



LPSK Integration At The Investigation Stage In Fulfilling The Rights Of Victims Of Sexual Violence

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ABSTRACT

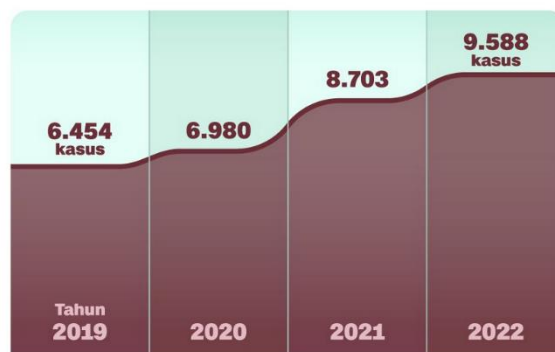
Fulfilling the rights of victims of criminal sexual violence is very important, starting from procedural rights, medical rights, psychological rights, and physical protection, but is often forgotten by law enforcement officials. This research will analyze the LPSK integration model at the investigation stage in fulfilling the rights of victims of criminal sexual violence. This research uses normative juridical, legislative research approaches, primary legal materials on the Witness and Victim Protection Law, the Sexual Violence Crime Law. Secondary legal materials, journals, books and other references that have relevance to this research. The analysis technique used is descriptive analytical, the interpretation used is systematic and grammatical. The results of the research state that the LPSK integration model at the investigation stage has been regulated in Article 43 of the Sexual Violence Law, within 1 x 24 (one time twenty four) hours from the granting of temporary protection, the investigator is obliged to submit a request for protection to the LPSK. However, problems arise if the investigator does not apply for protection or ignores these legal obligations. This creates a legal vacuum. Future suggestions for the government and law enforcement agencies need to align perceptions regarding the protection of victims of sexual violence and the involvement of LPSK in the criminal justice system. In this way, it is hoped that the rights of victims can be fulfilled.

Keywords: Integration; LPSK; Investigation; Victim; Sexual Violence.

1. Introduction

The victims of violent crimes are more likely to be women and children, Indonesia is experiencing social and humanitarian issues that require more attention (Anindya, Syafira, dan ... 2020). Article 4 Paragraph (1) of Law Number 12 of 2022 concerning Sexual Violence Criminal Acts regulates 9 types of sexual violence. Non-physical sexual harassment, physical sexual harassment, forced contraception, and forced sterilization are categories of sexual violence. Furthermore, forced marriage, sexual torture, sexual exploitation, sexual slavery, and lastly, electronic-based sexual violence (Aprilia dan Mu'ti 2022). The issue of protecting crime victims must also be addressed in Indonesia (Aprilianda 2017). Ani Purwanti states that "Sexual violence is a type of violence that can occur both in public and domestic spaces." Women and children, often considered vulnerable victims, usually become the legal subjects of sexual violence perpetrators. "Sexual violence against women is a universal crime." It is not only endemic but also widespread and has been occurring everywhere for years (Siregar, Rakhmawaty, dan ... 2020).

Figure 1.
Number of Sexual Violence Victims Against Women in Indonesia



Source: Data from Women and Children's Friendship Service (SAPA129) Ministry of Women's Empowerment and Child Protection

Cases of sexual violence continue to occur up to the present time, based on reports from 2019 to 2022 showing an increase from year to year. According to Wanti Mashudi, Commissioner of the National Commission on Violence Against Women, the enactment of the Sexual Violence Law (TPKS) has become a glimmer of hope in the long drought of handling sexual violence (Sutari 2023). Victims are beginning to show the courage to tell what happened to them. Why? Because they believe that there are legal regulations for reporting. Therefore, the incidents that harm them can be processed legally (Sutari 2023).

LBH Apik stated that during the case resolution process, some sexual violence victims they accompanied did not receive state protection. Victims of sexual violence experience physical, mental, and financial trauma, yet the state continues to try to deter perpetrators without considering the needs of the victims (Jamaludin 2021). When a repertum visa is required during the reporting process, sexual violence victims must pay for trauma treatment and counseling themselves (Tavares dan Wodon 2018). Sexual violence victims also have to pay counseling and visa fees, especially for sexual violence victims who require legal assistance from the state (Suryani 2021). After the enactment of the Sexual Violence Law, there is more certainty regarding victim protection. Although it has not been maximally implemented by law enforcement officers (Stawniak, Jarzabek-Bielecka, dan Bielecka-Gaszcz 2017). One of them is the obligation of the police to request the Witness and Victim Protection Agency (LPSK) to protect sexual violence victims. It is important to analyze the integration model of LPSK in the investigation stage to fulfill the rights of sexual violence victims.

