention.

The existence of the Law on criminal acts of sexual violence can at least solve the problems of sexual violence, which so far have been considered unable to provide legal protection to victims of sexual violence experienced by both adult women and women who are still minors (children). For example, in cases of rape experienced by women with their boyfriends or their own friends. This tendency cannot be reached by laws such as the Criminal Code, especially Article 285 of the Criminal Code (Article on rape), because of the complexity of the examination and even the tendency of the police to release the perpetrators on the grounds that sexual violence against women is not a crime because it is done consensually. This is also the case when sexual violence is perpetrated by someone who is not his girlfriend or friend but is perpetrated by another person, who is always constrained by 2 (two) valid pieces of evidence as a condition for naming the perpetrator as a suspect. This obstacle occurs not only in Makassar City but also in all regions in Indonesia. Women victims of sexual violence still experience difficulties in fighting for their rights, especially if they are faced with law enforcement agencies or law enforcement officials. At the prosecution level, prosecutors always find it difficult to transfer cases of violence against women to court because they are always constrained by evidence, especially witnesses who see/know firsthand. Prosecutors always return files to investigators with the excuse that there is insufficient evidence without ever thinking about the

protracted condition of the victim (trauma). At the trial level, very few sexual violence cases reach court/trial because, apart from the difficulty in proving, the judge also does not pay attention to the position and condition of the victim.

By the Law on Crime of Sexual Violence, the above problems can already be answered. In the Sexual Assault Crime Law, the proving process does not have to follow the requirements as stipulated in the Criminal Procedure Code (the book of the Criminal Procedure Code) because according to the Law, 1 () evidence and statement are sufficient for the Crime of Sexual Violence. Victims can ensnare perpetrators of sexual violence, whoever the perpetrators are. Even so, the birth of the Law on Sexual Violence cannot run as it should if the substance of the Law is not understood and understood by Law Enforcement Officials (APH), especially the police as investigators and investigators, as well as the Public Prosecutor as the prosecutor and the judge as case breaker. In less than a year after this Law was passed, based on provisional data from the Makassar Polresta, there were 2 (two) cases of sexual violence that had been handled by investigators but still used conventional patterns of handling. The author says it is conventional because the police are still using Article 285 of the Criminal Code without using the articles regulated in the Sexual Violence Act, and even 1 (one) other case was carried out by means of mediation with the Restorative Justice (RJ) approach. Such a reality, even though the issue of sexual violence such as rape in substance has given fresh air to victims of sexual violence, if law enforcement officials (in this case, the police), public prosecutors and judges do not understand the substance of the Law on violent crimes From this sexual perspective, legally speaking, the situation of women victims of sexual violence will experience the same events in the era before the birth of the Law on Crime of Sexual Violence. If this happens, the state has not yet provided guarantees and progress towards respecting, fulfilling and appreciating justice and providing legal protection for women victims of sexual violence. Based on this background, the author of this thesis takes the title Legal Protection for Women Victims of Sexual Violence in Makassar City.

METHODS

Research Type

This writing uses empirical research, is used to review or analyze primary data in the form of data in the field where research is conducted, and the results of direct interviews and questionnaires submitted to respondents are then connected with secondary data in the form of legal materials to analyze the legal protection of women victims of violence sexual. The approach taken is an approach by analyzing the data obtained from the research location and then connecting it with the Law and sharpening it with aspects of legal theory which is the focus of the research. This approach is expected to provide a concrete picture of how to protect women who are victims of sexual violence.

Data Types and Sources

In this research, two types of data are needed, namely, primary data and secondary data, as follows:

1. Primary data is data obtained through research.
2. Secondary data is data obtained through library research, namely by examining literature, newspaper clippings and laws and regulations, as well as the results of previous research in the form of dissertations and theses related to the research topic of study.

Population and Sample

Research Population

The population in the study were female survivors/survivors and/or victims and/or families of victims of sexual violence in the city of Makassar.

Research Sample

In order for the number to provide an objective answer, a randomly selected sample consisting of:

- a. Investigators: 2 people
- b. Lawyers/Advocates: 10 people
- c. Paralegals: 5 people
- d. Assistant/UPT PPA: 4 people
- e. Psychology: 2 people
- f. Community Figures: 2 people
- g. Religious Figures: 2 people
- h. Victims/survivors: 3 people

So, a total sample of 30 (thirty) people from various backgrounds so far interacted both with victims and with Law Enforcement Officials (Investigators).

