



JLPH:
**Journal of Law, Politic
and Humanities**

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DOI: <https://doi.org/10.38035/jlph.v5i5>
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E-ISSN: 2962-2816
P-ISSN: 2747-1985

Legal Protection for Victims of Sexual Violence Categorized as Disabled (Decision Number 59/Pid.B/2024/PN.Mbn)

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Abstract: The incidents of sexual violence against individuals with intellectual disabilities highlights how the legal system should play a more comprehensive role in providing protection, particularly in terms of restitution US part of victim recovery. This study aims to examine the legal protection mechanisms for victims of sexual violence based on existing legislation and to analyze its implementation for individual with intellectual disabilities, US reflected in Decision No. 59/Pid.B/2024/PN. Mbn. Using normative juridical methods and a case law approach, this research evaluates the consistency between legal norms and judicial practice. The findings indicate that although the regulations mandate restitution, in this case, it was not granted due to the absence of a formal request from the victim, despite the fact that the victim, as an individual with an intellectual disability, requires a more active legal protection mechanism. This gap underscores the need for reform in judicial approaches, where judges should proactively determine restitution without relying on victim petitions, alongside enhanced coordination between law enforcement authorities and social institutions to ensure that victims receive comprehensive legal protection, including psychological and social recovery.

Keyword: Legal Protection, Sexual Violence, People Intellectual Disability, Court Decision.

INTRODUCTION

People with disabilities were originally known as “disabled people”. However, the term disabled is considered inconsistent with human rights and does not respect the position of humans as God's creatures. The bearer disability Also can interpreted as group social those who have deficiencies, those who are imperfect, flawed, looked down upon and considered to be expecting compassion from others, by classifying people with disabilities into four categories, namely physical, sensory, intellectual and mental, this approach ignores human rights and has a major negative impact on respect for human dignity.

Sexual violence is a serious human rights violation that has a significant impact negative to welfare physique And emotional victim. Trauma what is experienced can develop into post-traumatic stress, depression, anxiety, and other disorders. in activity everyday. The impact even even can expand to aspect social social And economy victim. Risk This Of course increase when crime is experienced by individuals with special vulnerability conditions, such as intellectual disabilities, who face double challenges in the form of cognitive limitations in providing testimony and social stigma that often hinders access to justice.

The rape case in Batanghari Regency shows the weakness of legal protection efforts for people with intellectual disabilities, both in law enforcement and psychological recovery. Law enforcement officers do not address the needs of victims in a humane and fair manner, so that the restitution that should be given, according to Law No. 12 of 2022, is not realized. Besides That, victim only get help from LBH, without

In fact, this case also reflects the inequality of legal protection that contradicts the concept of justice outlined by John Rawls, the second concept, which is specifically referred to as the difference principle, states that inequality is only acceptable if it helps the most marginalized segments of society. As a population Which vulnerable, disabled disability Which victims should be given more protection and care rather than being ignored in the legal system.

In this context, the failure of the system to meet the special needs of victims of intellectual disabilities actually widens the gap in access to justice. This supports Satjipto Raharjo's view. Which to argue that law must seen as tool For achieve real justice and protect society and not just a set of rules, especially those who are vulnerable to injustice. Meanwhile, According to Sudikno Mertokusumo, objective main law is create justice and order social with ensure certainty law as well as profit And equality that accompanies it. If the law fails to guarantee protection and certainty for victims, then the law does not carry out its function fully.

The focus of this study is related to the legal protection provided to victims of sexual violence who have intellectual disabilities with an approach that includes two main aspects. First, this study examines the laws and regulations that regulate adequate legal protection for victims of intellectual disabilities.

Second, this study evaluates Decision Number 59/Pid.B/2024/PN.Mbn to understand how legal principles are applied in concrete cases and to what extent the decision meets the needs of victims. Based on the results of the analysis of regulations and judicial practices, study This offer recommendation For increase the effectiveness of legal protection for victims of sexual violence with intellectual disabilities, to ensure that justice is not only upheld normatively but also implemented in legal reality.

METHOD

This study is directed to examine in-depth legal protection for victims of sexual violence who have intellectual disabilities using normative legal methods and decision study approaches, in order to assess the implementation of regulations in the justice system and identify weaknesses in the protection of victims of intellectual disabilities in cases of sexual violence.

The first stage of this study explores legal protection based on rule legislation, specifically Act No. 8 Year 2016 on Persons with Disabilities and Law No. 12 of 2022 on Criminal Acts of Sexual Violence, in order to understand the legal guarantees available to victims. Stage second focus on analysis Decision Number 59/Pid.B/2024/PN. Mbn For evaluate implementation protection law in context concrete as well as assess the effectiveness of the decision on victim recovery.

RESULTS AND DISCUSSION

Legal Protection for Victims of Sexual Violence Categorized as Having Intellectual Disabilities.

