

Legal Protection for Victims of Online Gender-Based Violence (Cyber-Based Violence)

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ABSTRACT

Online gender-based violence is a serious problem that negatively impacts victims physically, psychologically and socially. This research aims to analyze the legal protection of victims of cyber-based violence in Indonesia, focusing on existing regulations and their implementation. The method used in this research is a normative research method with a juridical-analytical approach, where data is collected through a literature study of relevant laws and regulations, legal documents, and previous research related to online gender-based violence. The results show that Law No. 12 of 2022 on the Crime of Sexual Violence provides a strong legal basis for victim protection, including the right to assistance, temporary protection, and recovery. In addition, regulations regarding the removal of content involving victims are an important step in reducing further impact. However, this research also found challenges in law enforcement, public awareness, and training of law enforcement officers that need to be strengthened in order for victim protection to be implemented effectively. This research is expected to contribute to improving the understanding and effectiveness of legal protection for victims of online gender-based violence in Indonesia.

Keywords: legal protection; online gender-based violence; law reform

Introduction

Cyber-based violence refers to acts of violence perpetrated through digital platforms and information technology that target individuals based on their sex or gender identity (Arianto, 2021; Rita Lismini, 2023). These forms of violence include online sexual harassment, where victims are sexually exploited or threatened through digital media; digital snooping, which involves monitoring or tracking victims' online activities without authorization; gender-based insults or bullying that spread hatred or discrimination against victims because of their gender; and *doxxing*, which involves the dissemination of victims' personal

information with the aim of harming or humiliating them (Christian, 2020; Hayati, 2021).

This violence is growing along with the rapid use of the internet and social media, which facilitates the spread of violence quickly and widely, and exacerbates its impact on victims, especially women and gender minority groups. Based on data from SIMFONI PPA, throughout 2023 there were 11,441 cases of violence against women, with 11,712 victims. Case reports show an increasing trend every year, along with the development of the internet and social media networks that give rise to new forms of violence, namely Online Gender-Based Violence (KBGO) (Ministry of PPPA, 2024).

Gender-based violence (GBV) includes actions that cause suffering to women, whether physical, economic, sexual, or psychological. The Minister of PPPA revealed the results of the 2021 National Women's Life Experience Survey (SPHPN), which showed that 26.1% of women in Indonesia had experienced physical and/or sexual violence. Cases of gender-based violence, including sexual violence and domestic violence, often appear to be only a fraction of the reality, as many of them go unreported (Ministry of PPPA, 2024).

The rise of online gender-based violence is influenced by several important factors, one of which is the development of technology and social media that gives individuals greater access to interact and disseminate information. The increasing use of the internet and digital platforms, especially among the general public, exacerbates the threat of this violence as acts of violence can be carried out anonymously, quickly, and without boundaries (Musakif et al., 2024). In addition, deep-seated gender inequality in society, where women are often viewed as inferior or objects, is a key driver of online gender-based violence (Eko Riyadi SH, 2020). A patriarchal culture and gender stereotypes that consider women as a group that is more vulnerable to violence, leads to the normalization of discriminatory and aggressive behavior towards women, both in real life and in the digital world (Nurbayani & Wahyuni, 2023). These factors create a fertile space for gender-based harassment and bullying to occur online.

Legal protection against online gender-based violence in Indonesia is regulated through Law No. 19/2016 on Electronic Information and Transactions, Law No. 44/2008 on Pornography, and Law No. 12/2022 on Sexual Violence. However, despite these legal regulations, major challenges remain in their implementation. The process of reporting online violence is often hampered by victims' ignorance of their rights, fear of social stigma, and difficulty in accessing legal mechanisms. In addition, law enforcement is often ineffective due to the inability of law enforcement officials to adequately handle cases

involving digital technology. Imperfections in regulations and lack of resources to handle these cases are also barriers to effective protection for victims of online gender-based violence.

