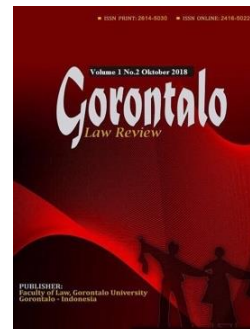


---

# Gorontalo Law Review

Volume 2 - NO. 2 – Oktober 2021  
E-ISSN: 2614-5030 P-ISSN: 2614-5022



---

## **CRIMINAL JUSTICE SYSTEM RESPONSE TO THE VICTIMS OF SEXUAL OFFENCES: DOES THE SYSTEM WORK FOR THE VICTIM'S BEST INTEREST ?**

**Astutik**

Dosen Fakultas Megister Ilmu Hukum Universitas Airlangga Surabaya  
astutik@fh.unair.ac.id

**Renda Arangraeni**

Fakultas Megister Ilmu Hukum Universitas Airlangga Surabaya  
rendaarangraeni@gmail.com

**Nina Farah Adela**

Fakultas Megister Ilmu Hukum Universitas Airlangga Surabaya  
nina.farah.a-2019@fh.unair.ac.id

**Fitriyah Khadijah**

Fakultas Megister Ilmu Hukum Universitas Airlangga Surabaya  
fitriyahkhadijah99@gmail.com

### **Abstract**

*Tingginya tingkat pelanggaran seksual yang dilakukan di Indonesia dan rendahnya tingkat keberhasilan penghukuman adalah masalah sosial. Hal ini tidak hanya ditunjukkan oleh kegagalan aparat penegak hukum, tetapi juga dari sikap para pelaku maupun korban itu sendiri. Polisi menempati peran krusial dalam penanganan kasus kekerasan seksual. Namun, petugas polisi dan personel peradilan pidana lainnya memiliki sikap terhadap pelanggaran seksual yang berbeda dari sikap pekerja pusat krisis perempuan dalam banyak masalah, termasuk penyebab pelanggaran seksual, sementara kekuatan polisi untuk menyelidiki sebuah kasus juga bergantung pada persepsi mereka. dari kekuatan bukti. Selain itu, jaringan sosial korban juga penting, karena orang lain selain korban sering melaporkan pemerkosaan. Tulisan ini bertujuan untuk mengkaji*

perkembangan sistem peradilan pidana terpadu Indonesia dalam menanggapi korban kejahatan seksual, juga untuk menganalisis secara kritis keberadaan sistem pendukung korban dan aturan dalam sistem peradilan pidana Indonesia. Tulisan ini berpendapat bahwa norma-norma sosial dan aturan acara yang mendukung niat korban untuk melapor dan sistem dukungan korban dalam sistem peradilan pidana Indonesia perlu diperkuat. Struktur tulisan ini, pertama, untuk mengeksplorasi kebutuhan untuk memberikan hak korban secara substantif dan prosedural kepada korban kejahatan seksual. Kedua, mengelaborasi perkembangan sistem pendukung korban dalam sistem peradilan pidana terpadu Indonesia. Elaborasi tersebut akan dilanjutkan dengan analisis kritis terhadap permasalahan yang ada dalam Sistem Peradilan Pidana yang berlaku di Indonesia saat ini, yaitu berdasarkan KUHAP, dan mengkritisi penerapannya yang mengabaikan hak-hak korban.

**Kata kunci : sistem peradilan pidana, hak korban, pelanggaran seksual.**

### **Abstract**

*The high rate of sexual offences committed in Indonesia and low rate of successful conviction is a societal issue. This is not only showed by the failures of law enforcement officials, but by the attitude of the perpetrators as well as the victim themselves. The police occupy a crucial role the handling of sexual assault cases. However, police officers and other criminal justice personnel hold attitudes toward sexual offences that differ from the attitudes of women crisis center workers on many issues, including the causes of sexual offences, whilst the vigor with which police investigate a case partially also depends on their perception of the strength of the evidence. Furthermore, the victim's social network is also important, since someone other than the victim often reports the rape. This paper aims to examine the development of the Indonesian integrated criminal justice system in responding victim of sexual offences, also to critically analyses the existence of the victim's support system and the rules within Indonesian criminal justice system.. This paper argues that the social norms and the rules of procedure that support victims' intentions to report and victim's support system in Indonesian criminal justice system needs to be strengthened. The structure of this paper, firstly, to explore the need to provide the victims of sexual offences with substantive and procedural victim's rights. Second, to elaborate the development of victim support system within the Indonesian integrated criminal justice system. The elaboration will be followed with the critical analyses of the problems that exist in the Criminal Justice System prevailing in Indonesia today, namely based on the Criminal Procedure Code, and criticizing its application that neglecting the rights of victims.*

