

The Urgency of Women Protection from Sexual Violence: An Analysis of The Current Regulations in Indonesia

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Abstract. The purpose of the Indonesia listed in the constitution is to protect the entire Indonesian citizens. One form of protection for citizens is protecting the right to be free from threats and violence. However, in the last three years, cases of sexual violence have tended to increase. In 2019, there were 3,528 cases of sexual violence. After the draft of the Women's Violence Bill (RUU P-KS) fails to be ratified by the DPR from 2016 to 2020, further evaluation and analysis should be conducted to know the consequences and impact on efforts to protect women from violence as well as any efforts that have been made by the Indonesian government to take preventive and repressive measures against cases of sexual violence that afflict women. This study seeks to examine juridical rules related to the protection of women in the realm of legislation and policies made by the Government. This study uses a normative juridical approach. This study concludes that there are no laws and regulations in Indonesia that specifically deal with sexual violence. The existing regulations such as KUHP, the Law on the Elimination of Domestic Violence, etc., have not addressed sexual violence specifically.

Keywords: Women, Sexual Violence, Laws, and Regulations

1 Introduction

The formation of the Unitary State of the Republic of Indonesia strives to defend the whole Indonesian nation, among other things. This purpose must be regarded as all citizens, including women, being protected. The Preamble to the 1945 Constitution of the Republic of Indonesia (UUD 1945) outlines the goals pursued throughout the articles that make up the body of the Constitution. Apart from the constitution, the principle of legal protection for the Indonesian people is derived from Pancasila and the concept of the rule of law. The three sources prioritize recognition, guarantee, and respect for human dignity manifested in two forms, namely preventive and repressive legal protection facilities. (Hanum, 2020)

The state guarantees no fewer than 40 citizen rights under the 1945 Constitution, referred to as citizens' constitutional rights. These 14 constitutional rights are: I the right to citizenship; (ii) the right to life; (iii) the right to self-development; (iv) the right to freedom of thought and choice; (v) the right to knowledge; and (vi) the right to freedom of expression. (vii) the right to property and housing; (viii) the right to health and a healthy environment; (ix) family rights; (x) the right to legal certainty and justice; (xi) the right to be free from threats, discrimination, and violence; (xii) the right to protection; (xiv) the right to fight for rights; and (xv) the right to government. To achieve this purpose, the state must safeguard all citizens, particularly

vulnerable groups such as women and children, and groups with specific requirements such as those with disabilities. (Muhtaj, 2009)

The Committee on the Elimination of Discrimination Against Women's (CEDAW) General Recommendation No. 19 on violence against women notes that Gender-based violence is a kind of discrimination that seriously restricts women from enjoying their rights and freedoms on an equal basis with men, according to General Recommendation No. 19 of the Committee on the Elimination of Discrimination Against Women (CEDAW Committee). Acts of gender-based violence are defined as acts of violence that are directly directed at women because they are female or have disproportionately affected women, according to this broad recommendation. This includes activities that cause physical, psychological, or sexual pain or suffering, as well as threats, coercion, and other types of deprivation of liberty. The 1993 Vienna Declaration, which reaffirms this General Recommendation, declares that violence against women is a violation of human rights.

As a result, eliminating violence against women/sexual violence is a necessary component of human rights acknowledgment. Any act of shaming, insulting, attacking, and/or other actions against the body related to one's sex appetite is referred to as sexual violence. Due to disparity in power relations, gender relations, and/or other circumstances, a person is unable to offer consent in a state of freedom, resulting in or potentially resulting in physical, psychological, sexual anguish or agony, economic, social, cultural, and/or political losses. (Academic Paper of The Draft Law on The Elimination of Sexual Violence, 2016)

