

Building Access to Justice for Women as Victims of Prostitution as a Form of Guarantee of Human Rights

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Abstract

The purpose of this study was to build access to justice for women who became commercial sex workers. The issue of women was chosen as a component in access to justice because of the existence of women as part of a disadvantaged group. The law as commander in chief in its enforcement involves law enforcement officers and in particular the government. Women as human beings whose rights are protected should be protected and respected regardless of their work. This study used the normative juridical method. The results of the study showed that actually women who became commercial sex workers were victims. The high cost of living and economic demands made a person accepting easily job offers and big salaries. So that when they enter the world of prostitution, there would be many cases of sexual violence experienced by commercial sex workers because users felt that they have paid and were free to do anything. That in fact the form of legal protection in the context of guaranteeing human rights has existed in several laws and regulations. However, we know that its implementation is not easy, so cooperation between institutions and law enforcement officers is needed so that the legal objectives of justice, certainty and benefit can be realized.

Keywords: Women; prostitution; Victims: Human Rights.

INTRODUCTION

Women are a party that often experience discrimination in this world, the portrayal of a meek and gentle figure makes women often denigrated. One of the rights of women that must be safeguarded and protected by the State is the right to be respected. The burden of the economy makes one of the reasons women work in the vortex of prostitution. Bonger and Mudjijono say that prostitution is a form of social symptoms that occur in women who peddle themselves to commit sexual acts as a job or as a source of livelihood (Amalia,2018).

In Indonesia itself, prostitution has always been considered a form of crime against decency and a crime against morals that is also considered as an act against the law. The practice of prostitution is also considered as forms of social deviation that have been carried out by society since ancient times until now (Fransisca,2015). Being a commercial sex worker is

certainly not the best option, but they have rights as women who must be protected and need to feel safe. As a commercial sex worker, it is not only married by women but also men, but it is quite rarely encountered. It is clear that the protection, promotion, enforcement, and fulfillment of human rights is the responsibility of the Government.

Commercial sex workers serve sexual activity with the intent and purpose of obtaining rewards in the form of wages from those who have used their services. Of the few commercial sex workers, many received inhumane treatment, namely physical violence to sexual violence. Sexual violence is defined as coercion in a sexual relationship against someone. In an effort to protect the protection from violence, there needs to be a view in terms of criminal law (Koentjoro, 2004).

The occurrence of criminal acts resulted in the existence of parties called perpetrators and victims. It is undeniable that even if commercial sex workers are in the circle of prostitution practices, they are actually victims. The circumstances of forcing to meet the needs that are then made commonplace, become the reason for the reason that working as a commercial sex worker is more profitable than having to work hard but not necessarily the needs can be met properly. Positions like this will be very vulnerable if those who undergo it are those who are framed, lied to with the lure of large salaries when the goal is to be traded. In general, the cause of the crime of trafficking in persons is economic problems and also low education (Nuraeny,201 3). Legal protection of victims is regulated in several laws and regulations including Law No. 8 of 1981on Criminal Procedure Law, Law No. 31 of 2014 On changes to Law No. 13 of 2006 on Protection of Witnesses and Victims, In-Law Number 39 of 1999 concerning Human Rights , In-Law Number 21 of 2007 on Combating The Crime of Trafficking in Persons.

Pandemic COVID-19 forced human activities that are usually conventional to turn *online*, social media platforms become a very large force. Through the interactions that exist on social media, internet users can establish almost unlimited relationships and without being limited in distance and time. Likewise, the practice of prostitution that is increasingly mushrooming and easy to find anywhere. In the past in the transaction, prostitution was done face to face or met in person, while currently prostitution transactions can be done only through a *smartphone* by utilizing *smartphone* features that we mostly call social media. Indonesian society is also inseparable from negative content such as cyber *bullying*, pornography, and hate speech. Of the many types of cyber violence in Indonesia, cyber gender-based violence is one of the most dominant. An act of cyber gender-based violence can be said to be gender-based violence if the violence has the intention or intent of harassing the victim based on gender or sexual harassment. If not, then cyber violence is categorized as general violence in the *online realm*.