**Keywords : criminal justice system, victim's rights, sexual offences.**

## **1. INTRODUCTION**

Humans are basically social beings besides individual beings. As social beings, humans have the nature of needing each other. To maintain the social relationship, regulation is needed to keep the social order, because there might be a conflict of the interests. When the legal interests are disturbed, the social order is also disrupted which will make other human beings victims.

Victims are those who suffer physically and spiritually as a result of being acted on by others who seek the fulfillment of their own or other's interests which are contrary to the interests and rights of the suffering person. From the definition

above, the victims are those who losses due to the actions of others who break the law. Unlawful acts in criminal law are acts that are not by the legal rules both written and unwritten, which are known as criminal acts. The Criminal Code determines criminal acts are distinguished between crime and violation. Crime is an act that is considered to be despicable by the community but is also threatened by the law. One of the crimes which creates a severe psychological impact on its victims is sexual offense or sexual violence. The sexual violence is increasingly widespread along with the development of communication media in Indonesia and also in the world, known as the digital era. The development of cyberspace which is loved by many teenagers makes them especially women become victims of sexual violence through cyberspace.

Sexual offenses in Indonesia increase by about 14% in 2018 compared to the previous year which was 406,178 cases. The pattern of a sexual offense that occurred according to the National Commission on Violence Against Women report was in the private or personal domain, namely 71% or 9,637 cases were domestic violence. The highest forms of sexual offenses in personal or domestic violence are incest, rape, and sexual abuse. Marital rape is also prominent in 2018. The amount of marital rape in 2018 is quite high, reaching 195 cases compared to the previous year of 172 cases. The National Commission on violence against women's next findings in cases of incest or sexual offenses daughter committed by her biological father, stepfather, uncle, or relatives who still have blood relations with the victim. The report and the form of the offense of the dating offense cases also increased. The first is cyber offenses. In the cyber-based offense cases, the pattern in the dating offense cases are almost the same, the victim is threatened by the perpetrators by distributing the photos or videos of the victims who are sexually nuanced on social media when the victim refuses to have sex with the perpetrator, or the victim abandons to the perpetrator. The second is sexually forced and breach the promise to marry. The perpetrators seduce the victim and promise to marry the victim so that the perpetrator can having sex with the victim. The third is forced an abortion. After having sex until the victim pregnant, she is forced to have an abortion or the perpetrator will leave her. The forth is about offense regarding the economic case. The victims are exploited economically. Particularly The Witness and Victim Protection Agency report also shows that child sexual abuse also increased 100% every year.

From the results of the supervision of the Indonesian Child Protection Commission (KPAI) since January-June 2019, the sexual offense in the elementary school occurred in 9 locations with the number of victims until 49 students both boys and girls. At the junior high school, sexual offences occurred in 4 locations with the 24 students as victims. It shows that the school as a place for educated the children is no longer a safe place because they can be the victims of school principals and teachers who should provide education and good examples to their students.

The increment of complaints indicates an increase of public awareness to reveal the offense against women cases and the improvement in the mechanism for recording and documenting cases of offense against women in service institutions. However, the process of examining cases of sexual offence has not sided with the women as victims. In various cases, women who become the victims of sexual offenses are only involved in the process of investigation and examination in the court, the process also makes women become double victims because they have to retell the painful events that actually should be forgotten. Besides, the attitude of the law enforcement officers who handle the case also makes women as victims of

sexual offense reluctant to report their cases because they are accused of being the cause of the crime.