Sexual violence accounts for 25% of violence against women (KtP) in Komnas Perempuan's Annual Records (CATAHU) from 1998 to 2011 in Indonesia. This situation demonstrates how violence against women leads to a variety of sexual characteristics. Gender construction, as a social construct that evolves and develops in society, has resulted in more women being treated as sexual objects. These second-class humans are vulnerable to violence and prejudice. Sexual violence, ranging from sexual harassment to rape, sexual exploitation, and sexual enslavement, is frequently triggered by the presence of women. According to the CATAHU 2019 of Komnas Perempuan, there were 156 cases of sexual harassment, 394 cases of sexual harassment, 18 cases of attempted rape, 762 cases of rape, 1136 cases of sexual harassment, and 55 other occurrences of sexual violence. (www.komnasperempuan.go.id, 2020)

Following Pancasila and the 1945 Constitution, the government and society must take preventive, protective, and repressive measures against perpetrators of domestic violence to protect victims and punish perpetrators. Violence in various forms. Domestic violence, in particular, is regarded as a breach of human rights, a crime against human dignity, and a form of discrimination in all forms. As developments reveal, physical, emotional, sexual, and domestic violence are growing more common, we must take action and provide benefits to prevent such crimes.

Citizens, not only adult women but also women in their youth, are the most victims of sexual abuse due to the patriarchal society's socio-cultural framework. The right to be free of threats, discrimination, and violence is a crucial one to achieve. The realization of this right is closely linked to other fundamental rights, such as the right to protection and a fair trial. The right to safety and justice are also crucial in ensuring that victims' rights are respected in cases of sexual violence. The criminal procedural law, which focuses solely on preserving the suspect's rights, has pushed the victim's protection, and feeling of justice to the margins. (Poerwandari, Penguatan Psikologis Untuk Menanggulangi Kekerasan Dalam Rumah Tangga dan Kekerasan Seksual: Panduan Dalam Bentuk Tanya Jawab, 2006)

Due to the Criminal Code's weak control of sexual assault, many cases of sexual violence go unpunished, allowing criminals to go unpunished and sexual violence to persist. Law

Number 23 of 2002 concerning child protection, which was later updated by Law Number 35 of 2014, and Law Number 21 of 2007 concerning eradicating the crime of human trafficking, provides. The three statutes can only be utilized for sexual assault that happens in a limited scope: victims are victims of domestic violence, children, or victims of criminal acts of trafficking in persons. (Nurmila, 2019)

Because the Indonesian Constitution and many laws and regulations have guaranteed the need for particular treatment for efforts to promote, respect, fulfill, and safeguard the rights of women and children, the limiting of the legal umbrella that protects them from sexual violence is alarming. As a result, it's fascinating to consider how arrangements for the protection of women from sexual violence have evolved and how to overcome the legal vacuum that exists in this area.

2 Methodology

Legal research is an endeavour to seek out and discover accurate legal knowledge. There is, of course, a method for looking for and discovering it, which is the method (Rahmi, 2018). In this study, normative research was used to examine various laws and regulations relating to the Urgency of Protecting Women from Sexual Violence in a Gender-Justice Legal System. Legal research undertaken by examining library or secondary materials is normative legal research or library law research. Research on legal principles is conducted on legal rules, which are criteria for behaving appropriately or inappropriately, in normative legal research.

3 Result and Discussion

3.1 Development of Regulations Regarding Sexual Violence in Indonesia

Elimination of all forms of discrimination against women is vital to study, considering that there is not a single country in this world where women are allowed to experience discrimination (unfair treatment), although in different degrees and forms. Therefore, the significance of discussing, encouraging implementation, knowing the barriers and opportunities to fulfill women's rights is fundamental. The fulfillment of women's rights realizes human rights, which are often not appropriately fulfilled because they are discriminated against. Women are one of the most vulnerable groups to various types of human rights violations because of the discrimination they experience. Discrimination is a form of violation of human rights. (Rahayu, 2012).

Thus, discrimination against women violates women's human rights, so that women's empowerment is needed so that women can fight for their rights that are violated. The state has a great responsibility in eliminating discrimination against women because the development of discriminatory practices against women is closely related to various issues that are the responsibility of the state, such as poverty, strengthening of religious and cultural fundamentalism or conservatism, as well as restrictions on women's rights both in politics and for work in the public sphere. (Sumera, 2013).