Data Collection Techniques

The data collection techniques that researchers use in this study to obtain data are:

1. Library research, namely data collected by examining some literature and other readings and legal materials that are still relevant and related and related to the topic that is the subject of discussion.
2. Field research, namely data collected by conducting research directly to obtain accurate data. The data is done in the following way:
 - a. Observation, namely direct observation of the process of handling cases of sexual violence.
 - b. Interview (interview), namely data collection, is done with written questions addressed to respondents.
 - c. A questionnaire or E-questionnaire is carried out by distributing a list of questions to respondents in an open and closed form that are structured.

Data analysis technique

Since this type of research is empirical and the data obtained are primary and secondary data, then in analyzing the data will use empirical analysis. The empirical analysis is used on primary legal materials and studies and secondary legal materials that will be obtained from the studies.

RESULTS AND DISCUSSION

Regulations that provide protection for women victims of violence.

In almost all regions in Indonesia, women victims of sexual violence still experience difficulties in fighting for their rights, especially when they are faced with law enforcement agencies or law enforcement officials. Negative labeling is almost always obtained, even with experience assisting victims (women) of sexual violence, both at the police level (investigation and investigation) and at the prosecution level, including at the trial level. At the police level, investigators, especially in the Women and Children Protection Unit (PPA Unit), victims/women, are faced with various questions that are painful for victims, so women indirectly become "down" and cornered because of the behavior of the police officers who are not on their side. At the prosecution level, prosecutors always find it difficult to transfer cases of violence against women to court (P21) because there are always reasons that there are no witnesses who see/know directly, are very rigid and always corner the victim. Prosecutors always return files with the excuse that there is insufficient evidence without ever thinking about the protracted condition of the victim (trauma). At the court level, very few cases of sexual violence reach court/trial because, apart from the difficulty in proving it is sometimes seen as a disgrace, for example, in rape cases. During this handling, the victim sometimes received intimidation or pressure from the perpetrator and/or the perpetrator's family.

Several regulations are used as a reference for handling cases of sexual violence, such as; The Criminal Code, the Child Protection Law, the PKDRT Law and the Trafficking Law, but these regulations have not received maximum deterrence against violence perpetrated by

perpetrators. Rape cases are only categorized as obscenity with a relatively low legal threat. Meanwhile, women/rape victims who are in conflict with the Law sometimes become objects of ridicule and targets for bullying. Women victims are considered perpetrators or considered as triggers of violence. So that many women victims leave deep wounds on their bodies and self-esteem, so they need support to survive and survive. Therefore, when the legal process is underway, and the perpetrators receive deterrence, the victim must also receive recovery (counseling) until they are healthy and recovering. The existence of the Sexual Violence Act and of course is a breath of fresh air for Indonesian women and children who are most vulnerable to becoming victims of sexual violence because the TPKS Law is a lex specialist law that can provide comprehensive protection for victims of sexual violence from upstream to downstream by prevent all forms of sexual violence. And various breakthroughs in it make it easy for investigators to deal with cases of sexual violence as well as being a legal umbrella for victims of sexual violence, including victim companions; however, whether the Law is implemented optimally or not later by Law Enforcement Officials. Based on the results of research on legal protection for women victims of sexual violence in Makassar City, both through interviews and through online questionnaires with 30 respondents consisting of Investigators, Lawyers/Advocates, Paralegals, Assistants/UPT PPA, Psychologists, Community Leaders, Religious Leaders and Victims/survivors. From the results of distributing questionnaires in terms of gender, there were 8 or 27% male and 22 or 73% female. In addition, there five respondents were interviewed in-depth, namely from the Makassar Polrestabe PPA Unit, LBH APIK Sulsel and UPT PPA Makassar City, so that the results are broken down in Data which is made in the form of a diagram.

Legal protection for women victims of sexual violence is provided by the police.