Many women who become the victims of sexual offense when reporting or recounting their cases to others are accused of being defamers such as the Baiq Nuril case who must be convicted for delivering sexual harassment by their leaders, while sexual harassers are free to roam. Some of the sexual offense victims become the perpetrators of crime because they could not stand the sexual violence that they ever had, thus killing or injuring the perpetrators. The case settlement process using the Criminal Procedure Code (KUHAP) with its Criminal justice system consists of polices, prosecutors, courts and penal institutions, which has not fulfilled the element of justice and protection for women who are the victims of sexual offenses. Therefore in this paper will discuss issues related to:

1. Explore the need to provide the victims of sexual offences with the substantive and procedural victim's rights.
2. The Development of Victim Support Systems Within the Indonesian Criminal Justice System

## **2. DISCUSSION**

### **a. Explore The Need To Provide The Victims Of Sexual Offences With Substantives And Procedural Victim's Rights**

The Concept of Sexual Offences

The term offenses are used to describe behavior, both overt or covert, and both offensive or defensive, accompanied by the use of force to others. Based on these characteristics, four types of offenses can be identified, namely:

1. The overt offenses, offenses that can be seen as a fight.
2. The covert offenses, hidden offenses or undirect offenses, such as threatening behavior.
3. The aggressive offenses, offenses which not for protecting themselves, but to get something like looting
4. The defensive offenses, offenses carried out as an act of self-protection.

The covert offenses currently take place on the first rank of the offenses which happened in the private sphere, such as physical, psychological, sexual abuse or economic neglect. Most of the covert offenses in the private sphere committed by those who still have family relationships eg: father, uncle, brother, grandfather, etc.

The offense against women today is not only an individual problem or a national problem, but it has become a global problem. Called a global problem because it is related to human rights, which inherent naturally since humans were born and without it, humans can not live as humans properly. Article 1 of the Universal Declaration of Human Right states that any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private.

Article 2 of the Declaration states that the definition in article 1 encompasses, but is not limited to, physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women and forced prostitution; and physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.

- Article 1 of the Convention on the Elimination of Discrimination Against Women (CEDAW), defines Discrimination against Women including gender-based violence, which is violence directly directed against women because they are women or actions which give disproportionate consequences on women. Such actions include actions which result in physical, mental and sexual or suffering, or threats such as, coercion and other deprivations of liberty.
- Gender-based violence that damages obstructs, or excludes women's enjoyment of their human rights and fundamental freedoms under international law or based on human rights conventions, is discriminatory in the sense of article 1 of the convention.

It can be said that the root cause of offenses against women is the male domination culture, in this structure of domination offenses are often used by men to win dissent, to express dissatisfaction, to prevent future actions and sometimes to demonstrate domination solely. Offences against women are often not considered a big problem for several reasons such as:

1. absence of accurate statistics
2. assumes that sexual offense is a very personal bed problem and it is related to the sanctity of the home
3. relating to the culture/culture of fear to the husband.

Article 1 (1) The Domestic Violence Act defines: Domestic violence is any act committed against a person, especially women, which results in physical, sexual, psychological, and/or misery or neglect of the household, including threats to commit domestic violence unlawful acts, coercion or deprivation of liberty within the scope of the household.

The domestic offense includes physical, psychological, sexual violence and forms of economic neglect. This form of offense is by the typology of the reasons for the offense against women mentioned above, 2,3, and 4.

The Impact of Sexual Offences Against Women as Victims

Crime wherever and whenever it always results in the form of suffering for victims. Suffering experienced by the victim. The suffering suffered by the victim can be in the form of physical suffering or psychological suffering, it can even be in the form of economic losses and human rights violations of the victim. For the victims of sexual offenses such as rape, suffering is not only physical but also psychological suffering. Physical suffering such as injuries to the body can be cured according to the severity of the injury, in contrast to psychological suffering which haunts the victim's life at all times. The term of Rape Trauma Syndrome has more than one meaning in the psychological literature. This often creates problems when it comes to the area of scientific reliability. Studies which conducted by Burgess and Holmstrom (in Hazellwood and Burgess, 1995) from various studies on rape that have been carried out, studies which conducted by Burgess and Holmstrom in 1974 are considered important because it can explain about Rape Trauma Syndrome, the effects of traumatic which experienced by the victim after a rape. In this study, Burgess and Holmstrom revealed 2 phases in RTS:

a. The Acute Phase: Disorganization

A study in Boston found a condition where a few hours after a rape occurred, the victim showed a variety of emotions in an extreme way such as: expressive and guarded. Besides the personality factors, the emergence of these two types of emotions is also influenced by the environment and the people around the victim during the interview.