To overcome the problem of discrimination experienced by women, there is one international human rights instrument, namely the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was adopted by the United Nations in

1979 and ratified by Indonesia through Law Number 7 of 1984 concerning Ratification of the Convention Regarding the Elimination of All Forms of Discrimination Against Women.

Thus, Indonesia has a responsibility to eliminate all forms of discrimination against women and apply the principle of equality between men and women in law and everyday life. Indonesia has tried various things to protect women's human rights by applying CEDAW. However, the consistency of the Indonesian government in guaranteeing women's rights still needs to be further proven. This means that although *de jure* Indonesia has made various progress, *de facto*, the government still must do a lot of homework in implementing CEDAW comprehensively. The state must continue to prove its commitment, including responding positively to comments and recommendations on reporting on the implementation of CEDAW by the state and shadow reports from civil society every year. (Rahayu, 2012)

In the perspective of human rights, there is no need to wait for more victims because one victim is a victim. In addition, an act that is considered minor, such as non-physical sexual harassment in the form of catcalling, will cause discomfort to the victim and develop into a fear that can lead to death. On the other hand, public service providers noted that sexual violence against women and children was very high and occurred massively throughout Indonesia. Nine types of sexual violence occurred, although it is not yet clear which articles can be used to ensnare the perpetrators (void of legal substance). Victims of sexual violence are also not only women but also men. (Ratna Betari Munti, 2020).

Although women will experience different impacts from men in terms of sexual and reproductive health, LBH APIK Jakarta in 2019 noted that out of nine types of sexual violence, four of them were reported to this institution, namely sexual harassment, both physical and non-physical, sexual exploitation, rape and forced abortion. There were 103 cases of sexual violence against adult women and 46 cases of sexual violence against children. The total cases of sexual violence reported to LBH APIK in 2019 amounted to 149 cases. Meanwhile, in Aceh, cases of sexual violence as recorded in the Annual Records (Catahu) "Flower Aceh" show a reasonably high number, namely 72 percent, compared to all cases of violence against women and children handled. Rape and sexual harassment were reported the most. In addition, the number of sexual violence that occurs in the household, including incest, is also high. (APIK, 2021)

The data compiled by the Action Network shows that the number of cases of sexual violence against boys is greater than that of girls. One in seven victims was a boy, and one in nine victims was a girl. Komnas Perempuan noted that for three years, in 2016-2018, there were 17,940 cases of sexual violence or 42 percent of the total 40,849 cases of violence against women. This means that, on average, there are 5,980 cases of sexual violence every year. Of the 17,940 cases of sexual violence, 17,088 cases were reported by public service providers, of which 8,797 cases were rape. As many as 852 cases were direct complaints to Komnas Perempuan, of which 111 cases were rape. In 2011, Komnas Perempuan stated that at least three women in Indonesia experience sexual violence every two hours. Meanwhile, the Central Statistics Agency (BPS) in 2016 noted that the prevalence of violence is one in three women in Indonesia who have experienced physical violence and (or) sexual violence. (www.komnasperempuan.go.id, 2020)

The Witness and Victim Protection Agency (LPSK) stated that the number of applications for protection at LPSK in 2019 showed an increase. In 2018, the number of people protected for sexual violence was 407, and in 2019 it was 510 people (LPSK, 2021). Of the number covered in 2019, about five-sixths were children, and many requests for protection came from incest cases, or the perpetrators were close people. Perpetrators of incest are biological fathers, uncles, grandfathers, brothers or sisters, and perpetrators who are close people are stepfathers, adoptive fathers, neighbors, and teachers, including Koran teachers, religious teachers, and school

principals (www.komnasperempuan.go.id, 2020). The state even supports the view that sexual violence is a crime against decency through the contents of the Criminal Code (KUHP). In the Criminal Code, sexual violence such as rape is considered a violation of moral norms. This categorization reduces the degree of criminal acts committed and creates the view that sexual violence is a matter of morality alone. (FHUI, 2016)