So far, women victims of sexual violence sometimes do not get attention, and even more fatally, there are still victims of sexual violence who are reported back or criminalized, so the state must be present to provide fulfillment of the right to protection for victims. As stated in the Witness and Victim Protection Act, namely legal protection for victims of sexual violence. The reason for this is based on the results of research on the application of the TPKS Law by investigators. 53.33% of respondents chose not to be optimal, 30% of them chose less than optimal, and only 16.67% of respondents chose it to be optimal. In the opinion of the author, respondents gave an assessment according to the facts seen and felt so far, especially when providing assistance to the police.

According to the author, various strategies can be used to minimize or not maximize protection for women victims of sexual violence, including pushing for the immediate signing of derivative regulations (PP and Perpres), conducting thorough training and outreach to investigators, especially at the PPA Unit of the Makassar Polrestabes. Various previous policies that already existed and became bridge articles in handling cases of sexual violence, such as the Criminal Code and the Criminal Procedure Code (articles on rape, intercourse and obscenity), are still used, but formally, they should use the TPKS Law, Investigators use it as military and formal use of the Criminal Procedure Code, the Law on the Elimination of Violence In the Household (PKDRT), the Law on the Crime of Trafficking in Persons (TPPO), and other laws even though the elements of violence in the TPKS Law are clear both physically and psychologically. So that the author also compares with several previous opinions, which are used as a reference in conducting legal analysis as follows:

Rape and obscenity (sexual violence) will be briefly described as follows:

Rape

Rape in the Criminal Code does not fully guarantee the protection of women. For example, in the Criminal Code, rape is an act of intercourse with threats of violence or violence against women outside of marriage. The Criminal Code does not recognize rape that occurs outside of marriage or marital rape. This is interpreted that a wife "has no legal right to refuse sexual relations from her husband." Based on this perspective, Wirjono Prodjodikoro interprets that "a husband may rape his wife in order to have intercourse." This provision and meaning

become odd when compared to Article 289 of the Criminal Code, which prohibits the coercion of obscenity both to partners inside and outside of marriage. The Criminal Code prohibits a husband/wife from committing violence or threats of violence to force their partner to commit obscenity (for example holding their partner's genitals) but allows a husband to use violence or threats of violence to force his wife to have intercourse. The elements of "violence and threats of violence" cannot be separated from the element of "coercion." Violence and threats of violence are carried out so that a woman is forced to have intercourse. This compulsion occurred as a result of violence, either using bare hands or tools that resulted in physical injury, as well as threats of violence in the form of verbal speech without any evidence of physical injury.

Obscene Acts

Obscenity in the Criminal Code has not been perfect in providing protection to women because it has not paid attention to the victim's situation at the time of the incident. Obscenity has the potential to be committed when someone has more power than the victim. So child abuse victims should get special attention. Therefore, the Criminal Code specifically regulates the crime of committing obscene acts that violate decency with someone who is his subordinate. Relations of power are very clear because, between superiors and subordinates within the scope of work, both domestic and public, victims do not have a position of continuous resistance to fight. So that it is very clearly regulated in Article 294 of the Criminal Code, which completely regulates:

Paragraph 1: Whoever commits obscene acts with his child, his stepson, his adopted child, a child under his supervision who is not yet an adult, or with a person who is not yet an adult whose maintenance, education or care is entrusted to him or with his bachelor or his subordinate who is not yet an adult, is threatened with criminal maximum imprisonment of seven years.

Paragraph 2: Punished with the same sentence:

1. An official who commits an obscene act with a person who by virtue of position is his subordinate or with a person entrusted or entrusted with his care.
2. Managers, doctors, teachers, employees, supervisors or errands in prisons, state jobs, educational institutions, orphanages, hospitals, psychiatric hospitals, or social institutions who commit obscene acts with the people who are put in them.

In addition, Article 294 paragraph (1) also has the potential to be unable to ensnare the perpetrators if the law enforcers are reluctant to broaden their interpretation. One of the potential problems of law enforcement is interpretation. One of the potential problems in law enforcement is the interpretation of "a person who according to position is a subordinate of the perpetrator." P.A.F. Lamintang, for example, interprets this element as fulfilled if the victim is a subordinate of the perpetrator in a position and not a rank. Thus, this provision has the potential to rule out obscene acts committed by someone with a higher rank or as a senior to their juniors.