There are several previous studies related to this research. The first study written by Agnes Fitryantica, Ratih Kemala, and Andri Sutrisno entitled "Fulfillment of the Rights of Sexual Violence Victims in Women through the Witness and Victim Companion Program" shows that sexual violence victims in the Manggarai region currently cannot receive legal and psychosocial assistance, because many cases of sexual violence occur in that area and the people around it do not receive assistance. The implementation results show that there are cases of rights fulfillment that need to be protected in the Manggarai region that are registered as victim fulfillment (Fitryantica, Kemala, dan Sutrisno 2023).

The second study by Ahmad Jamaludin titled "Legal Protection for Child Victims of Sexual Violence" found that, because there are still children who have not received the rights provided by the law, legal protection for underage victims of abuse has not been fully realized. Such as the rehabilitation process, obtaining cases, and resolving them. Among the challenges faced in terms of legal protection for child victims of sexual violence are abuse during the investigation process, low levels of community concern, and difficult investigation processes. However, there are efforts that can be made, such as increasing community awareness, resolving cases quickly and in accordance with the law, and collaborating with institutions related to the legal protection process for abuse victims (Jamaludin 2021).

The third study, by Atikah Rahmi titled "The Urgency of Protection for Victims of Sexual Violence in the Integrated Criminal Justice System with Gender Justice," law enforcement officials handling cases of sexual violence against children and women must have a child and women perspective so that they can perform their

duties well in accordance with applicable laws so that perpetrators can be punished commensurate with their violations, so that victims and society as a whole have a sense of justice (Rahmi 2018).

The fourth study, by Nurini Aprilianda titled "Protection of Child Victims of Sexual Violence Through Restorative Justice Approaches," showed that Article 71D of Law 35/2014 concerning Amendments to Law 23/2002 concerning Child Protection does not fully protect children who are victims of sexual violence from being handled with a restorative justice approach (Aprilianda 2017).

The four studies presented in this research can be summarized that previous research focuses on the regulation and implementation of protection for victims of sexual violence, while studies related to institutions providing protection and studies on the Sexual Violence Law have not been found. Therefore, this research has novelty. Hence, this research is urgent to examine and analyze the integration model of the Witness and Victim Protection Agency (LPSK) in the investigation stage to fulfill the rights of victims of sexual violence. Additionally, the aim of this research is to analyze the extent to which the integration model of LPSK and legal issues in the protection provided by LPSK are conducted.

2. Method Research

This research employs a normative research method (Mansyah, Busro, dan Yunanto 2022), utilizing a legal approach with the strategy of collecting legal materials through a review of relevant literature related to legislation. The primary legal materials are Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection, State Gazette No.5602, 2014, and Law Number 12 of 2022 concerning Sexual Violence Criminal Acts, State Gazette of the Republic of Indonesia No.120, 2022. Meanwhile, the analysis technique used is analytical-descriptive. The legal interpretation applied is systematic (interrelated with legislation regarding the protection of sexual violence victims) and grammatical (interpreting word-for-word or a sentence regarding victim protection rules).

3. Results and Discussion

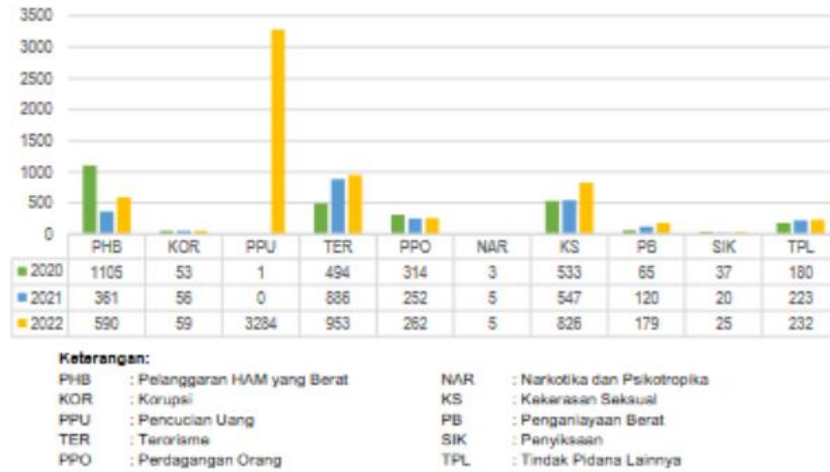
3.1 The Integration Model of the Witness and Victim Protection Agency (LPSK) in the Investigation Stage in the Sexual Violence Criminal Acts Law (TPKS Law)