From the juridical aspect, three aspects must be considered in understanding the obstacles faced by victims, namely aspects of substance, structure, and legal culture (Friedman, 1975). At the substance level, although there is an affirmation of the right to protection from violence and discrimination, the various types of sexual violence are not yet recognized by Indonesian law. As explained earlier, the Criminal Code only regulates sexual violence in the context of rape, whose formulation cannot protect women victims of violence. Although then there was Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 23 of 2002, which was later amended by Law Number 35 of 2014 concerning Child Protection, and Law Number 21 of 2007 concerning Eradication of Violence Criminal Trafficking in Persons, which recognizes other forms of sexual violence although they are still limited, the three laws can only be used for sexual violence that occurs in a limited scope: victims are victims of domestic violence, children, or victims of sexual abuse, and trafficking in persons.

There are many definitions of violence against women, including that given by Heise, that violence against women is any act of verbal or physical violence, coercion, or threats to life directed at a woman, either a child or an adult, that causes harm to women physical abuse, humiliation, and deprivation of liberty to perpetuate the subordination of women". This definition has not presented a gender analysis (Gender is a term that indicates the division of social roles between men and women, which refers to the provision of emotional and psychological characteristics expected by certain cultures to be adapted to the physical male and female). (Fakih, 1996)

Prof. Soetandyo defines violence as an action carried out by a person or many people who are in a strong position (feeling strong) to a person or a number of people who are in a weak position (considered weak/weakened), who utilize their strength, both physically and non-physically intentionally Sexual violence is included in the scope of sexual harassment, namely all forms of behavior that have connotations or lead to sexual things that are carried out unilaterally and are not expected by the person being targeted to cause negative reactions such as shame, angry, hateful, offended, and so on in the individual who is the victim of the harassment. (Jauhariyah, 2017)

Ahmad Sofian defines sexual violence against children as a relationship or interaction between a child and someone older or a more reasonable child or an adult such as a stranger, sibling, or parent where the child is used as an object to satisfy the sexual needs of the perpetrator. These acts are carried out using coercion, threats, bribes, deception, and pressure. Violence against women can be defined simply as all forms of behavior committed against women that give rise to psychological consequences in feelings of fear to implications in the form of physical injury. This definition is so broad that it covers everything from sexual harassment in the form of whistling or teasing against women to neglect by the State on the condition of women citizens who are victims of violence. (Sofian, 2010)

In human rights instruments, sexual violence is defined as "an act of a sexual nature against one or more persons or causes that person or persons to perform acts of a sexual nature by force, or by threats of violence or coercion, such as caused by fear of violence, coercion, detention, psychological oppression or abuse of power, against such person or persons or other persons, or by taking advantage of the coercive environment or inability of such person or persons to give real consent." (Elsam, 2021)

E. Kristi Poerwandari describes sexual violence as “an attack or physical attempt to injure the sexual or reproductive organs, as well as psychological attacks (degrading, insulting actions) directed at the subject's sexual appreciation. For example, sexual manipulation of children (or parties who do not have an equal bargaining position), forced sexual intercourse/rape, forced forms of sexual intercourse, sadism in sexual relations, mutilation of sexual organs, forced abortion, forced pregnancy, and other forms. (Poerwandari, 2004).

There are 4 (four) categories covering almost all patterns of violence, namely:

- a. Legal violence can be in the form of violence supported by law, for example, legally justified violence such as soldiers carrying out duties in war.
- b. Violence that is socially sanctioned; a critical factor in analyzing violence is the level of support for social sanctions against it. For example, acts of violence by the community or adulterers will receive social support.
- c. Rational violence: some acts of violence that are not legal but have no social sanctions are crimes in the context of crime, for example, murder within the framework of an organized crime
- d. Callous violence that occurs without any prior provocation, without paying attention to particular motivations, and in general, the victim is not known by the perpetrator. It can be classified into "Raw Violence," a direct expression of a person's psychic disturbance in a specific moment of life. (Titahelu, 2016)