The Rape victims will fearfull of physical abuse, mutilation, and death. The victim feels very close to death and feels lucky to be alive. These feelings of fear will subsequently become the root of the emergence of Rape Trauma Syndrome.

Usually, the victim will try to block the memory and bring it to the unconscious. Nevertheless, the memory will continue to urge to lead to awareness (intrusive imagery).

b. The Long Process: Reorganization

On a daily, after a rape event has passed for a relatively long time, the victim may appear to have lived a proper life. However, if we pay close attention and listen to the conversation, we will see a psychological wound that was previously hidden. Furthermore, victims can also experience fear and phobias. Rape victims have a variety of fears and phobias related to the surrounding situation when rape occurs. For example, fear and phobias are in the room when rape occurs indoors or fear of elevators or tall buildings because rape occurs in these locations. Besides, victims may also experience fear or phobias about things that can remind them of rape incidents experienced such as television violence. The presence of the breath odor that is typical of rapists (eg the smell of beer), the special facial features of the offender (eg mustache) can also trigger phobias. Victims also often become paranoid (for example when riding can feel that everyone knows him as a rape victim).

The victims of sexual offense suffering can not be replaced by anything, different from becoming victims due to other crimes. Even the suffering experienced by the victim also comes from the attitude of the community who seems to blame the victim because his attitude has triggered the occurrence of violence. To relieve the suffering of victims, she need the support from family, close friends and also the community in the victim's environment, including the support of the legal system in force in the country to resolve cases of sexual offences that also favor the best interests of the victim, not only the interests of the perpetrators.

b.The Need for the Establishment of Material and Formal Law stand with Victims' Rights

In the framework of the concept of regulating the protection of victims, what must be considered is the essence of the victim's loss, which is not only physical but also psychological/mental suffering. Therefore according to Muladi, in the context of protecting victims of crime in the criminal justice system, there are several reasons:

1. The process of criminalization can be interpreted in general, concrete or sociological terms. In a general sense, the criminalization process is the authority of lawmakers according to the principle of legality. Concretely the criminalization process is related to the determination of a criminal through law enforcement officers (Judges, correctional institutions). Sociologically, all citizens must participate fully, as a manifestation of an institutionalized belief system. This trust is manifested in the criminal justice system such as the police, prosecutors, courts and other related institutions. The occurrence of crime and especially sexual offense against victims is the destruction of the community's belief system, therefore the regulation of criminal law and other laws relating to the problem of the victim, serves as a means of restoring that trust. In cases of sexual offenses, many victims do not report their cases to the police, because the handling by the authorities in the criminal justice system often makes the victims traumatized or not gender-biased. In the examination process in front of the investigator until the trial process, the victim must repeat telling the event that they want to forget, moreover attitude of the authorities who often blame the victim for his attitude so that they become the victims of sexual violence, etc.

2. The need to protect the victims of offense is the argument of social contracts and arguments for social solidarity. In the first argument, the state is a monopoly on all of the social reactions to crime and prohibits personal actions. Therefore, if a crime occurs and it brings victims, the state must be responsible for fulfilling the needs of the victims. The second argument, states that the state must maintain its citizens in fulfilling their needs, through improving services or through regulating rights.

3. Protection of crime victims is usually associated with one of the objectives of criminalization, namely conflict resolution. Conflict resolution caused by criminal acts, restoring balance and bringing a sense of peace in society.

Still according to Muladi, in the context of regulating criminal law against victims of crime, especially sexual offenses, two models can be applied, the procedural rights model and the service model. In the procedural model, victims are given broad access in the criminal justice system, for example, victims are present at every level of court where their interests are involved, including the right to be consulted by a penal institution before being given conditional release and the right to make peace or file a lawsuit. In this model, victims are positioned as subjects who must be given broad jurisdictional rights to demand and pursue their interests.

Furthermore, in the service model, it is emphasized the need to create standards for fostering the victims of crime, which can be used by the police, for example in the form of guidelines for notification of victims of crime or prosecutors in handling cases, providing compensation in the form of restitution and the impact of victims statements before criminalization applied. This approach sees victims of crime as a specific target to be served within the framework of the criminal justice system that is the police, prosecutors and other law enforcement officers.