Lidwina Inge Nurtjahyo expressed her criticism of Article 294 of the Criminal Code because there is no burdensome punishment for perpetrators who commit obscene acts by using their power or position. The perpetrator not only committed obscenity but also abused his power and position to make the victim helpless. Then, the perpetrator takes advantage of this powerlessness for himself. Women who are victims of obscenity also often get stereotyping, which harms them when they report the obscenity they experience. The credibility and validity of reports of women victims of obscenity are often overlooked by the authorities. This happens if the female victim in her daily behavior behaves and acts not in accordance with the public view of how a woman, for example, wears clothes that reveal the surface of the skin of her neck, upper chest and legs and/or accepts invitations to have dinner together, or often uses language vulgar in the conversation, the report has the potential not to be heard by the authorities. In addition, the legal issue discussed regarding the consistency of decisions in this section is a legal issue regarding the interpretation of the element of "violence or threats of violence" contained in the sexual crimes article in the Criminal Code. There are two articles on sexual crimes that include this element in the Criminal Code, namely Article 285 concerning rape and Article 289 concerning obscenity. The full text of the two articles is as follows:

- Article 285 of the Criminal Code states: Any person using violence or threats of violence forces a woman to have intercourse with him outside of marriage is threatened with committing rape with a maximum imprisonment of twelve years.
- Article 289 of the Criminal Code states: Whoever with violence or threats of violence forces a person to commit or allow obscene acts to be carried out is threatened with committing an act that attacks the honor of decency, with a maximum imprisonment of nine years.
-

Analysis Related to Legal Issues

The Criminal Code explicitly defines what actions can be categorized as violence or threats of violence. This resulted in the Panel of Judges finally seeking a definition of violence or the threat of violence from various sources to form the basis for the interpretation given. Following are some definitions of violence or threats of violence that are usually used by the Panel of Judges in the legal considerations of their decisions. In the Criminal Code made by R. Soesilo, it is only explained that it is related to violence; see Article 89 of the Criminal Code. In Article 89 of the Criminal Code, what is equated with committing violence is making people faint and helpless. Then R. Soesilo explained that committing violence means illegally using a great deal of physical force or strength, for example, hitting with the hands or with all kinds of weapons, kicking, kicking, etc. R. Sowsilo interprets fainting as not remembering or not being aware of himself. This condition can be caused by several actions. For example, the perpetrator gives a drink of amethyst poison or other drugs to the victim so that the victim does not remember anymore, and the person who has fainted cannot know what happened to him. Then helpless means not having the strength or energy at all so that it cannot put up the slightest resistance. For example, tying his feet and hands with ropes, locking him in a room, and giving an injection so that the person is paralyzed. According to Soesilo, it should be noted here that threatening someone by making them faint or helpless should not be equated with threatening violence because this Article only says about committing violence, not talking about violence or threats of violence. Dating is of the opinion that what is meant by violence is a means of coercion, a means of causing the resistance of the person being forced to weaken. If violence makes a woman weak or helpless because she runs out of energy, or violence breaks her progress (her resistance) because there is contact between the two types of genitals, the resistance of the woman stops, then coercive acts continue to occur. The woman gave herself up under coercion. The surrender actually wants to be rejected by the victim. Then Lamintang, in his book, quoted Professor Simons' opinion. Violence or geweld according to Lamintang is any use of body energy that is not too significant (elke uitoefening van lichamelijke kracht van niet al te geringe betekenis) or any use of body energy that is not too light (het aanwende van lichamelijke kracht van niet al te geringe intensiteit). On the other hand, the threat to use violence, in the decision of the Hoge Raad dated 5 January 1914 and the decision of the Hoge Raad dated 18 October 1915, was formulated with the conditions that must be met to qualify a threat to use violence, namely:

- a. That the threat must be uttered in such a condition as to create an impression on the person receiving the threat, namely that the person being threatened will actually be detrimental to his personal freedom.
- b. That the intention of the perpetrator had indeed been intended to create such an impression.

