



Legal Protection for Male Children Victims of Sexual Violence In Indonesia

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Abstract. *Sexual violence refers to a range of actions that degrade, insult, assault, or violate a person's body without their consent or ability to give consent. Both women and men, particularly male children, often face challenges in finding protection from this type of violence in public spaces. This study aims to assess the enforcement of laws against perpetrators of sexual violence against male children, the legal protection available to victims, as well as the barriers and prevention efforts related to reporting such cases. The method used in this study is a normative juridical approach, focusing on statutory analysis. Providing legal protection for victims of sexual violence is vital in safeguarding their human rights. According to Law No. 31 of 2014 on Witness and Victim Protection and Law No. 12 of 2022 on Sexual Violence Crimes, protection should encompass the fulfillment of rights, security assistance, and ensuring the safety of victims. It is the responsibility of the state to respect, protect, and fulfill the human rights of all victims of sexual violence, both physical and non-physical. Law No. 12 of 2022 specifically grants rights to victims of sexual violence, including support throughout the legal process, access to legal services, psychological support, healthcare services, removal of sexual content, identity protection, and recovery through rehabilitation and compensation. This legislation is victim-centered, prioritizing principles such as respect for human dignity, non-discrimination, the best interests of the victim, justice, utility, and legal certainty. By providing comprehensive legal protection, it is hoped that the occurrence of sexual violence in Indonesia can be minimized, and victims can receive the justice and support they rightfully deserve.*

Keywords: *Sexual Violence, Legal Protection, Male Children Victims, Victims' Rights.*

1. Introduction

Article 1(3) of the 1945 Constitution declares Indonesia as a state governed by law. The law consists of binding norms that regulate societal relations, with sanctions imposed for violations. It guarantees equal rights and protection for all, regardless of gender or age. Victims of crimes are entitled to legal protection. As society evolves, criminal acts become more diverse, committed by individuals from different backgrounds. These acts are often intentional and premeditated. While technological advancement brings benefits like access to information, it also introduces foreign influences that may conflict with national norms, contributing to criminal behavior.

According to Article 7(b) of Law No. 26 of 2000 on Human Rights Courts, Crimes Against Humanity encompass a range of acts, including rape, sexual slavery, forced prostitution, coercion of pregnancy, forced sterilization, and other forms of sexual violence [1]. Sexual violence refers to any act that degrades, assaults, or violates an individual's body in relation to sexual desires or reproductive functions. It occurs without consent or in

situations where consent cannot be freely given due to power imbalances or other factors. These actions inflict physical, psychological, or sexual harm [2].

Law No. 12 of 2022 on Sexual Violence Crimes defines sexual violence to include sexual harassment, which refers to any sexual behavior carried out without the victim's consent. This can be physical or non-physical, such as whistling, lewd comments, suggestive looks, or displaying pornography. Physical harassment includes unwanted touching or sexual gestures, causing discomfort, humiliation, or harm. Sexual harassment can affect both men and women.

In February 2016, Saipul Jamil was reported by a 17-year-old teenager on charges of sexual abuse. The victim had initially refused Saipul Jamil's request to stay at his house, but eventually fell asleep around 4:00 AM. While the victim was asleep, Saipul Jamil committed indecent acts. Saipul Jamil was sentenced to 3 years in prison for his actions. However, the DKI Jakarta High Court later increased Saipul Jamil's sentence to 5 years in prison on appeal.

Unfortunately, Saipul Jamil's release was met with great celebration and flowers, as if his actions were justified and showed no empathy for the victim [3]. In April 2021, Indonesia made headlines again with a rape case involving a 28-year-old woman and a 16-year-old boy in Probolinggo, East Java. The victim claimed that the perpetrator gave him alcohol before the rape [4]. Many members of the public and netizens treated this case as a joke, normalizing sexual violence against men. Sexual violence against boys can also occur in the pesantren environment, which is meant to be a safe place for education.

However, for a 13-year-old male santri in Bener Meriah District, Aceh, it became a terrifying place. He was sexually abused by a Quranic teacher. The 22-year-old perpetrator repeatedly sodomized the victim. The police have arrested the perpetrator, who is now being held in a local police cell. During questioning, the perpetrator admitted to sodomizing the victim more than twice between November 2021 and the beginning of 2022. The crimes took place in one of the rooms at the pesantren, where the victim had been a student for 2 years [5].