bisa lebih di perinci lagi terkait pembahasanan

Sexual harassment behavior is a disgraceful act that can be measured by violations of rules or norms that are rooted in sociocultural values as a system of behavior and guidelines for the actions of community members, which can involve religious, moral and legal norms. (Paradias dan Soponyono 2022) Sexual violence is an important and complex issue across the map of violence against women or children because there are dimensions that are very unique to victims. The issue of unequal power relations between perpetrators and victims is the root of sexual violence against women. In cases of sexual violence against women, the unequal power relations referred to are between men and women. Inequality is exacerbated when one party has more control over the victim. This control can take the form of resources, including knowledge, economics, and also community acceptance (social status). This also includes control that arises from forms of patron-client or feudalism relationships, such as parent-child, employer-laborer, teacher-student, and community leaders-citizens. (M. Chaerul Risal 2022) Protection of victims of sexual violence after the enactment of the Sexual Violence Law, one of the institutions that has the right to provide protection is LPSK.

LPSK was established in 2008 and is headquartered in East Jakarta. Currently, LPSK has branch offices in Yogyakarta and Medan. During discussions in the People's Representative Council (DPR), LPSK has requested permission to establish representations in 15 provinces, hoping to receive government attention. However, only 2 branch offices have been approved. Despite being relatively few, these branch offices do not match the number of cases handled by LPSK. According to LPSK's annual report for the year 2022, the cases protected by LPSK are as shown in Figure 2 below:

Figure 2.
Number of Protected Criminal Acts Prioritized by LPSK in 2022

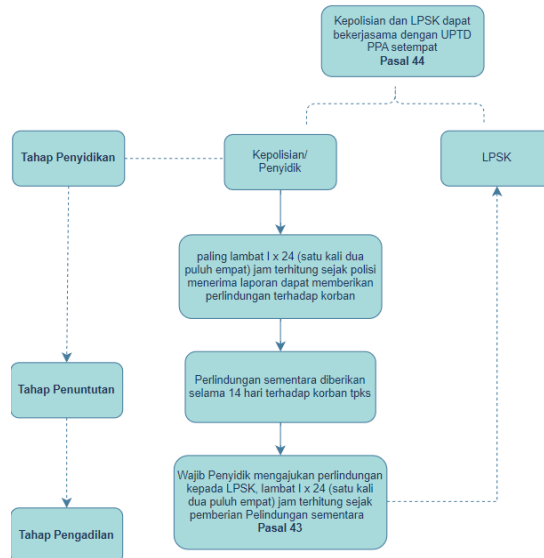


Source: Data Processed from LPSK's Annual Report 2022

The dominant cases protected by LPSK turn out to be sexual violence offenses, totaling 828 cases. This aligns with the period after the enactment of the TPKS Law, providing more certainty and protection for sexual violence victims, especially as victims are becoming more courageous in reporting to the police. Although the law clearly and comprehensively regulates acts categorized as sexual violence, there are still challenges in the field due to some law enforcement officers' limited understanding of the TPKS Law (Maulidyta dan Hidayat 2022). To protect women and children from sexual violence, policymakers have formulated four main principles: 1) Changing the perspective of the state, society, and mindset about sexual crimes as ordinary offenses against human dignity, not as moral acts; 2) Prevention of sexual violence must begin by investigating the root causes, which is the subordinate position of women compared to men in societal constructions; 3) Changing the framework to prioritize the experiences of victims in determining the type of violence and the protection needed; 4) Changes in the legal system, especially procedural law, including making it easier for women and child victims to access justice. Therefore (Putri, Apriandi, dan Sulistio 2023), LPSK plays a role in providing protection to victims (Absori, Damayanti, dan ... 2020). The TPKS Law is a new breakthrough as it explicitly regulates LPSK's involvement from the investigation stage onward, as stated in Article 43. The following is the integration model of LPSK in the investigation stage to fulfill the rights of victims of sexual violence, as illustrated in Figure 3 below.

Figure 3.