Discussion regarding elements of violence or threats of violence cannot be separated from discussions regarding the rape article because this element is one of the elements in the rape article in the Indonesian Criminal Code. This element also usually results in a rape case not being tried or continued with the examination process due to the lack of evidence that can fulfill this element. According to a forensic expert, Ferryal Basbeth, in the medical world, elements of violence can be seen from the traumatology suffered by the victim, for example, whether there are bruises or abrasions on the victim's body. Thus, the results are visible to the naked eye, unlike the case with elements of threats of violence. This element is an element that is subjective, which usually creates fear in the psychological condition of the victim. Forms of threats of violence in rape cases include threats to kill the victim's family if the victim refuses to have sex with the

perpetrator. Due to its subjective nature, it is often difficult to prove elements of threats of violence.

The Domain of Sexual Violence

Sexual violence can happen to anyone and at any time. Data from Komnas Perempuan shows that sexual violence occurs in all domains, namely personal, public and state. In the personal realm, it means that sexual violence is perpetrated by people who have blood relations (father, brother, sister, uncle, grandfather), kinship, marriage (husband) or intimate relationship (dating) with the victim. The large number of cases at the personal level could be related to the presence of a legal umbrella, namely the Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), which has been socialized widely to the community, increased institutions that can be accessed by women victims, as well as increasing the victim's trust in the justice process and the recovery that she can obtain by reporting her case. At the same time, this information dispels the myth that a home is a safe place for women and that women will be protected if they are always with a male member of their family. Domestic violence (KDRT) or domestic violence is a topic of special discussion because it has a different legal and regulatory area from sexual violence, especially rape and obscene acts, which are regulated in the Criminal Code. In Indonesia, domestic violence is regulated in Law No. 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT). Sexual violence in the realm of domestic violence has special characteristics that are different from sexual violence outside the household. Domestic violence occurs when the perpetrator and the victim have a special relationship (e.g., family) that occurs "behind closed doors" (in the house) in a household. Domestic violence occurs because the perpetrators of violence "have a higher position and power than the victim," where the victim usually depends on the perpetrator. This higher position and power is derived from the historical inequality of power relations between men and women. Violence is often done to maintain power and position. Regarding domestic violence, this position and power are obtained from academic/educational degrees, employment, and income (economics).

In the public domain, it means cases where the victim and the perpetrator have no kinship, blood or marriage relationship. It could be that the perpetrators are employers, neighbors, teachers, co-workers, community leaders, or people you don't know.

In the realm of the state, it was also found that the perpetrators of violence were state apparatus in their duty capacity. In the context of the perpetrators being state apparatus, in the capacity of their duties, this is what is meant as the domain of the state. Included in cases in the realm of the state are when during an incident of violence, state officials are at the scene but do not try to stop or even allow the violence to continue. 2022 on 9 May 2022, the Bill on the Crime of Sexual Violence was passed into the Law on Crime of Sexual Violence or abbreviated as the TPKS Law, which for ± 10 years has been championed by women activists, Civil Society Organizations and other related parties and has been rolling in the DPR RI. In the TPKS Law, there are nine types of sexual violence that have been accommodated, which were previously adapted to the ten types of sexual violence that existed in other laws before the TPKS law was passed, namely:

The types of sexual violence contained in the TPKS Law include:

1. Non-physical sexual harassment;
2. physical, sexual harassment;
3. coercion of contraception;
4. forced sterilization;
5. forced marriage;
6. sexual abuse;
7. sexual exploitation;
8. sexual slavery; And
9. Electronic-based sexual violence

And there are several other crimes against sexual violence, such as:

1. Rape;

2. Obscene acts;
3. Sexual intercourse with children, obscene acts against children, and/or sexual exploitation of children;
4. Acts that violate morality against the will of the victim;
5. Pornography involving children or pornography that explicitly contains violence and sexual exploitation;
6. forced prostitution;
7. The criminal act of trafficking in persons aimed at sexual exploitation;
8. Sexual violence within the household;
9. Money laundering crime whose predicate offense is a Sexual Violence Crime; And
10. Other KS criminal acts that are expressly stated in the provisions of laws and regulations.