Cases of sexual violence against male students have been reported at Pesantren Annahla in Lhokseumawe, Aceh. Fifteen male students were sexually abused by the leader and a teacher at the pesantren. The perpetrators would call the victims individually to clean the room, and once alone with the victim, they would request oral sex. Although there was no physical violence or threats involved, the perpetrators used religious doctrines to intimidate the students, making them afraid to refuse their demands [6].

While women are commonly recognized as vulnerable to sexual violence [7], the examples show that male children can also be victims. Male children often face greater difficulties in finding protection and safety in public spaces. The 2020 Gender Equality Barometer Report by IJRS and INFID revealed that 33% of men have experienced sexual violence, mainly harassment. A KRPA survey with 62,224 respondents found that 1 in 10 men had been harassed in public spaces. In 2018, KPAI data showed that 60% of sexual violence victims were boys, and a 2017 Ministry report indicated male children aged 13-17 experienced more sexual violence (8%) than girls (4.1%) [8].

Numerous incidents of sexual harassment involving boys often go unreported and receive minimal attention, seldom becoming part of public discussions or legal proceedings. This unfortunate circumstance can be attributed to the prevailing notion that men are less susceptible to harassment, given their perceived strength compared to women. This perception is closely linked to the concept of toxic masculinity, an ingrained societal construct that enforces patriarchal norms and places immense pressure on men to suppress emotions and adhere to traits such as strength and dominance. Consequently, boys may feel powerless to report instances of sexual violence, resulting in both physical and psychological harm [9].

2. Literature Review

Legal protection consists of efforts by the government or authorities to safeguard individuals through regulations. It reflects the law's function to provide security and uphold rights, as outlined in Law No. 39 of 1999 on Human Rights. Legal protection encompasses justice, order, certainty, utility, and peace. According to Satjipto Raharjo, it safeguards human rights from violations, ensuring individuals can fully enjoy their legal rights.

In the *Journal of Financial Economics*, R. La Porta discusses the two main aspects of state-provided legal protection: preventive (Prohibited) and punitive (Sanction). Preventive protection involves the creation of regulations, while punitive protection focuses on the enforcement of these regulations [10]. The implementation of legal protection is carried out by various institutions, such as courts, prosecutors, police, and alternative dispute resolution agencies. These institutions require specific facilities to provide legal protection, which can be classified into two types [11]:

1. Preventive Legal Protection Facilities aim to prevent disputes by allowing individuals to challenge or provide input on government decisions before they are finalized. These facilities are particularly important for administrative actions that involve discretionary power, as they encourage careful decision-making by the government. However, it is worth noting that Indonesia currently lacks specific regulations for preventive legal protection.
2. Repressive Legal Protection Facilities in Indonesia resolve disputes through the General and Administrative Courts. These facilities prioritize the recognition and protection of human rights, drawing on historical Western concepts that emphasize the limits and obligations of both society and government. Moreover, the concept of the rule of law highlights the crucial role of human rights in establishing a fair legal system.

Sexual violence encompasses any act that demeans, insults, or assaults an individual's body or reproductive functions due to power or gender imbalances [12]. This results in psychological and physical harm, including reproductive health issues and loss of safe educational opportunities. It includes coercion, threats, torture, and abandonment. Sexual violence affects both men and women, with men also experiencing forms such as anal or oral rape, genital torture, castration, and forced sterilization.

Sexual violence against men can be categorized into two types: Child Sex Abuse (CSA) and Adult Sex Abuse (ASA) [13]. Child Sexual Abuse (CSA) involves adults or individuals in positions of power coercing children into sexual activities, recognizing that children cannot consent. Adult Sexual Assault (ASA) is similar but targets adults, with motives such as sexual gratification, humiliation, or control. Victims are those who endure physical, mental, emotional, or economic harm due to actions or omissions that violate their fundamental rights and interests, including abuse of power [14]. According to Arif Gosita, victims suffer physical and mental harm from actions that breach their human rights and interests [15].