Sexual violence includes any activity that belittles, degrades, or humiliates dignity, harassing, and/or cause damage on individual's body and vital systems. In Law TPKS, victims of sexual violence can experience impact social besides loss financial as well as damage physique And psychological. According to experts, sexual violence does not only include forcing someone to have sex; it also involves verbal abuse, sexual exploitation, forced marriage, and human trafficking for sex. National Commission Woman to Woman classify a number of types of sexual crimes that often appear in society, such as KBGO, rape, forced abortion, sexual slavery, and forced prostitution. The many forms of violence show that sexual crimes can occur in various situations and affect anyone, including individuals with limitations or disabilities.

In context protection law, person with limitations intellectuals including group Which often So victim violence sexual Because they difficulty in defending themselves, submitting reports, and accessing justice. They have condition Which can hinder they in understand that they have become victim or in report incident Which experienced. Besides In addition, the social stigma against people with disabilities also worsens the situation, making it increasingly difficult for them to obtain legal assistance and recovery. worthy. So from That, guarantee law for survivor violence sexual Which included in the category of people with disabilities, especially those who suffer from disability intellectual, become very important. Without protection adequate, victims are likely to experience long-term impacts, both mentally and socially, without receiving the justice they deserve .

In general law, protect victim violence sexual including they those in need special, to uphold rights they And ensure they get justice And rehabilitation Which become right they very much important. Protection law, according to Philip M. Hadjon, is every step taken to ensure that illegal activities do not violate someone's rights . Protection law This in line with objective law which was put forward by Sudikno Mertokusumo, that is For create order, justice, and welfare in society. Thus, in addition to handling violations time Then, protection law Also make an effort ensure there are restrictions Which strong For stop violation similar in time upcoming. There is two type protection law for victim violence sexual,

namely with repressive and preventive actions. By enforcing strict laws and educating the public, preventive protection seeks to stop violations, as well as strengthening policies related to the protection of people with disabilities. These efforts include increasing public awareness of the rights of persons with disabilities. disability intellectual And provision service Supporter for those who are vulnerable to sexual violence. Meanwhile, repressive protection, which includes law enforcement against perpetrators, support during investigations, assistance

medical And psychiatrist, as well as rehabilitation psychosocial And restitution for victims, carried out after the violation has occurred in order to uphold justice and restore the victim's condition .

Protection for survivors of sexual violence, including people with disabilities, guaranteed through Act related. Act TPKS protect rights victim from the reporting stage to recovery, covering aspects of handling, protection, and recovery (Chapter 1 number 16). In Chapter 68 Act TPKS set up related with rights in handling victims, including: (1) the right to health services, psychosocial services, and legal assistance; (2) the right to legal assistance from the investigation stage to the trial; (3) the right to receive information related to the legal process; and (4) the right to clean up immoral content that is detrimental to them, especially in cases of electronic-based sexual violence.

Besides aspect handling, Act TPKS on chapter the has arrange the victim's right to protection to ensure their safety and well-being during the legal process. Victims have the right to easily accessible protection services and clear information about their rights. Besides That, victim protected from threat or act violence, including repeated acts of violence, which may be committed by the perpetrator or another person. To avoid stigma and discrimination that can worsen the victim's condition, the victim's identity must also be kept confidential. Furthermore, this article emphasizes that law enforcement officers must not treat victims in a derogatory

manner in process law. In side other, victim guarded from danger will loss of employment, job transfer, disruption of education, or loss of political access due to sexual violence. As part of legal protection, victims and reporters have the right to be protected from civil and criminal charges for reporting sexual harassment. This clause is established and enforced to ensure that victims can go through the legal system without experiencing any hardship that could interfere with their ability to recover.

In the recovery stage itself, victims of sexual violence have the right to receive recovery use overcome impact physique And psychological consequence the incidents they experienced. Article 70 of the TPKS Law ensures that victim recovery includes medical rehabilitation, which aims to treat physical injuries or health problems that arise from sexual violence, as well as mental and social rehabilitation, which focuses on psychological recovery and reintegration of victims into their social environment. This recovery also includes social empowerment, so that victims receive support in rebuilding their lives with self-confidence and access to various social and economic opportunities. In addition, victims have the right to restitution or compensation, which is given as a form of compensation or financial assistance to overcome the economic impact of the violence experienced. The right to social reintegration, which includes measures to ensure their capacity to re-engage with public without stigma or discrimination, Also guaranteed for the victims as part from recovery comprehensive. This including access to schools, jobs and a safer life.

Significant legal developments in the effort to combat sexual crimes are realized through the TPKS Law, which provides special protection for people with disabilities as a vulnerable group. Increasing the sentence by one third for perpetrators if the victim is a person with disabilities is a component important from protection This. More Far, victims of KBGO Which Still minors or persons with disabilities are exempt from the formal complaint requirement, allowing legal proceedings to proceed even if no report is made. victim. If victim KBGO is sufferer disability, letter will or their consent does not free the perpetrator from criminal charges. On the side In addition, this regulation confirms that the legal weight of testimony from witnesses and/or victims of disability The same with victim other And state that victims can be accompanied during the legal process by their parents, someone who has given permission by court or Which offer help. The bearer disability Which become a victim Also entitled get access and accommodation deserve to have their rights fulfilled according to legal provisions .