#### **b The Development Of Victim Support System With The Indonesian Criminal Justice System.**

Indonesian Government Regulation on Legal Protection Against Women

1. The law of Number 39 / 1999 on Human Rights (Human Rights Law)

Article 20: The right to personal freedom

a. No one must be enslaved or enslaved to

b. Slavery or servitude, slave trade, trafficking in women and any deeds of a similar purpose are prohibited.

Article 45: women's rights in this law are human rights

Articles 46 to 51 regulate women's rights

2. The law of Number 26 of 2000 on Human Rights Courts.

Article 7: human rights violations include genocide crimes and crimes against humanity

Article 8: Genocide crimes are any acts committed with the intent to destroy or destroy all or part of a nation, race, ethnic group, religious group.

Article 9: Humanitarian crime is one of the acts carried out as part of a widespread or systematic attack that is known to be directed against civilians including rape, sexual slavery, forced prostitution, forced coercion, infertility, or sterilization forced or other forms of sexual violence.

3. The law of Number 23 / 2004 on the Elimination of Domestic Violence

Article 1 (1): Domestic is any act against a person, especially women, which results in physical, sexual, psychological misery or suffering. and / neglect of the household, including threats to commit acts, coercion, or deprivation of liberty unlawfully within the scope of the household.

Article 4: Abolition of violence in household aims:

a. Prevent all forms of violence in household

- b. Protect victims from domestic violence
- c. Acting against perpetrators of violence in household
- d. Maintaining harmony and prosperity of the household

Article 5: Everyone is prohibited from committing violence in household against people within the scope of the household by:

- a. Physical offenses
- b. Psychological offenses
- c. Sexual offenses
- d. Household neglect

Article 10: Victims' rights

a. Protection from family, police, prosecutors, courts, advocates, social institutions, or other parties both temporarily and based on the application of protection orders and court.

- b. Health services according to medical needs
- c. Handling specifically relates to the confidentiality of victims
- d. Accompaniment by social workers and legal assistance at each level of the inspection process by statutory provisions
- e. Spiritual guidance services.

4. The Law of Number 26 / 2000 on Citizenship

Article 26: Indonesian Citizen who marries a foreign loses RI's citizenship if according to the law of her husband's country of origin, the wife's citizenship follows her husband's citizenship as a result of the marriage.

5. The law of Number 21 /2007 on Eradication of Trafficking in Persons (PTPPO Law)

Article 1

(1) : Trafficking is the act of recruiting, transporting, collecting, transporting, transferring, or accepting someone with the threat of offences, use of force, kidnapping, confinement, forgery , fraud, abuse of power or vulnerable positions, entrapment of debt or pay or benefits, so that the consent of those in control of others, whether carried out within the state or between countries, is for exploitation or result in exploitation.

(2) The victim is someone who suffers psychological, mental, physical, sexual, economic, and/or social, resulting from the crime of trafficking in persons.

(8): Sexual exploitation is any form of utilization of sexual organs or other organs of the victim for profit, including but not limited to all prostitution and molestation activities.

(11): violence is any unlawful act, with or without the use of physical and psychological means that poses a danger to life, body, or results in the deprivation of one's independence.

Chapter IV regulates the matters of investigation, prosecution, and examination in court proceedings.

Article 28 regulates that investigations, prosecutions, and examinations in court hearings in cases of trafficking in persons are carried out based on applicable criminal procedure law unless otherwise regulated in this law.

Article 29 regulates irregularities related to evidence in the Criminal Procedure Code, such as:

- a. The information which is said, sent, received or stored electronically with optical devices or similar; and
- b. Data, records or information that can be seen, read and / or heard that can be released with or without the aid of a means, whether stated on paper, any physical object other than paper, or electronically recorded, including unlimited on:
  - Posts, sounds, or images

- Maps, designs, photographs, or the like or
- letters, signs, numbers, symbols or perforations that have meaning or can be understood by people who can read or understand them.

Article 30 regulates about witnesses, where it is formulated that as legal evidence, the testimony of a victim-witness alone is sufficient to prove the accused guilty if accompanied by one other legal evidence. Investigators are also authorized to conduct wiretapping as provided for in article 31. There is an obligation for victims to be accompanied by advocates or other assistance needed, as well as arrangements for the involvement of victims in the process of investigation, prosecution and examination before a court hearing, by giving them the right to obtain information about developments the case.