Human rights are rights inherent in humans that reflect their dignity, which must obtain legal guarantees because rights can only be effective if protected by law. Protecting rights can be guaranteed if those rights are part of the law, which contains legal procedures to protect these rights. Law reflects human rights, so whether the law includes justice or not is determined by the human rights contained and regulated or guaranteed by the law. The law is no longer seen as a mere reflection of power but must also reflect the protection of the rights of citizens. (Prabowo, 2018)

At the police level, when a victim reports a case, investigators tend to adhere to positive law in determining whether a case is included in the category of a criminal act or not. So when there are no rules related to the case, the victim will find it difficult to report the case, even though the case experienced is an incident of sexual violence. This legal vacuum means that not all cases of sexual violence can be processed through the criminal justice system. Cases such as verbal or other non-physical sexual harassment, or cases of sexual exploitation such as that which often occurs in courtship relationships (Dating Violence) or other relationships, for example, on campus, are challenging to process because they are considered to have no legal regulations. (Ratna Betari Munti, 2020)

The Criminal Code, which only regulates rape and obscenity, cannot be used for non-physical sexual harassment, sexual exploitation, sexual slavery, and sexual torture, as well as sexual violence with an online locus. Many sexual outbreaks of violence have a devastating impact and even make the victim want to commit suicide. In handling cases of sexual violence against children, a legal vacuum was also identified. First, the Child Protection Act only regulates obscenity, while sexual harassment is not regulated. As a result, confusion arises when children provide information, and APH uses the term obscenity for cases of sexual abuse where these terms have different boundaries. Second, the Child Protection Law limits exploitation to economic and sexual exploitation, even though many cases can be categorized as forms of sexual slavery. (Ratna Betari Munti, 2020)

Sexual slavery cannot be categorized as economic exploitation or sexual exploitation because it transcends both. For example, the case of a person with a disability who was forced

to have sexual relations with his father, brother, and sister for years. Another case that also goes beyond the category of sexual exploitation is, for example, a child who is prostituted and has to serve 15 people a night. He is under the control of a pimp and will be fined if he escapes. A legal vacuum occurs when the development of criminal acts of sexual violence is not followed by legal reform. Criminal law instruments only recognize sexual violence like rape and obscenity. Meanwhile, other types of sexual violence, such as forced marriage and sexual exploitation, do not have a criminal basis. The following is an explanation regarding the limitations of the legal regulation in Indonesia. (APIK, www.lbhapik.or.id, n.d.)

Table 1. Limitations of The Legal Regulation in Indonesia (Ratna Betari Munti, 2020)

Number	Type Sexual Violence	Legal Regulation	Limitations Legal Regulation
1.	Rape	Article 285 of the Criminal Code	Limited to sexual intercourse with use of force or threats
2.	Sexual Harassment	Sexual harassment has not been regulated in the Criminal Code, but the Criminal Code regulates Obscene Acts (articles 289, 290, and 294)	Limited forms of harassment by physical contact such as kissing, touching genitals. Must meet the elements action: by force or threat violence; fainting state, helpless physically, lewd acts against those under his protection.
3.	Sexual Exploitation	Law Number 21 Years 2007 on the Eradication of the Crime of Trafficking in Persons	Persons Limited acts for human trafficking
4.	Sexual Slavery & Torture, Forced Contraception	Law Number 26 the Year 2000 concerning Human Rights Court	Limited to the context of crimes against humanity, with the fulfillment of 3 elements of action: 1) Performed as part of a widespread attack 2) Or systematic 3) What he knows is that the attack was directed against the civilian population
5.	Forced Abortion	Criminal Code (Article 347), Health Law (Article 76)	Physical-Coercion, Targeting Practices Medical-Difficult in Cases of Exploitation-Power Relations
6.	Forced Marriage	There is no regulation yet	

There is a new model of sexual violence and the presence of nine categories of sexual violence that existing legal substances have not fully addressed. The spread of the locus of sexual violence from offline to online is one of them. The Draft Law on the Elimination of Sexual Abuse is expected to address this type of online or sexual violence. The internet's growth has also resulted in a new source of sexual violence. According to Komnas Perempuan, violence in the digital realm is a new trend category, with no case reports earlier and a rising number of cases recently. Cases like this are new phenomena for law enforcement officers, and its unclear which article will be used. (www.komnasperempuan.go.id, 2020).