The Law on Persons with Disabilities also provides special rights for victims. violence sexual Which is disability intellectual, as additional protection that has been regulated in the TPKS Law. Article 5 paragraph (1) letters d and v of the Law on Persons with Disabilities guarantees the rights of people with intellectual disabilities to obtain legal protection and justice, and to be free from exploitation, torture, discrimination, And crime sexual. Besides That, women with disabilities have the right to better protection from exploitation sexual And act violence, as mentioned on Chapter 5 paragraph

(2) letter d, which indicates that there is special attention to more vulnerable groups. prone to. Right This ensure that victim disability intellectual receive legal protection appropriate to their conditions and access to legal mechanisms that protect them from sexual crimes.

Besides That, Chapter 9 Act The bearer Disability confirm that People with disabilities, including victims of sexual crimes who suffer from mental disorders, have the right on justice And protection law. They entitled to obtain judicial services Which ensure protection his rights (Chapter 9 letter f) And the treatment that The same in eye law (Chapter 9 letter a). More carry on, according to Chapter 9 letter g, for people with disabilities, protection from all forms of coercion, assault, harassment, discrimination, and denial of property rights is a crucial right. The rights of people with disorders are highlighted in this clause, especially intellectual disabilities who experience sexual violence, must receive maximum protection so as not to become increasingly vulnerable in the legal system. This law also highlights the protection of

habilitation and rehabilitation rights in Article 21 for people with intellectual disabilities, where victims entitled get service the since early in a way inclusive, so that the recovery process can be carried out with an approach that takes into account their psychosocial conditions. In addition, victims can receive support that meets their physical, emotional, and social needs because they are free to choose the type of rehabilitation they want to undergo. The state is obliged to provide services that respect human dignity, so that the habilitation and rehabilitation process must be carried out without degrading victims or placing them in discriminatory situations.

Implementation of Legal Protection for Persons with Intellectual Disabilities Based on Decision Number 59/Pid.B/2024/PN. Mbn.

Legal protection for survivors of sexual violence with intellectual disabilities requires more than the mere existence of legislation it demands consistent implementation that is sensitive to the specific needs of vulnerable individuals. Survivors with intellectual disabilities often face significant barriers in accessing justice, including communication difficulties, limited understanding of legal procedures, and a high risk of revictimization. These challenges hinder their ability to achieve psychological and social recovery.

Law No. 12 of 2022 concerning Sexual Violence Crimes (UU TPKS) and Law No. 8 of 2016 on Persons with Disabilities explicitly guarantee legal rights and protection for victims, including legal assistance, protection from intimidation, rehabilitation, and restitution. Despite these normative guarantees, enforcement at the practical level remains inadequate, often neglecting the vulnerable conditions of the victims.

This shortfall is evident in Court Decision No. 59/Pid.B/2024/PN. Mbn, which involved the rape of a 20-year-old woman with an intellectual disability by her 65-year-old neighbor. The victim, who had limited intellectual and communication abilities, was raped twice and later discovered to be pregnant. Although the court sentenced the perpetrator to nine years in prison and a fine of one billion rupiah, the judges did not grant restitution on the grounds that the victim did not formally request it during the trial.

However, under Article 16(1) of the Sexual Violence Law, judges are obligated to determine restitution in cases with a minimum sentence of four years or more, regardless of a formal request. The failure to provide restitution in this case highlights a systemic issue: a formalistic approach that ignores the special circumstances of vulnerable victims, especially those who lack the capacity to understand or assert their rights.

This situation contradicts the theory of justice by John Rawls, which argues that inequalities are only acceptable if they benefit the most disadvantaged members of society. It also opposes Satjipto Rahardjo's view that law must serve justice in a substantive and humane way, rather than merely functioning as a set of rigid, formal rules. The court's justification for denying restitution due to the absence of a formal request fails to acknowledge the survivor's limitations and misses an opportunity to fulfill the law's restorative purpose.

Additionally, Sudikno Mertokusumo asserts that the law must guarantee justice, legal certainty, and social order. If a victim of sexual violence with a disability cannot access her right to restitution, the law has failed to perform its comprehensive function. The lack of restitution not only compounds the survivor's trauma but also leads to revictimization, where she experiences further harm due to systemic failures in legal protection.

The case also reveals a lack of coordination between the legal system and social support services. Although the victim received legal assistance from a Legal Aid Institute (LBH), she did not obtain any psychological or social rehabilitation. Restitution, in this context, is not only financial compensation but also part of broader psychosocial recovery that was completely lacking in this case.

CONCLUSION

Several important conclusions can be drawn from the author's analysis and discussion, including the following:

1. Act Number 12 Year 2022 And Act Number 8 Year 2016 has provide legal protection guarantees for victims of sexual violence who are categorized as having intellectual disabilities, starting from aspects of handling, protection, to recovery such as restitution and rehabilitation.
2. Implementation of legal protection for victims of intellectual disabilities in Decision Number 59/Pid.B/2024/PN. Mbn No implemented in a way optimal because for enforcer law No proactive in set restitution to victims.

The justice system should apply Article 16(1) of Law No. 12 of 2022 more proactively, with judges setting restitution based on the victim's condition, not waiting for formal requests. Stronger coordination with social institutions is also needed to ensure both legal and psychosocial recovery.

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