Integration Model of LPSK in the Investigation Stage to Fulfill the Rights of Sexual Violence Victims



Source: Data processed from the TPKS Law

In Figure 3, the police/investigators have the authority to protect the victims, but with a limitation of up to 14 days. However, the police are also required to seek protection from LPSK once temporary protection is provided. Although the police can provide protection, unfortunately, it is only temporary. In contrast, LPSK's role is to protect the victims, and there is no specified duration for LPSK's protection of the victims, which is solely based on the victims' needs and conditions (Асташева dan Чебан 2022). Additionally, the police and LPSK can collaborate with the Regional Technical Implementation Unit for Women and Child Protection (UPTD PPA) established by the local governments (Aritonang dan Susetyo 2024). The implication of the TPKS Law's enactment is that LPSK is integrated into the criminal justice system, and its existence is increasingly recognized, making access to protection for victims easier. Although the Witness and Victim Protection Law position LPSK as an independent institution (Mansyah dkk. 2023), LPSK is an independent body responsible for protecting and assisting witnesses or victims (Hadiwinata dkk. 2023). In significant criminal cases and human rights violations, this protection is crucial. Development in the study of protection and services for victims of crimes. The criminal justice system, which has traditionally focused on punishing and rehabilitating offenders, faces this problem. Therefore, efforts need to be made to establish LPSK as one of the subsystems of the criminal justice system in Indonesia, given its essential role in providing services and protection to crime victims, thereby fostering good coordination and cooperation between LPSK and other law enforcement agencies. In addition, the TPKS Law establishes a new legal framework within the criminal justice system called the Integrated Criminal Justice System for Cases of Violence Against Women (SPPT-PKKTP). As part of the specificity of the TPKS Law, this institution facilitates interagency communication and coordination in handling cases of sexual violence and provides easy and affordable access to medical services for sexual violence victims (Utami 2022). The SPPT-PKKTP places victims at the center of the justice system. It does so by adhering to fair-gender principles, where victims are considered subjects entitled to have their statements heard, receive information about ongoing legal proceedings, consider the justice they desire, and improve their situation as a result of the violation of their rights and the violence they have experienced (Yuliantini, Mangku, dan ... 2021). The SPPT-PKKTP changes practices that typically treat victims as mere complements (objects) whose testimonies are merely taken.

The challenge for LPSK integrated into the criminal justice system lies in the weakness of LPSK's performance development due to a lack of public awareness in those areas. However, as of 2023, LPSK claims to have provided various channels, ranging from available applications on Android, services through WhatsApp, email, letters, or direct visits to their office in East Jakarta.

3.2 The Challenges of Integrated LPSK in the Investigation Stage

The obligation of the Police to request protection for the victim from LPSK is mandated by the TPKS Law, while the rights of the victim under the TPKS Law are divided into 3, namely: a) the right to handling, b) the right to protection, and c) the right to recovery. Each is further regulated comprehensively and clearly, as follows:

a) Right to handling

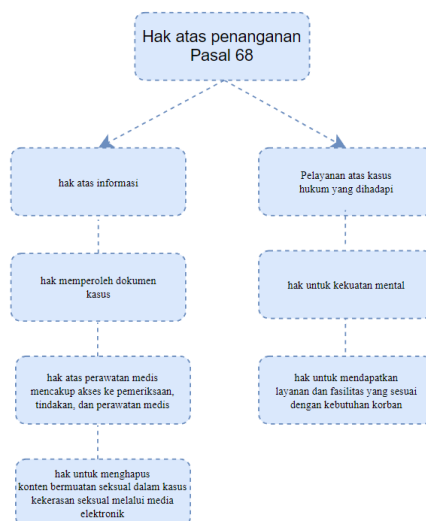


Figure 4. Right to handling
Source: data processed from the TPKS Law

b) Right to protection

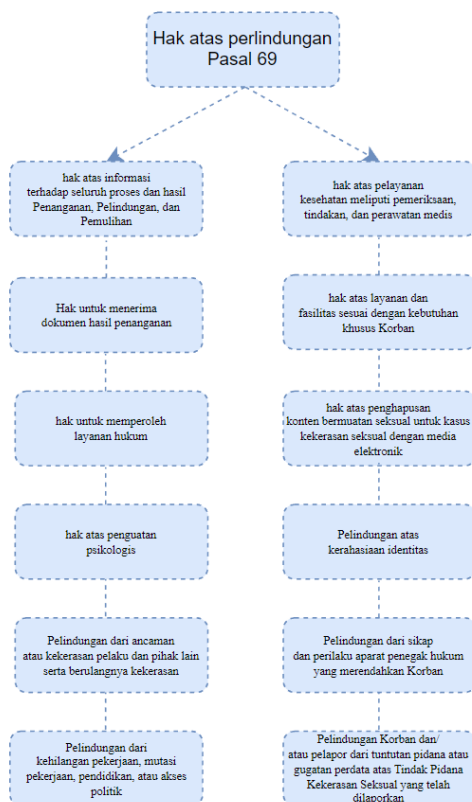


Figure 5. Right to protection
Source: data processed from the TPKS Law

c) Right to recovery

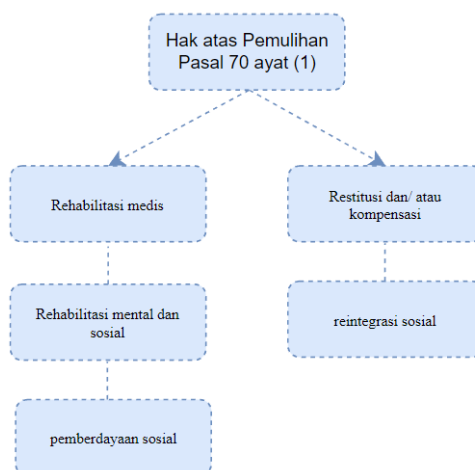


Figure 6. Right to recovery
Source: data processed from the TPKS Law

c.1. Recovery before and during the judicial process includes:



Figure 7. Right to recovery

Source: data processed from the TPKS Law

c.2. Recovery after the judicial process includes:

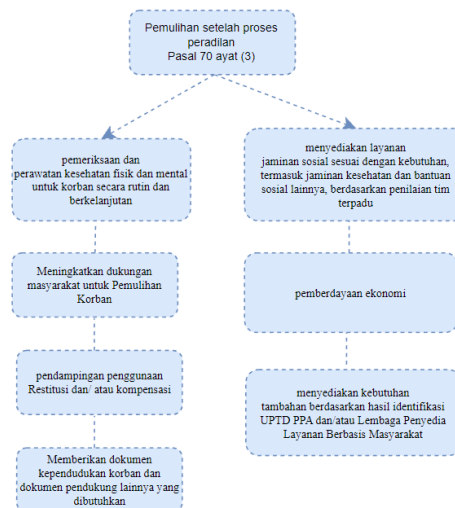


Figure 8. Right to recovery,

Source: data processed from the TPKS Law

The rights possessed by victims regulated in the TPKS Law are more clear and comprehensive than those regulated in other laws. However, the challenge faced in the future is what if the Police do not request protection from LPSK; certainly, the TPKS Law does not regulate obligations accompanied by sanctions or legal consequences. (Mertokusumo 2018) This represents a legal vacuum and a challenge in case the police disregard the rights of the victims. According to Sudikno Mertokusumo, legal regulations are never as complete and clear as needed. Legal regulations are made to control human activities in daily life. Human life involves countless activities. Therefore, one legal regulation cannot regulate or cover all human activities (Hermanto dan Puspitosari 2022). This is supported by Satjipto Rahardjo's opinion that written laws are incomplete from the beginning. Therefore, the ideal elements that emerge and develop during social development will never be fully covered by simple legal words. Consequently, when laws are frozen into written laws, they are also flawed (Mertokusumo 2007). This reminds us of the adage *lex dura sed tamen scripta*, which means the law is harsh and firm as written. Therefore, it is impossible for one legal regulation to regulate or cover all activities that occur in human life (Gagarin dkk. 2024). Legal regulations are not always complete and clear. From Sudikno Mertokusumo's opinion, we must understand that the TPKS Law has a weakness in not being able to address legal issues occurring in society, thus requiring changes to the TPKS Law.

4. Conclusion

The integration model of LPSK in the investigation stage has been regulated in accordance with Article 43 of the TPKS Law, within twenty-four hours (twenty-four hours) from the temporary protection, the investigating party is obliged to request protection from LPSK. However, problems arise if the investigating party does not request protection or disregards this legal obligation, thus causing a legal vacuum. In the future, the government and law enforcement agencies need to align their perceptions regarding the protection of sexual violence victims and the involvement of LPSK. It is hoped that the rights of victims will be fulfilled within the criminal justice system.

5. Speech Thank You

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