Finally, the Criminal Code, namely the offense of defamation or unpleasant conduct, and Article 27 of the Electronic Information and Transaction Law, all three of which are rubber articles, are frequently invoked. Victims of cyber-based sexual violence, on the other hand, are concerned about being caught up in the Pornography Law and the ITE Law. Since 2018, LBH

APIK Jakarta has been dealing with reports of cyber-based violence against women, and the pattern is quite intricate. (APIK, www.lbhapik.or.id, 2021).

Victims who want to report their case experience difficulties in the evidentiary process. For example, the perpetrator is unknown, and the victim tends to feel afraid if the photos and videos can be spread to other parties. In the process of proving in the police, there are obstacles with the limited number of experts who understand gender-based violence associated with the ITE Law. Substantively, the ITE Law regulates the verification process using digital forensics, while the Polda Metro Jaya only owns the supporting tools, so the process takes a long time.

3.2 Prospects of Women's Protection in Indonesia

Sexual violence is an iceberg phenomenon. Documented case data is only a tiny part of the facts that exist in the community. Figures, which represent the number of cases, come from cases reported to public service providers. Meanwhile, many victims did not report cases of sexual violence they experienced (Indonesia, 2020). There are a number of factors that cause victims not to report cases of sexual violence they experienced. First, the stigma and perceptions of families and society towards sexual violence, especially in adult women, then lead to victim-blaming. The view that considers sexual violence as a disgrace that will tarnish the good name of the family and society also makes victims reluctant to report.

Second, there is a power relationship between the victim and the perpetrator, making the helpless victim not dare to report. Third, the victim's limited knowledge does not know that she has experienced sexual violence, especially since the victim is a child. This is because the people in their environment have never discussed the issue of sexual violence. Fourth, when the victim is aware of sexual violence against her, they often do not know who to tell or what to do. Lack of understanding of sexual violence and information related to legal access and victims' rights are also obstacles to reporting sexual violence. Even among journalists, an educated group with a strategic role in communicating information to the public, understanding sexual violence and legal access remains limited.

In the discussion of the film *More Than Work*, which involved journalists in more than 120 places, the questions asked by the discussion participants were still in the form of basic information needs related to sexual violence and the rights of victims and how to access these rights. This iceberg phenomenon is also related to taboos related to traditions and views that exist in society. This makes the woman victim unable to tell her condition because there are many things to consider. Apart from being an iceberg phenomenon, sexual violence is also considered systematic violence. The absence of a comprehensive legal basis that regulates the elimination of sexual violence causes the case handling process to be inadequate for victims. This situation makes it difficult for victims to obtain a fair trial process and fulfill their right to remedy. (www.konde.co, 2020).

The legal system is not yet fully capable of protecting victims of sexual violence, resulting in incidents of sexual violence as if it were a trivial event and denying the opportunity for perpetrators to get a deterrent effect. This contributes to the recurrence of cases of sexual violence with all its repercussions. This condition is exacerbated by the state's neglect of cases of sexual violence. The absence of state recognition of the rape tragedy in May 1998 is the starting point for the state's neglect of the issue of violence, particularly sexual violence against women. This sets a bad precedent for other cases of sexual violence.

The high number of sexual violence against women and girls must be addressed immediately so that Indonesia can achieve the target of achieving the Sustainable Development Goals (SDGs) and carry out the mandate of the constitution. Indonesia desperately needs a legal umbrella that provides protection and justice for victims of sexual violence, such as the Draft

Law on the Elimination of Sexual Violence, as a manifestation of gender inequality. The number of incidents of sexual violence requires intervention and the presence of the state to prevent and deal with them comprehensively.