Women national commission stated that violence and crimes of women in the *online* world since 2015 have an increasingly complicated pattern of cases, and increasing every year, especially as Indonesia enters the COVID-19 pandemic. The number of cyber violence increased by 7-fold long before the pandemic, from March 2020 to November 2020 there were 287 cases reported to LBH APIK (Apik,2021). The 2020 women national commission Annual Record released on March 5, 2021 also shows that cyber gender-based violence during the COVID-19 pandemic increased to 510 cases throughout 2020 Komnas Perempuan received

955 cases of sexual violence that occurred in the RT / RP and public spheres. Not all victims of sexual violence get justice and recovery from the various effects of sexual violence. Many obstacles ranging from laws and regulations, how and effective law enforcement officials work to the non-integration of the criminal law system with the recovery system and culture that blames the victim (Komnas Perempuan,20 21). It cannot be denied that the circumstances in this pandemic period require everyone to stay at home and do activities *online*, then the use of social media is increasing. Meanwhile, the perpetrators of violence still have the desire to commit abuse so that the desire is channeled through *online*.

Indonesia has a long history of women's access to justice. History records that the first Indonesian Women's Congress on December 22, 1928 was able to invite more than a thousand women to discuss various issues of women's rights enforcement in marriage and divorce, marriage of minors, women's education, and visions regarding the future women's movement(Blackburn,20 07). But the women's movement to improve women's access to justice has only come to the fore over the past two decades as women's organizations have grown. The establishment of several women's organizations such as Solidaritas Perempuan (SP), the Legal Aid Institute of the Indonesian Women's Association for Justice (LBH APIK), and the National Commission against Violence against Women became a momentum that encouraged the realization of access to justice for women in Indonesia.

Talk about women's access to justice is very relevant because until now Indonesian women still face many obstacles in accessing justice through legal and justice mechanisms. Access to justice needs to be pursued through the role of the government to create access to broad justice for women to be protected from the crime of prostitution. Various studies show that women's access to justice is still very weak. This lack of access to justice further leads women to further trapped in poverty (Novrianti,2005). This is because women often lose their rights. Based on the background above arises the problems of this study, namely how to guarantee the fulfillment of women's rights as victims of violence and how the role of the Government in realizing access to justice to the rights of women as victims of violence.

RESEARCH METHOD

The research method used was normative juridical by using a statutory approach, conceptual approach, and case approach. The approach of legislation was carried out by reviewing all laws and regulations related to legal issues that are being handled (Marzuki, 2019). Subsequently the conceptual approach moved from the views and doctrines that developed in the legal sciences. And finally the case approach was done by reviewing cases related to legal issues on the topic of discussion in a writing. This research was supported by secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials included several laws and regulations. Furthermore, the author used secondary legal materials in the form of journals, books related to women and prostitution. As well as tertiary legal materials in the form of the internet. This data analysis technique was carried out qualitatively based on legal norms in the laws and regulations analyzed and spelled out in accordance with the case used as an approach in research.

DISCUSS AND ANALYSIS

Commercial sex workers are not jobs that any woman actually wants. As human beings who are protected by law they should get protection that is a form of human rights guarantees. Article 33 paragraph (1) of the Human Rights Act provides that everyone has the right to be free from torture, punishment, or cruel, inhuman, degrading and human dignity. Commercial sex workers as victims of sexual assault and trafficking should be protected by law. Sometimes victims do not report on the events experienced with the consideration that their work is contrary to the norms and values that exist in the community, so it is not impossible that law enforcement officials will ignore it.

It cannot be denied that the practice of prostitution can still be found until now even though there is a law that accommodates crimes committed by direct or indirect transactions such as using telecommunications tools as a liaison. Since the information and technology act was first introduced in 2008, it has not prevented pimps, commercial sex workers and users of sexual services from stopping the practice. With the development of technology and social media loved by the majority of children to adults also became an easy way for pimps to peddle commercial sex workers to users of sexual services, although it has been known the bad consequences of sexual intercourse by changing partners.

The law also stipulates that all people actually have the same position before the law, and everyone is also entitled to legal protection. Victims of violence are a form of embodiment of acts of violence including persecution, then forcing people to do something to break the law, rape, and others (Gosita,1993). The problem of prostitution has long been a polemic even the government seems to legalize the practice. *The pros* and *cons* to are still continuing. If the *pro* relates to the economic rights of prostitution business people while the *counter* considers localization as a form of legalization of business / haram rupture that is not in harmony with aspects of community morality in addition to also violating religious norms, moral norms and legal norms to violate the ideology of Pancasila.