6. The law of Number 32 / 2002 on Child Protection as amended to Law number of 35 / 2014 and amended to law Number of 17 / 2016.

Article 1 (1): Child protection is all activities to guarantee and protect children and their rights to be able to live, grow, develop and participate optimally by the dignity of humanity and receive protection from violence and discrimination. Article 66 provides relevant arrangements: Special

(1) protection for children who are exploited economically and / or sexually as referred to in article 59 is an obligation and responsibility of the government and society.

(2) Special protection for exploited children as referred to in paragraph (1) is carried out through the dissemination and / or dissemination of statutory provisions relating to the protection of children who are exploited economically and or sexually. Article 69 regulates special protection for child victims of violence, including physical, psychological and sexual violence, which is carried out through efforts to disseminate the provisions of laws and regulations that protect children victims of violence and monitor, report and impose sanctions.

7. Law Number of 13 / 2016 on the Protection of witnesses and Victims as amended by Law of Number 31/ 2014.

Article 5 provides arrangements relating to witnesses and victims' rights, namely:

- a. Obtaining protection for personal, family, and property security, as well as free from threats regarding the testimony that will be, is being or has been given.
- b. Participate in the process of selecting and determining forms of protection and security support.
- c. Providing information without pressured. Obtaining translators
- e. Free of the entangled questions
- f. Obtaining information about the progress of the case
- g. Obtaining information about the court's decision
- h. Obtaining information in the case of convicts being acquitted.

Article 6:

(1) Victims of gross violations of human rights, victims of criminal acts of terrorism, victims of trafficking in persons, victims of torture, victims of sexual violence and victims of serious abuse, in addition to being entitled as provided for in article 5, they are also entitled to receive medical assistance and assistance psychosocial and psychological rehabilitation. Victims according to the law are also entitled to get restitution.

8. The law of number 8 / 2016 on Persons with Disabilities

Article 5 (2): Women with disabilities have the right:

- a. To reproductive health
- b. Accept or reject the use of contraceptives
- c. Get more protection from multiple discrimination treatment and

d. To get more protection from acts of violence, including violence and sexual exploitation.

The law and regulations above are substantive or material laws that have included rules relating to the legal protection of women especially those who are victims of sexual offenses. From these rules, some of them have included special rules related to the legal proceedings or formal law that deviate from the formal legal rules regulated in the Criminal Procedure Code to protect women who are the victims of sexual offenses. Some of the laws which have regulated the procedural law are the Domestic Violence Act, the Law on Trafficking in Persons and the Law on the Protection of Witnesses and Victims. In addition to the law, the government, both national and regional, has issued many regulations that support the process of resolving cases of sexual offenses that prioritize the interests of victims of sexual violence without ignoring the rights of suspects in the process. The number of legal rules that begin to side with victims of sexual violence, shows that the Indonesian government has tried to fulfill the rights of the sexual offense victim, but in practice it still faces obstacles both in terms of its legal substance, as well as in terms of the legal structure and legal culture in Indonesia.

#### **b. Critical Analysis Of The Criminal Procedure Law (KUHAP) As**

The Criminal Procedure Code (KUHAP) as a form of the criminal justice system is currently felt to have not accommodated the interests of women as victims of sexual offenses in the process of examining sexual offenses cases. For example, in cases of rape, it is not uncommon for victims as witnesses in the trial process to experience disappointment because of the services provided by law enforcement officials, in addition to having she has to remember the bitter incident. The Victims, in this case, are referred to by Arif Gosita as a double victim:

"rape victims who, besides suffering from being raped, also suffered various mental, physical and social sufferings, for example; experiencing threats that interfere with his life, getting bad service during the trial in court, not receiving compensation, spending medical expenses, being blamed from the community because he was handicapped especially etc.

According to the records of the National Commission on Human Rights of Women, in an article entitled "Building access to Justice for Women Victims of Violence, provides some criticisms of the Criminal Procedure Code as follows. Criminal Procedure Code does not regulate the need for medical or psychological accompaniment for women victims.