Komnas Perempuan, in 2012, announced the identification of 15 types of sexual violence based on documented cases of sexual violence in the last ten years. In 2013, Komnas Perempuan conducted a study to identify laws and regulations that could be the basis for criminalizing sexual violence crimes by examining three things, namely; 1) There is an element of action as a type of sexual violence; 2) Threat of punishment imposed; 3) Mention of acts of sexual violence. Based on this study, Komnas Perempuan stated that only three of the 15 types of sexual violence had criminal arrangements with many intrinsic limitations. The Criminal Code regulates rape, the Child Protection Law regulates sexual exploitation of children, and Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons regulates sexual exploitation and trafficking in persons, which in its distribution of articles can be used to ensnare perpetrators who trade in persons for sexual purposes. (tempo, 2021).

This is the background behind Komnas Perempuan and several institutions that are members of the service provider forum (FPL) to draft a bill that regulates the issue of sexual violence, which was later called the P-KS Bill. The P-KS Bill has been an initiative of the DPR RI since April 2017. However, it was not thoroughly discussed until the end of the 2015 - 2019 DPR RI period. Finally, the P-KS Bill was again submitted to the Legislative Body of the DPR RI and recorded in the list of Priority Prolegnas Bills. 2020. When this report was compiled, the dynamics of this bill came to the fore again after the withdrawal of this bill from the 2020 Priority Prolegnas.

The Draft Law on the Elimination of Sexual Violence is an effort to reform the law to address these problems. This legal reform has various purposes, as follows:

- a. Prevent incidents of sexual violence;
- b. Develop and implement mechanisms for handling, protecting, and recovering that involve the community and side with the victim so that the victim can overcome the violence she has experienced and become a survivor;
- c. Provide justice for victims of sexual crimes through criminal and firm actions for perpetrators of sexual violence;
- d. Ensure the implementation of state obligations, the role of the family, community participation, and corporate responsibility in creating an environment free of sexual violence. (Academic Paper of The Draft Law on The Elimination of Sexual Violence, 2016)

The legal reform is realized in its entirety which includes, among others: regulation on preventing the occurrence of sexual violence; forms of sexual violence; victims' rights, including remedies; procedural law for the criminal justice of sexual violence, including on evidence; monitoring the elimination of sexual violence; and sentencing. In addition, the most important thing to do is how the P-KS Bill can form a new system that better protects women from the side of law enforcement and encourages the state's role to be more responsible for efforts to recover victims and prevent sexual violence in the future.

The proposed P-KS Bill is an effort to overhaul the legal system to address systemic sexual violence against women. The P-KS Bill is a breakthrough so that the law accommodates the needs and interests of women victims of violence. This bill is based on a study of the experiences of victims of violence and how they face the legal process. The principle of law is an essential and fundamental element of the rule of law because the principle of law is the broadest basis for the birth of legal regulation. The existence of legal principles in regulations (articles) is not just a collection of regulations. Still, it contains ethical values and demands that bridge between

legal regulations and social ideals and the ethical views of society. However, legal principles are not legal regulations, and no law can be understood without knowing the legal principles.

Therefore, to understand the law of a nation as well as possible, one can look at its legal regulations and dig it up to its legal principles. It is this legal principle that gives ethical meaning to legal regulations and the legal system. Understanding law or legal concepts, legal standards, and legal principles are elements of legal regulations. Legal regulations themselves are norms in providing clear consequences as a continuation of an act. In reviewing the legal principles related to sexual violence, in Indonesia, there is a system of legal norms that are layered and tiered and groups. (Soeprapto, 2004).