In terms of substance regulated by the TPKS Law, various advances and breakthroughs have been accommodated in it, starting from the protection, handling and recovery of victims and even prevention. In the writer's opinion, various previous policies have become the basis for maximally and progressively implementing the new policy (TPKS Law) due to the many problems experienced by victims in various ways to criminalize it so that the victim's perspective is important to put forward so that the protection of women as victims of sexual violence can be maximized including victim recovery. This is also done so as not to repeat the crime of sexual violence. Basically, based on the results of the author's research, the protection provided by the State through Law Enforcement Institutions, in this case, the PPA Polrestabes Makassar Unit, both in terms of policy and its apparatus (investigators), is still not optimal and still needs improvement, capacity strengthening and maximum coordination with other related parties. At present the passage of Law Number 12 of 2022 concerning Crimes of Sexual Violence (TPKS Law) was passed on 12 April 2022 and promulgated on 9 May 2022; it is still being encouraged so that derivative regulations are ratified as soon as possible course to provide maximum protection to victims. The derivative regulations meant are 3 (three) Government Regulations (PP) and 4 (four) Presidential Regulations (Perpres). As a form of the state's commitment to providing protection for victims and ensuring that victims' rights to treatment, protection and recovery are maximized. The 7 (seven) derivative regulations of the TPKS Law that are being drafted are in the form of 3 (three) Government Regulations (PP) and 4 (four) Presidential Regulations (Perpres) in the form of:

1. RPP on Funds for Victims of Sexual Violence;
2. RPP on Prevention of Crimes of Sexual Violence and Handling, Protection, and Recovery of Victims of Crimes of Sexual Violence;
3. RPP on Coordination and Monitoring of the Implementation of Prevention and Handling of Victims of Sexual Violence;
4. Presidential Decree on Implementation of Integrated Services in Handling, Protection and Recovery at the Center;
5. Presidential Decree on the Regional Technical Implementation Unit for the Protection of Women and Children;
6. Presidential Decree on the National Policy for Eradicating Crimes of Sexual Violence; And
7. Presidential Regulation on Implementation of Integrated Education and Training for Law Enforcement Officials and Government Service Personnel, and Service Personnel at Community-Based Service Provider Institutions.

Of the seven derivative regulations for the TPKS Law, 5 (five) draft derivative regulations for the TPKS Law were initiated by KemenPPPA, and 2 (two) other draft derivative regulations were initiated by the Ministry of Law and Human Rights (Kemenkumham). The lack of protection provided by Law Enforcement Officials, especially the police, is related to the various challenges faced, such as the Socialization of the TPKS Law is still minimal, not all APHs understand and apply the TPKS Law, Implementation of Integrated Services is not yet running, and Service infrastructure services are also inadequate.

From the results of the above research related to the existing theory, it can be seen that the implementation of the Law on Sexual Violence (TPKS) has not run optimally; this is in accordance with Lawrence Meir Friedman's theory of the legal system, which consists of 3 components, namely the legal structure, legal substance, and legal culture. So that the implementation of the TPKS Law has not been maximized; this is inseparable from the lack of law enforcement officials (legal structure) implementing laws (legal substance) that have existed since 2022 and are also influenced by customs or culture (legal culture) that have developed in law enforcement institutions, namely in Polrestabes Makassar, so that legal protection for women victims of sexual violence has not been maximized. This makes women victims of sexual violence continue to receive labeling (stigma) related to the situation experienced by women victims of sexual violence so that women undergoing the legal process associated with feminist legal theory must always be based on the situation and experience of women as victims both during the incident and after the incident or after the legal process because the impact will be seen long after the incident experienced by the victim, so the recovery process is important.

CONCLUSION

Based on the discussion in this study, the conclusions that can be drawn are:

1. The Criminal Code, the TPPO Law, the PKDRT Law and other laws have not provided maximum protection for women victims of sexual violence. However, it is hoped that the TPKS Law will provide maximum protection.
2. The Police at the Makassar Polrestabes, especially in the Women and Children Protection Unit (PPA), have not provided maximum protection, this is according to research results, namely:
 - a. There is no Special Examination Room (RPK) for victims of sexual violence, and during the examination of victims, it was still mixed with other cases.
 - b. The lack of human resources (female investigators) owned by the Makassar Polrestabes PPA Unit; out of 12 investigators, only 4 were female investigators.
 - c. The low capacity of APH (investigators) related to policies, especially the TPKS Law; out of 12 investigators, only two investigators have attended training, namely one female investigator and one male investigator.
 - d. APH (investigators) at Polrestabes Makassar have not fully understood and implemented the Witness and Victim Protection Law.