Guaranteeing the Fulfillment of Women's Rights as Victims of Violence

The 1993 World Conference on Human Rights in Vienna was a breakthrough momentum for the struggle to eliminate violence against women at the International level, by introducing to the world community that "the human rights of women and girls are inalienable, integral, and inseparable parts of universal human rights" (Vienna, 1993). Thus, women's human rights must be an integral part of UN human rights activities. The conference declared gender-based violence a violation of human rights, as stated in the Vienna Declaration and Programme of Action 1993 as follows:

"Gender-based violence and all forms of sexual assault and exploitation, including those resulting from cultural prejudice and international human trafficking, are contrary to human dignity and dignity, and must be abolished."

Violence against women is further outlined in the Un Declaration on the Elimination of Violence against Women, 1993 as follows:

"Any action based on sex differences that results in or may result in the physical, sexual, or psychological harm or suffering of women, including the threat of certain acts, arbitrary coercion or deprivation of liberty, whether occurring in public life or in

private life" (Article 1 of the Un Declaration on the Elimination of Violence against Women, 1993).

Prior to the Vienna Declaration, violence against women was formulated by the Committee on the Elimination of Discrimination against Women (CEDAW Committee) in General Recommendation No. 19 on Violence against Women, 1992, as follows:

"Article 1 of the Convention defines discrimination against women. The definition of discrimination against women includes gender-based violence, that is, violence directed against a woman because she is female, or disproportionately consequent to women. This includes acts that result in physical, mental, or sexual harm or suffering or threats to certain acts, coercion and deprivation of other freedoms. Gender-based violence may violate certain provisions of the Convention, although it does not specify violence."

Moore (Vienna, 1993) mentions that the violence arises as a result of a shadow about the role of identity based on gender associated with the shadow of the power it can have. This helps explain why violence is often the result of a fear perceived by the perpetrator rather than an actual fear. For example: wives who are victims of husband violence just because the husband considers the wife wrong when going to the office. Thus violence is actually more of a tool to exercise social control and consciously or not, has a bad impact on the victim.

Women national commission stated that violence consists of imposing physical force and power on others. Usually violent behavior is followed by the aim of controlling, weakening, even hurting others. While violence can have serious implications for physical and mental health, it's not just a medical phenomenon. Violence is also not a stand-alone criminal phenomenon, but a phenomenon that crosses the scope of law, ethics, and health and is closely related to moral ethics, culture, politics, and also personal background. In this regard to the protection actually already in the laws and regulations, following the description, the Witness and Victim Protection Agency formed under Law No. 13 of 2006 on the Protection of Witnesses and Victims, has a very important role in the framework of law enforcement and handling human rights violations. The development of the current criminal justice system is not only oriented to perpetrators, but also oriented to the interests of Witnesses and Victims. Therefore, LPSK institutions must be developed and strengthened so that in carrying out their duties, functions, and authorities can be synergistic with the duties, functions, and authorities of law enforcement agencies located in the criminal justice system. The existence of Witnesses and Victims is a very decisive thing in the disclosure of criminal acts in the criminal justice process. Therefore, witnesses and victims are given protection at all stages of the criminal justice process. Provisions regarding legal subjects protected in this Law are extended in line with legal developments in the community.

In contrast to the concept of Ministry regulation, that in the criminal act of prostitution, the victim is a person who experiences physical, mental, and/or economic losses resulting from a criminal act. The victim should have gotten asnest. Protection is an effort to fulfill the right and provide assistance to provide a sense of security to witnesses and / or victims. In fact, women victims of violence still have difficulty accessing justice because there are no laws that regulate strictly. Various rights granted by UULPSK to victims, but it can be seen that specifically for those who become severe human rights violations, korban criminal acts of terrorism, korban criminal acts of trafficking, korban criminal acts of torture, korban criminal

acts of sexual violence, and k Severe abuse is also entitled to medical assistance and psychosocial and psychological rehabilitation assistance. What is meant by "medical assistance" is the assistance provided to restore the physical health of the victim, including management in the event of a deceased victim such as the management of the body until the funeral. What is meant by "psychosocial rehabilitation" is all forms of psychological and social services and assistance aimed at helping to alleviate, protect, and restore the physical, psychological, social, and spiritual condition of the Victim so as to be able to carry out his social functions again reasonably, among others LPSK seeks to improve the quality of life of the Victim by cooperating with the relevant authorities in the form of clothing fulfillment assistance, food, board, assistance in obtaining a job, or educational continuity assistance. "Psychological rehabilitation" is the assistance provided by psychologists to victims suffering from trauma or other psychiatric problems to recover the victim's psychiatric condition.

Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights

The obligation to respect human rights is reflected in the Opening of the 1945 Constitution which animates the entire article in his torso, especially with regard to the equality of the position of citizens in law and government, the right to a decent work and livelihood, freedom of association and assembly, the right to issue thoughts with oral and written, freedom to embrace religion and to worship in accordance with his religion and beliefs, the right to education and teaching. Human rights are fundamental rights that are naturally inherent in man, universal and lasting, therefore must be protected, respected, defended, and should not be ignored, diminished, or usurped by anyone.

Human rights are a set of rights inherent in the nature and existence of man as a creature of God Almighty and is His gift that must be respected, upheld and protected by the state, law, government, and everyone for the sake of honor and protection of dignity and human dignity. The National Human Rights Commission, hereinafter called (Komnas HAM), is an independent institution whose position is at the level of other state institutions that function to carry out human rights assessment, research, counseling, monitoring, and mediation. The Republic of Indonesia recognizes and upholds human rights and basic human freedoms as rights that are naturally inherent to and inseparable from human beings, which must be protected, respected, and upheld for the sake of improving human dignity, well-being, happiness, and intelligence and justice.

The National Human Rights Commission aims to develop conducive conditions for the exercise of human rights in accordance with Pancasila, the 1945 Constitution, and the Charter of the United Nations, as well as the Universal Declaration of Human Rights; and b. enhance the protection and enforcement of human rights for the development of the Indonesian human person as a whole and its ability to participate in various areas of life. The right to life, the right not to be tortured, the right to personal freedom, mind and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equal before the law, and the right not to be prosecuted on retroactive legal grounds are human rights that cannot be diminished under any circumstances and by anyone.

Article 17 of the Human Rights Act provides that every person, without discrimination, is entitled to justice by filing petitions, complaints, and lawsuits, both in criminal, civil, and

administrative cases and tried through a free and impartial judicial process, in accordance with the law of the event that ensures objective examination by an honest and just judge to obtain a fair and correct verdict. No one should be enslaved or enslaved. Slavery or slavery, the slave trade, the trafficking of women, and any act of any kind of similar purpose, are prohibited. Everyone has the right to be free from torture, punishment or cruel, inhuman, degrading and human dignity. Relatedly, the state must ensure the fulfillment of human rights of everyone, so it must also pay attention to the rights of women who are victims of prostitution crimes.

Law of the Republic of Indonesia Number 21 of 2007 concerning the Eradication of Trafficking in Persons

Prostitution can be said to be a Trafficking in Persons if it meets the elements of article in Law No. 21 of 2007 on Combating The Crime of Trafficking in Persons. Article 1 number 1 states that trafficking is the act of recruiting, transporting, sheltering, shipping, transferring, or accepting a person with the threat of violence, use of force, kidnapping, captivity, forgery, fraud, abuse of power or vulnerable position, bonding debt or rewarding or rewarding, thereby obtaining the consent of the person in control of the other person, whether committed within the country or between countries, for the purpose of exploiting or resulting in people being exploited. The cause of the crime of trafficking is usually due to economic factors and low education. Many people are easily lulled into sweet promises. A seemingly happy seduction turns into misery because those who accept will be vulnerable to becoming victims of violence. Even those who work as commercial sex workers already know the risks and impacts of the job.

Act No. 21 of 2007 is not clearly regulated regarding who is considered a victim and perpetrator. However, the perpetrator in prostitution can be shown in Article 12 of the Act No. 21 of 2007 Law that anyone who uses or utilizes victims of trafficking crimes by committing sexual intercourse or other obscene acts with victims of trafficking crimes, employing victims of trafficking crimes to continue exploitation practices, or taking advantage of the proceeds of trafficking crimes.