1. There is no specific regulation for the process of drafting the Minutes of Investigation of women victims.
2. There is no regulation regarding the victim's right to information.
3. There is no prohibition for any party to publicize the case experienced by the victim without the victim's consent.
4. There is no regulation regarding the authority of the public prosecutor to communicate with the victim, the victim's family, and the victim's assistant.
5. There is no prohibition on attitudes that corner or blame the victim.
6. There is no regulation regarding the need to provide courtrooms that are sensitive to the psychological condition of women victims.
7. There is no regulation regarding the provision of special examination rooms for women victims or who are separated from the suspect/defendant in the investigation process until the trial.
8. The limitations of the regulation regarding the giving of testimony through audio-visual media even though it is regulated limited only when the victim can not be present at the trial.

9. The Criminal Procedure Code is often read partially that witness statements can not be the basis for showing the suspect/defendant guilty.
10. Lack of regulation regarding the mechanism of protection for victims (and children/families)
11. There is no regulation regarding legal assistance and assistance for victims. This is part of the application of the right to equal treatment before the law because the Criminal Procedure Code only provides legal assistance for suspects/defendants while the victim does not.

The above criticism is the basis for a national commission on violence against women to build a system of supporting services and protection of victims and creat to the concept of an integrated criminal justice system handling violence against women.

### 3 CONCLUSION

1. Sexual offenses are any act committed against a person, especially women, which results in sexual misery or suffering. Sexual offenses on women have an impact on physical and mental health. Several reasons cause the need for protection / special handling of women who are victims of rape, such as:
  - a. The process of criminalization can be interpreted in general, concrete or sociological terms.
  - b. The need to protect the victims of violence is the argument of social contracts and arguments for social solidarity.
  - c. Protection of victims of crime is usually associated with one goal of criminalization, that is conflict resolution.
2. Indonesia has ratified several laws and regulations which protect women, but not all of them have provided regulations related to the criminal implementation process in favor of women. The current Criminal Justice System which is based on the Criminal Procedure Code still does not involve women who are victims of sexual violence in the investigation process both in the investigation and in court.

### 4. REFERENCES

Arief Gosita II, “ Masalah Viktimisasi Struktural dan Penanggulangannya,” Seminar Viktimologi II, Penyelesaian Permasalahan Korban, Kerjasama Hukum Ind-Nedherland, Fakultas Hukum Unair, 1988, h.1.

Komisi Nasional anti Kekerasan Terhadap Perempuan,” Membangun Akses Ke Keadilan Bagi Perempuan Korban Kekerasan : Perkembangan Konsep Sistem Peradilan Pidana Terpadu Penanganan Kasus Kekersan terhadap Perempuan, cet II, Juli 2018, h.38.

Y. Heri Widodo, *Rape Trauma Syndrome Dalam Perspektif Psikologi dan Hukum*, Tersedia di [http://www.freewebs.com/heri\\_rts/](http://www.freewebs.com/heri_rts/)

Thomas Santoso,” *Teori-teori Kekerasan*”, Ghalia Indonesia, Jakarta, 2002, h.11.

Muladi, *Hak Asasi Manusia, Politik dan sistem Peradilan Pidana*, “ Perlindungan wanita Terhadap Tindak Kekerasan,” UNDIP, Semarang, 1997, h.31.

Komisioner Komnas Perempuan Mariana Aminuddin di Hotel Bidakara, Jakarta Selatan, Rabu (6/3/2019).

Retno Lystyawati, dalam diskusi PR Pendidikan di Hari Anak di Jakarta, Sabtu, 20 Juli 2019

### UNDANG-UNDANGAN

Undang-Undang No.1 Tahun 1946 tentang Peraturanan Hukum Pidana jo Undang-Undang No.73 Tahun 1958

Undang-Undang No.8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana

Undang-undang No.23 tahun2004 tentang Perlindungan Anak  
Government regulation number 8 of 2016 on Persons with Disabilities  
Law Number of 13 / 2016 on the Protection of witnesses and Victims as amended  
by Law of Number 31/ 2014.  
The law of Number 32 / 2002 on Child Protection as amended to Law number of  
35 /2014 and amended to law Number of 17 / 2016.  
The law of Number 21 /2007 on Eradication of Trafficking in Persons (PTPPO Law)  
The law of Number 23 / 2004 on the Elimination of Domestic Violence  
The law of Number 39 / 1999 on Human Rights (Human Rights Law)  
The law of Number 26 of 2000 on Human Rights Courts