SUGGESTION

Based on the above conclusions, the researcher's suggestions are as follows:

1. APH (investigators) at the Makassar Polrestabes must apply the Law on Sexual Violence (TPKS).
2. The Makassar Polrestabes PPA Unit must provide a Special Service Room (RPK) for examining Victims of Sexual Violence.
3. The Makassar Polrestabes PPA Unit must add additional investigator personnel, especially female investigators.
4. Investigators at the Makassar Polrestabes PPA Unit must attend training both organized by the police and held by related Ministries and Institutions.
5. Build maximum coordination between the APH (investigators) of the Makassar Polrestabes and related service institutions.

REFERENCES

- Atnike Nova Sigirow and Bagus Takwin, 2021, Recognizing the Needs and Challenges of Handling Victims of Sexual Violence; Learning from the Experience of the Service Providers Forum, Women's Journal 109, Jakarta.
- Muhammad Rifa'at, Adiakarti Farid, 2019, Violence against Women and Inequality in Power

- Relations, Journal of Gender Studies accessed on 7 April 2023 at [https://journal.walisongo.ac.id/index.php/sawwa/Jurnal Studi Gender- Vol 14, No. 2 \(2019\) 177](https://journal.walisongo.ac.id/index.php/sawwa/Jurnal%20Studi%20Gender-Vol%2014,%20No.%202(2019)177).
- Muhammad Mustafa, 2017, Postmodern Victimology, Journal of Indonesian Criminology, Volume 13, No. 2, University of Indonesia, Jakarta.
- Riyan Alpian, 2022, Legal Protection for Victims of Sexual Violence in Higher Education, Lex Renaissance Journal, No. No1 vol. 7, Indonesian Islamic University, Jakarta.
- Risna Desimory Tambunsaribu and Ikhapurti Widiyantini, 2021, The Political Personal Domain in the Plan to Eliminate Sexual Violence in Indonesia, Jurnal Perempuan 109, Jakarta.
- Rosania Paradias and Eko Soponyono, 2022, Legal Protection for Victims of Sexual Harassment, Indonesian Journal of Legal Developments, Volume 4, Number 1, Diponegoro University, Semarang.
- Utami Zahirah Noviani P., Rafidah Arifah, Cecep and Sahadi Humaedi, 2018, Overcoming and Preventing Sexual Violence in Women with Assertive Training, accessed 7 April 2023, at <https://www.researchgate.net/publication/326510210>.
- Yonna Beatrix Salamor and Anna Maria Salamor, 2022, Sexual violence against women, Law journal accessed on 6 April 2023 at <http://fhukum.unpatti.ac.id/jurnal/balobe/artikel/view/791>.
- HM Supardi, H Thalib, AR Hambali, 2021, Legal Protection for the Investigation of Children who are Victims of Sexual Harassment, Vol. 2 no. 6 Journal of Lex generalis (JLG), UMI, Makassar.
<http://pasca-umi.ac.id/indez.php/jlg>.
- S Hidayat, M Pawennei, A Makkuasa, 2023, Consequences of Underage Marriage Law: Studies at the Pangkajene Religious Court, Journal of Lex Generalis (JLG), UMI, Makassar.
<http://www.pasca-umi.ac.id/indez.php/jlg/article/view/1432>.
- N Asliana, H Thalib, A Qahar, 2023, Legal Protection of Children as Victims of Criminal Abuse, Journal of Lex Generalis (JLG), Vol. 4 No. 2, UMI, Makassar.
<http://www.pasca-umi.ac.id/indez.php/jlg.article/view/1365>.
- W Wahyuningsih, H Thalib, AR Hambali, 2021, The Power of Proof of Visum Et Repertium in the Crime of Rape, 20Journal of Lex Generalis (JLG) Vol. 2 No. 3, UMI, Makassar.
<http://www.pasca-umi.ac.id/indez.php/jlg.article.view/1840>.
- IA Lestari, H Thalib, A Qahar, 2021, Legal Protection for Children Victims of Trafficking in Persons based on the Child Protection Act, Journal of Lex Generalis (JLG), Vol. 2 No. 9, UMI, Makassar.
<http://www.pasca-umi.ac.id/index.php/jlg.article.view/645>.