If commercial sex workers are the object of trafficking, then it is clear that they are also entitled to legal protection. Commercial sex workers who undergo work by force or not of their own volatible will can be included in the form of sexual exploitation stipulated in the Act No. Act No. 21 of 2007 The act done by force can cause trauma to the victim who undergoes it. The protection of victims is very important. Article 53 of the Act No. 21 of 2007 Act is also explained that in the event that the victim experiences trauma or illness that endangers himself due to the criminal act of trafficking so that it requires immediate assistance, the minister or agency dealing with health and social problems in the area must provide first aid no later than 7 (seven) days after the application is submitted.

Like the legal protections obtained by victims of criminal acts in general, so far law enforcement officials only focus on suspects and ignore the sufferings experienced by victims, including women who are employed as commercial sex workers. The provision of rehabilitation and or recovery to commercial sex workers as victims will restore their psychological and mental condition as before, because basically not all commercial sex workers want this job (Ayu,2019) Commercial sex workers who are victims are entitled to

social rehabilitation, which is intended to restore and develop the ability of someone who is experiencing it. social dysfunction in order to carry out its social functions reasonably. Social rehabilitation in question can be done persuasively, motivatively, coercively, both in families, communities and social homes. Further explained in Article 51 paragraph (1) of the PTPPO Law that victims are entitled to health rehabilitation, social rehabilitation, repatriation, and social reintegration from the government if the person concerned experiences both physical and psychological suffering due to the criminal act of trafficking. The provision of restitution can be in the form of replacement of property, payment for losses for suffering (Dikdik,20 08)

Human being is a social being, so one human right is limited by human rights to another, so freedom or human rights are not without limits. They are commercial sex workers, if we look at their work it is unjustified, but on the other hand they are victims who are supposed to be protected.

The Role of Government in Realizing Access to Justice to Women's Rights as Victims of Violence

Basically, violence against women is the act of imposing a will on women by using women's bodies and sexuality as a medium or arena. Nevertheless, violence against women is not yet fully understood by the community and the state organizing apparatus. Similarly, it is incomprehensible that women are often victims of violence and vulnerable to human rights violations (Majda,2013). In fact, the term violence against women has been voiced in the world almost 3 (three) decades earlier. In Indonesia, the term violence against women has been echoed by women human rights defenders and is increasingly coming to the fore along with the presence of service providers that provide assistance to women victims of violence.

Women national commission in early 2000 collaborated with three other institutions, namely LBH APIK Jakarta, *Convention Watch* Center for Women and Gender Studies of the University of Indonesia (PKWJ-UI), and LBPP DERAP Warapsari in building access to justice for women victims of violence. Women national commission as a national human rights institution serves as an umbrella and director of activities, while Legal Aid (Lembaga Bantuan Hukum) LBH APIK Jakarta as a victim assistance agency provides the experience of women victims accompanied by him when interacting with law enforcement officials. Victim experience is very important as the basic capital of advocacy because the main purpose of advocacy is a change of perspective towards a fair perspective and protection of women's rights. That change of perspective must fit into the legal system as a whole, both in terms of substance and structure and legal culture, (Friedman,1975) in all institutional law enforcement apparatus and all institutions related to the system.

Prostitution or prostitution is not a thing that has recently happened in Indonesia. James A. Inciardi argues that the term *prostitute* as quoted by Topo Santoso is The offering of sexual relations for *monetary or other gain* which means the offer of sexual intercourse for money or other benefits, prostitution is sex as a sex. Livelihood, contained several goals to be obtained, usually in the form of money. According to Kartono, prostitution or often referred to as prostitution or sexual desire, is a type of work that is as old as the age of humans themselves (Ningtias and Suisno, 2021). Whereas according to Walter C. Rechless prostitution is not limited to equality and sex alone, but various other forms of sex harvesting (Ilyas, 2018).

The practice of prostitution is an enemy to the government as well as the people of Indonesia because it not only violates religious norms, norms of decency but legal norms and ideologies of the nation, and in practice can also not only ensnare adults but also children.