Article 1(3) of Government Regulation No. 3 of 2002 and Article 1(5) of Law No. 27 of 2004 provide a definition for victims. According to these regulations, a victim is an individual or group who has suffered physical, mental, or emotional harm, economic loss, or deprivation of fundamental rights as a result of severe human rights violations [16]. In Law No. 12 of 2022 on Sexual Violence Crimes, the rights of victims are further explained in Articles 66-70. These rights include the entitlement to treatment, protection, and recovery. Article 67 specifically outlines these rights, while Article 68 delves into seven aspects of treatment, such as access to information, legal services, psychological and health support, and the removal of sexual content from media. Protection rights are addressed in Article 69, covering aspects such as confidentiality, protection from threats, and prevention of job or educational loss. Lastly, Article 70 discusses recovery rights, encompassing medical, physical, and mental rehabilitation, as well as state-supported spiritual and economic empowerment.

3. Methodology

This study utilizes normative legal research to analyze various legal materials, including legislation, court decisions, principles, doctrines, theories, and expert opinions [17]. It takes a statutory approach by reviewing all relevant laws and regulations related to the issue being investigated [18]. The primary legal materials examined include the Criminal Code, Law No. 12 of 2022 on Sexual Violence Crimes, Law No. 26 of 2000 on the Human Rights Court, and Ministerial Regulation No. 30 of 2021. Additionally, secondary materials such as textbooks, legal articles, and expert opinions are used to provide additional context. Qualitative analysis is employed to interpret these legal materials [19] and present a detailed description of the legal conditions within a specific societal context [20].

4. Findings and Discussions

Legal protection aims to safeguard individuals whose human rights have been violated, ensuring that they can fully enjoy their legal rights [21]. The concept of "protection" is defined in Article 1(8) of Law No. 31 of 2014 on Witness and Victim Protection, which encompasses all measures to fulfill the rights and ensure the safety of witnesses and victims. This responsibility is entrusted to the Witness and Victim Protection Agency (LPSK) or other designated bodies.

Furthermore, Law No. 12 of 2022 on Sexual Violence Crimes defines a "victim" in Article 1(3) as someone who suffers physical, mental, or economic harm from a criminal act, while Article 1(4) narrows the definition to encompass individuals who endure harm from sexual violence, affecting their physical, mental, economic, or social well-being. Indonesia, as a rule-of-law country, has a vital role in upholding human rights and, therefore, is committed to protecting victims of sexual violence.

This protection extends to all types of crime victims, including those who have experienced physical or non-physical sexual violence, whether it occurred offline or online. Sexual violence is a clear violation of human rights, which are guaranteed by the 1945 Constitution of Indonesia. Articles 28A, 28G, and 28I explicitly affirm the right to life, personal protection, and fundamental human rights, such as freedom from torture, enslavement, and retroactive prosecution. These constitutional provisions clearly reflect the Indonesian legal system's firm stance against all forms of violence, including sexual violence [22].

Sexual harassment can affect anyone, regardless of their gender. While women are often more frequently victimized, men and boys are also vulnerable and deserve legal protection. Law No. 31 of 2014, which amends Law No. 13 of 2006 on Witness and Victim Protection, provides a comprehensive set of rights for victims. These rights encompass protection for their personal safety, family, and property, as well as protection from threats related to their testimony. Victims have the right to actively participate in choosing the protection and security measures that are implemented, and they should be able to provide their testimony without any form of coercion.

They are also entitled to translation services, protection from leading questions, and regular updates on the progress of their case, including information about court decisions and notifications regarding the release of the convicted person. The confidentiality of their identity is ensured, and if necessary, they may be given a new identity. Additional support includes temporary accommodation, assistance with finding new housing, reimbursement for transportation costs, access to legal advice, financial assistance for living expenses during the protection period, and accompaniment throughout the entire process.

In addressing male child victims of sexual harassment, the state has enacted Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS), demonstrating its commitment to victim protection. The UU TPKS covers both physical and non-physical sexual harassment in Articles 5 and 6 and includes provisions on victim protection, rights, and support. Article 67 of the law specifies that victims have the right to handling, protection, and recovery,

with the state responsible for ensuring these rights based on the victims' needs and conditions.