A great norm that applies is sourced and based on a higher norm. The higher norm is sourced and based on a higher norm, and so on until a basic state norm (Staatsfundamentalnorm) is Pancasila (Safa'at, 2006). The five precepts of Pancasila in its position as the formulation of the principles that form the basis for the formation of norms consist of general principles and other principles that can form the basis of the P-KS Bill, which are described as follows:

General Principles of Content of Laws and Regulations:

- a. The principle of humanity; it is intended that the content of the P-KS Bill reflects the recognition, respect, and protection of human rights and the dignity and worth of each person proportionally.
- b. The principle of protection; It is intended that the contents of the P-KS Bill serve to protect in the context of creating public peace. This is related to the state's responsibility, which must provide protection and protection for everyone, including in realizing gender equality.
- c. The principle of the archipelago; it is intended that the content of the P-KS Bill always pays attention to the interests of the entire territory of Indonesia, and the content of laws and regulations made in the regions is part of the national legal system based on Pancasila which must not conflict with the Constitution.
- d. The principle of nationality; it is intended that the content in the P-KS Bill reflects the pluralistic nature and character of the Indonesian nation (diversity) while maintaining the principles of the Unitary State of the Republic of Indonesia.
- e. The principle of Bhinneka Tunggal Ika; it is intended that every material contained in the P-KS Bill must pay attention to the diversity of the population, religion, ethnicity, class, special conditions of the region, and culture, especially those concerning sensitive issues in the life of society, nation and state.
- f. The principle of kinship or deliberation for consensus; it is intended that every material contained in the P-KS Bill must reflect deliberation to reach agreement in every decision-making. The principle of deliberation and consensus in the Law on the Elimination of Sexual Violence does not eliminate the principles of recognition, respect, fulfillment and protection, and promotion of women's human rights in all fields. It is also related to justice and substantive equality.
- g. The principle of justice; it is intended that each material of the P-KS Bill must reflect proportional and substantive justice for everyone without exception.
- h. The principle of equality of position in law and government; it is intended that any material contained in the P-KS Bill may not include things that distinguish the position of each person in the direction based on background, among others, religion, belief, ethnicity, race, class, gender, or social status.
- i. The principle of order and legal certainty; it is intended that every material contained in the P-KS Bill must reflect regulation, punishment for perpetrators, and justice for victims.
- j. The principle of balance, harmony, and harmony; intended to ensure that every material contained in the P-KS Bill must reflect balance, harmony, and harmony between the

interests of individuals and society with the interests of the nation and state. (Law Number 12 Of 2011 On Legislation Making)

Other principles for the P-KS Bill, which are under the perspective of Feminist Law, are:

- a. Respect for human dignity; is a principle that includes respect for and protection of human rights and the dignity of the victim as an Indonesian citizen.
- b. Sense of security; is a principle that reflects the responsibility of the state to provide protection and guarantees for a sense of security for victims as Indonesian citizens.
- c. Non-discrimination: is a principle that reflects non-discriminatory treatment, does not exclude/exclude victims base on any background, or prioritizes other parties.
- d. Benefit: is a principle that reflects the circumstances in which the elimination of sexual violence must provide unique benefits to victims of sexual violence.
- e. The legal process from the perspective of the victim; is a principle that reflects that the entire legal process in the elimination of sexual violence must create a conducive climate and a victim's perspective by respecting the rights of the victim, maintaining the confidentiality of the victim, not blaming the victim, respecting the victim's decision and respecting the particular needs of the victim based on the victim's experience which can influence the response. victims of sexual violence. (Law Number 12 Of 2011 On Legislation Making).

4 Conclusion

Various challenges in realizing the protection of women from sexual violence can be studied from at least three perspectives: how the law is made both substantively and procedurally; how the law is enforced by looking at management support and infrastructure; and how the legal culture is to provide a conducive environment in eliminating all forms of discrimination and harassment. However, the most important thing for the State of Indonesia to consider, aside from building a legal structure and legal culture that combats sexual violence, is to prepare a legal umbrella that protects women from sexual assault.

Some many laws and regulations support gender equality and provide protection and guarantees for women and children in the context of the development of legal substance. However, it cannot be denied that there are still many gender gap issues due to the lack of a legal umbrella that regulates the issue of sexual violence that has been implemented. Making Indonesia a country in which sexual abuse is a national emergency. As a result, the Service Provider Forum's design of the Academic Manuscript of the P-PKS Bill, which the DPR employs as a DPR initiative bill, is a concrete move by the state in carrying out the constitutional requirement of protecting people' rights from violence and discrimination

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