Regarding the prohibition of prostitution can be seen in the Criminal Code Article 296 which reads "anyone who intentionally causes or facilitates obscene acts by others with others, and makes it a search or habit, is threatened with imprisonment of a maximum of one year and four months or a maximum fine of fifteen thousand rupiah" the article can ensnare providers of prostitution practices. Article 506, which reads "whoever withdraws from the obscene acts of a woman and renders her a search, is threatened with imprisonment for a maximum of one year" this article may ensnare the pimp. This means that there is no article in the Criminal Code that can ensnare all perpetrators in prostitution, including users of prostitution services and commercial sex workers themselves. If among them in fact has married / married then can be subject to the delik zina contained in Article 284 of the Criminal Code, the delik only regulates for the wife / husband who make a complaint only.

Indonesia is listed as one of the countries that source and transit international women's trade, especially for the purposes of commercial and labor sex in the world(Nurhadi,2018) Inprostitution, women are usually the ones who are often sexual objects of both girls and adult women. It must be admitted that the sex industry is a big conversation because of its association with the findings of a surprising infectious disease that is HIV / AIDS (Spillane,2003). The health world has announced how dangerous venereal disease is as a result of the practice of prostitution in society. In terms of health, the adverse consequences for the transmission/ infection of diseases related to sex very quickly, such as *gonorrhoea*, *syphilis* (*lucs,rajasinga*), and also other diseases such as HIV / AIDS (Mahardika et.al,2020) become an inseparable impact from the practice of prostitution.

Since then, in accordance with the purpose of its establishment, Komnas Perempuan as a national human rights *institution* (NHRI), in addition to taking measures to monitor violence against women for prevention efforts and provide recommendations, also began to think about what can be done to advocate for the government to be able to carry out its constitutional duty to protect its citizens from violence, especially women. The strategic step that was finally decided to be taken was to focus more on efforts to improve the system that has been available, namely the Criminal Justice System (SPP) to be more sensitive to the protection of women's rights, and furthermore the program is known as the concept of an Integrated Criminal Justice System that is gender-equitable in handling cases of violence against women (SPPT-PKKTP).

In terms of legal structure and culture, in the early 2000s the results of monitoring and processing the analysis of the experiences of women victims provided by LBH APIK Jakarta were then used by LBPP Derap Warapsari and PKWJ-UI to build curriculum and teaching materials intended for law enforcement officials' educational institutions and various higher education institutions. The educational activities are expected to expand the insights and discourse in law enforcement officials regarding the need for an Integrated Criminal Justice System that is gender-equitable in handling cases of violence against women. At that time LBPP DERAP Warapsari was in charge of advocating for all educational institutions of law enforcement officials, while convention watch PKWJ-UI focused on advocating for universities, especially the Faculty of Law, because that's where the human resources of law

enforcement officers (APH), especially public prosecutors and judges and other law enforcement, namely law advisors and correctional institutions under the Ministry of Law and Human Rights.

As an important output produced by this advocacy program is, among others, the establishment of focal point person / group in each law enforcement agency, the availability of various modules and teaching materials on gender-based human rights in all law enforcement agencies, and the holding of various trainings for trainers (Training of Trainers - ToT). . Since then, education programs on handling cases of violence against women and children have been implemented every year in the educational institutions of law enforcement officials, although according to the results of monitoring women national commission the sustainability of this education from time to time is variable and depends heavily on the political will (political will)of decision makers in each institution.

After the enactment of the Regional Autonomy policy, the advocacy of the SPPT-PKKTP program at the central level became ineffective due to facing obstacles, including coordination with the Ministry of Health (e.g. in order to obtain financing for the manufacture of *visum et repertum* and physical and psychological recovery) and with the Ministry of Social Affairs (in the provision of shelter facilities). facing bureaucratic barriers to be applied to the area. To overcome the problem in 2014 women national commission explored the possibility of advocating the concept of SPPTPKKTP into the provincial level. Based on a number of considerations, the areas that became a test area for the implementation of the SPPT-PKKTP concept in 2014 were Central Java and Central Kalimantan. The trial of the application of the SPPT-PKKTP concept shows that this effort is an initiative that is quite successful in influencing the legal system in the field of legal substance and legal structure, although in the field of legal culture it has not shown encouraging developments. This problem is strongly influenced by the bureaucratic culture that still perpetuates the habit of wanting to be served rather than serving, considering that the society that needs them, as well as the patriarchal culture that demeans and often blames women victims is still ongoing and greatly inhibits the sustainability of the implementation of SPPT-PKKTP which should prioritize the rights of victims and put victims as subjects.