Articles 68 to 70 of Law No. 12 of 2022 on Sexual Violence Crimes grant victims a comprehensive set of rights. These rights are designed to ensure their safety and aid in their recovery. The right to handling includes access to information about their case and its outcome, receipt of relevant documents, and access to legal and psychological support. Additionally, victims have the right to medical care, specialized services tailored to their needs, and the removal of any sexual content from electronic media if applicable. The right to protection ensures that victims are informed of their rights and protective measures. It also shields them from threats or violence by the perpetrators and safeguards them from negative treatment by authorities. This right also encompasses the confidentiality of their identity, protection against job or educational loss, and immunity from legal repercussions related to the reported violence. Finally, the right to recovery provides victims with access to medical and mental rehabilitation, social empowerment initiatives, restitution or compensation, and support for social reintegration. All of these measures aim to facilitate the victims' complete recovery and successful reintegration into society.

The right to handling encompasses the procedural aspects of addressing victims' cases, which includes being transparent about the process and outcomes. Victims are entitled to comprehensive medical services that cater to their specific needs, both physical and psychological. For example, if a victim is mute or deaf, they should have access to a sign language interpreter. Similarly, victims with physical disabilities should receive appropriate accommodations such as a wheelchair. Additionally, victims of sexual violence involving electronic media have the right to ensure the removal of any sexual content related to the abuse. The right to protection ensures that victims receive safety and support throughout the legal process. This includes protection from the perpetrator and reassurance that future harm will be prevented. To avoid further stigma, victims' identities are kept confidential, and law enforcement must handle their cases with sensitivity and without judgment. Victims are also safeguarded from potential negative consequences, such as job loss, educational setbacks, or legal repercussions from the perpetrator. The right to recovery involves comprehensive efforts to restore the physical, mental, spiritual, and social well-being of victims of sexual violence. This is done through tailored rehabilitation services provided by qualified professionals. The aim of this recovery process is to reintegrate victims back into their daily lives and social environments. In addition to rehabilitation, victims are also entitled to restitution and compensation [23]. Government Regulation No. 35 of 2020, which amends Government Regulation No. 7 of 2018, states that compensation is provided by the state when the perpetrator is unable to fully compensate the victim. Restitution, on the other hand, is provided by the perpetrator or a third party, as defined in Article 1, Paragraph 5 of the same regulation [23].

In cases of sexual harassment against men, it is important for authorities and service providers to employ a victim-centered approach. This approach addresses the specific needs of male victims and encourages them to seek legal redress. Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) plays a critical role in protecting victims by addressing both physical and non-physical harassment. This law is grounded in principles such as respect for human dignity, non-discrimination, and justice, with the aim of reducing sexual violence and creating a violence-free environment.

5. Conclusions

Legal protection for victims of sexual violence is crucial to uphold human rights. The Law No. 31 of 2014 on Witness and Victim Protection, specifically in Article 1, paragraph (8), emphasizes the importance of protecting victims by preserving their rights and ensuring their safety. According to Article 1, paragraph (3) of this law, victims are defined as individuals who have suffered physical, mental, or economic harm due to criminal acts. Law No. 12 of 2022 on Sexual Violence Crimes, in Article 1, paragraph (4), expands the

definition of victims to include social suffering. Protecting victims is not only a responsibility of the state to uphold human rights, but it also addresses various forms of sexual violence, including online offenses. Sexual violence not only violates criminal law but also infringes upon the fundamental rights guaranteed by the 1945 Constitution, specifically Articles 28A, 28G, and 28I, which safeguard rights such as life and personal security.

All victims of sexual violence, regardless of gender, including boys, are entitled to legal protections outlined in Law No. 31 of 2014 and Law No. 12 of 2022. These protections encompass personal security, involvement in protection decisions, freedom from coercion, access to case information, confidentiality, and legal support. Law No. 12 of 2022 further specifies additional rights, such as access to handling, protection, and recovery services, including psychological and medical support, as well as the removal of explicit content. Protection measures also include maintaining confidentiality, ensuring safety from threats, and safeguarding against job or educational loss.

In terms of recovery, victims have rights to medical and mental rehabilitation, social empowerment, and restitution or compensation. Restitution can be sought from the perpetrator or a third party, while compensation can be provided by the state if the perpetrator is unable to provide it. A victim-centered approach is crucial in providing effective support for recovery, ensuring that state authorities and service providers meet the needs of victims. Law No. 12 of 2022 ensures a comprehensive approach to handling sexual violence cases, prioritizing principles of dignity, non-discrimination, and justice to reduce violence and create a safe environment. The aim is to enhance justice and recovery for victims of sexual violence in Indonesia.

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