All of this is aggravated by the specific condition of Indonesia, namely the breadth of Indonesia, which is very influential and hampers various efforts to change the culture of bureaucrats and law enforcement officials. The application of the concept of SPPT-PKKTP in one province will be very different from other provinces, even between cities / cities can be very different even though located in one province. Therefore in the future it is important to anticipate regional autonomy at the district / city level and its diversity. In the future, women national commission will try this concept in several regencies / cities in Indonesia, so it is expected that the results of the trial can be a model for the application of the SPPT-PKKTP concept in other regencies / cities. What was outlined earlier shows that through SPPT-PKKTP it is expected that women who work as commercial sex workers who are victims of violence can get justice through law enforcement or judicial process, including when ultimately the perpetrator is determined by the judicial process to be held accountable for his actions. But the reality on the ground shows that solving problems through the Criminal Justice System does not fully help victims to "recover". Even in many cases, especially because the prevailing

Criminal Justice System has not focused on restoring victims' rights, instead of gradually recovering, during the judicial process, victims are suffering even more.

Chart 1
Access to justice for women victims of violence



Source: Komnas Perempuan, Building Access to Justice for Women Victims of Violence: Development of the Concept of an Integrated Criminal Justice System handling Cases of Violence against Women (SPPT-PKKTP)

In the substance component of the law, there are laws and regulations, both material and formal, that tend to make it difficult for women to achieve justice. Material law is a regulation that regulates what is referred to as crime and violations, its delik elements, and sanctions. For example, those regulated in the Criminal Code (Criminal Code) do not yet recognize *gender-based violence*. This is seen among other things not a single article that recognizes or defines violence against women; articles relating to a form of sexual violence are categorized as crimes of decency and not crimes against the integrity of the female body; And others.

Access to justice is known as a method of legal reform with a *bottom-up* approach or approach that starts from the experience of the community at the grassroots level (Benjamin,201 9). Before the seventies, access to justice focused more on legal aid (Adrianand Jacqueliene,2009) But since long ago, many experiences showed that access to justice does not focus solely on the courts or legal institutions alone, other mechanisms and pathways have been recognized to open people access to justice. The primary position of the state court as the only means of 'obtaining justice' is not actually supported by empirical facts. Because justice is not only obtained through state institutions and lawyers are not the only access to justice.

CLOSURE

Conclusion

Women employed as commercial sex workers are a form of life demands and economic demands as major factors. In carrying out their work, commercial sex workers are often subjected to so-called sexual violence, which violates the rights as women that should be protected and respected. The fulfillment of the rights of women victims can at least be realized in three aspects, namely ensuring a policy foundation that is substantively not contrary to the victim's rights to truth, justice, recovery, fulfillment of a sense of justice, and the guarantee of

non-existence. The role of law enforcement officials who are committed to law enforcement while maintaining the principles of fulfilling victims' rights, including respect and enforcement of human rights, nondiscrimination, and ensuring all stages of the legal process are carried out regardless of religion, ethnicity, race, and gender and legal sanctions are actually enforced, without any stratification due to the social and economic position of the victim. As a subject, the victim has the right to be heard, entitled to information on the legal efforts that run, consider the sense of justice he wants to obtain, and restore his situation for the deprivation of his rights and the violence experienced.

Suggestion

The need to categorize rights into three parts: first, the right to information; second, the right to justice; third, the right to compensation or the right to a sense of justice for the loss suffered. The importance of optimizing cooperation between institutions is needed for the achievement of fair, equitable and expedited laws.

REFERENCES

- Amalia, M. (2018). Analysis of Prostitution Crimes Linked to Moral Ethics and Countermeasures in Cisarua Area of Arab Village. *Journal of Law Pulpit Justitia*, Vol. 2 (2).
- FranciscaUtami, M. (2015). "Setting Up Women Who Sell Themselves For Profit". Faculty of Social Sciences and Law, Surabaya State University, 2015.
- Koentjoro. (2004). "On The Spot: The speech of a prostitute, Yogyakarta: CV Qalams.
- Tri Wahyu Widiastuti. 2008. "Protection for Women Against Violence". *Law Discourse*, Vol VII (1).
- Henny Nuraeny. (2013). Criminal Acts of Trafficking in Persons "Criminal Law Policy and Its Application, 2nd Cet". Jakarta: Sinar Grafika.
- LBH APIK Jakarta. (2021). YEAR-END NOTE LBH APIK JAKARTA 2020: Women Victims According to State Commitment To Create Safe Spaces From Gender-Based Violence.
- Komnas Perempuan. (2021). CATAHU 2021: ANNUAL RECORD OF VIOLENCE AGAINST WOMEN IN 2020. "WOMEN IN THE PANDEMIC: SPIKES IN SEXUAL VIOLENCE, CYBER VIOLENCE, CHILD MARRIAGE AND LIMITED HANDLING IN THE MIDST OF COVID-19.
- Blackburn, Susan. (2007). *Indonesian Women's Congress: A Review*. Jakarta: Obor Indonesia Foundation and KITLV-Jakarta. Hlm XI-XII
- Goddess Novirianti. (2005). Strengthening women's laws to fight poverty. *Women's Journal*, Edisi 42.
- Peter Mahmud Marzuki. (2019). "Legal research." Jakarta: Prenada Media Group.
- ArifGosita. 1993. "TheProblem of Victims of Group Of Violence". Akademika Pressindo Jakarta.
- The original text of the 1993 Vienna Declaration and Programme of Action reads: "*The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights*".
- The original text of the 1993 Vienna Declaration and Programme of Action reads: "*Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated.*"
- The original text of the UN Declaration on the Elimination of Violence against Women, 1993, reads: "*For the purposes of this Declaration, the term violence against women means 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 in private life.*"
- The original text of General Recommendation No. 19 on Violence against Women, 1992, reads: "*The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and*

other deprivations of liberty. Genderbased violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence."

- Henrietta Moore. (1994). *A Passion for Difference*, UK: Polity Press.
- Komnas Perempuan. (2017). *Establishing Access to Justice for Women Victims of Violence: Development of the Concept of an Integrated Criminal Justice System handling Cases of Violence against Women (SPPT-PKKTP)*.
- Islamia Ayu, R.B Sularto. (2019). "Criminal Law Policy in Efforts to Combat Prostitution as a Renewal of Criminal Law". *Journal of Indonesian Legal Development*, Volume 1 (1).
- Didik M. Arief Mansur and ElisatrisGultom. (2008). *Urgency of Protection of Victims of Crime Between Norma and Reality*, Jakarta: PT Rajagrafindo.
- Majda ElMuhtaj. (2013). *Dimensions of Human Rights: Unraveling Economic, Social, Cultural, 3rd Print Rights*, Jakarta: PT Raja Grafindo Persada.
- Lawrence M. Friedman. (1975). *The Legal System: A Social Science Perspective*, New York: Russell Sage Foundation.
- Ayu Dian Ningtias and Suisno. (2021). The Concept of Prostitution Proof Law Through Social Media in Aspects of Criminal Law. *Ius Civile*, 5 (1).
- Mia Amalia. (2016). "Analysis of Prostitution Crimes Linked to Moral Ethics and Countermeasures in Cisarua Area of Arab Village", *Justitia Pulpit*, Vol. 2 (2).
- U.S. Nature and Amir Ilyas. (2018). "Criminology an Introduction". Jakarta: Kencana.
- Satrio Nur Hadi. (2021). Relevance of Prostitution Crimes Under Child Protection Law No. 35 of 2015 Is Associated with the Covid-19 Pandemic In Bandar Lampung", *Journal Pro Justitia*, Vol. 2 (1).
- James J. Spillane. (2003). *Sex Tourism In The Tourism Industry An Opportunity or a Threat? E-Book II*. Publisher of Sanata Dharma University.
- Moch Dimas and Galuh Mahardika. (2020). Prostitution in Surabaya At the End of the 19th Century, History, Culture and Teaching, Vol. 14 (1).
- Von Rooij, Benjamin. (2009). *Bringing Justice to the Poor: Bottom-up Legal Development Cooperation*, Working Paper, Van Vollenhoven Institute, Faculty of Law, Leiden University, the Netherlands.
- Bedner, Adrian & Vel, Jacqueline. (2009). *Access to Justice and Rule of Law, Conceptual Paper No. 1*, VanVollenhoven Institute – Access to Justice in Indonesia, Faculty of Law, Faw – Laiden University.