The urgency of better legal protection for victims of online gender-based violence in Indonesia is increasingly pressing, given that the trend of this violence continues to grow along with the rapid use of digital technology. More comprehensive policy reforms and enhanced legal protections are urgently needed to address the new challenges emerging in cyberspace that include not only victim protection, but also more effective law enforcement. Gaps in law enforcement are one of the main obstacles, where victims often do not receive adequate protection due to a lack of understanding of their rights, as well as limited reporting and response mechanisms of law enforcement officials.

This study aims to analyze the extent to which the legal system in Indonesia can provide effective protection to victims of gender-based violence that occurs in cyberspace. The research aims to identify weaknesses in existing laws and regulations as well as challenges faced by victims in accessing justice and legal protection. Thus, this research is expected to contribute to improving law enforcement policies and practices, as well as raising awareness about the importance of protecting victims of gender-based violence in the digital space.

Research Method

This research uses the normative juridical method, which is an approach that focuses on analyzing the legal norms that apply to protect victims of online gender-based violence (Cyber-Based Violence). This method aims to examine laws and regulations such as the Electronic Information and Transaction Law (ITE Law), the Pornography Law, the Sexual Violence Crime Law (TPKS Law), and other relevant regulations. The research will also discuss the legal principles underlying the protection of victims, as well as analyze the consistency and adequacy of available legal norms in providing protection against the types of violence that occur in cyberspace.

Data collection was conducted through a literature study, which included a review of relevant laws and regulations, court decisions, legal documents, and academic literature. The data obtained is then analyzed qualitatively to evaluate the extent to which the existing legal system is able to provide effective protection for victims of online gender-based violence. This method is expected to identify legal gaps and provide recommendations for strengthening regulations and policies in order to increase protection for victims in the digital realm.

Result and Discussion

Violence is a phenomenon that often occurs around us, one of which is gender-based violence. Gender-based violence refers to actions that harm individuals because of their gender identity, which is rooted in gender inequality, abuse of power, and discriminatory social norms (Purwanti, 2020).

Gender-based violence includes various forms of actions that harm individuals based on their gender identity. Some types of gender-based violence include psychological violence, physical violence, forced abortion, sexual violence including rape, and forced marriage that can involve both children and adults. This violence does not only occur in the real world, but can also take place in cyberspace (online), where the perpetrator utilizes technology to intimidate, harass, or other harmful actions against the victim (Rusman et al., 2022).

Online Gender-Based Violence (GBV) is a form of gender-based violence that uses technology as a tool, where the act has the purpose or intent to harass the victim based on their gender or sexuality. (NURMALA, 2023). GBV includes a range of behaviors that are often a continuation of real-world gender-based violence, such as domestic violence, stalking, and sexual harassment. This violence is perpetrated, in part or in full, through information and communication technologies (ICTs), such as mobile phones, the internet, social media and email, targeting victims based on their gender or sexual orientation (Shodiq, 2022).

There are six forms of violence against women in the digital world (Arsyad & Narulita, 2022), namely: 1. Hacking, which involves using technology to gain illegal access; 2. Impersonation, which involves misusing the victim's identity to access personal information, humiliate, or harass the victim; 3. Surveillance/tracking, which involves using technology to watch or follow someone; 4. Harassment/spamming, which involves repeatedly connecting, threatening, or harassing to frighten the victim; 5. Recruitment, which involves using technology to trick victims into engaging in a cycle of violence, trafficking, or fraud; 6. Malicious distribution, which involves using technology to manipulate and disseminate illegal or derogatory content.

One other form of violence that often occurs is revenge porn, also known as non-consensual pornography, which is the act of uploading intimate photos or videos of someone without permission with the aim of harassing or causing distress to the victim in real life (Faizah & Hariri, 2022).. In addition, there is also sexting, which is the act of sending nude photos via text message (Jufri, 2022). These various forms of online gender-based violence, including the dissemination of intimate content without the victim's consent or non-

consensual intimate images (NCII), are most commonly experienced by victims, especially women. In addition, sexual crimes or sexual violence/harassment committed online are also significant forms of gender-based violence. Most online gender-based violence is closely related to issues of sexuality (Utami, 2021).

Sexual crimes are violations of human rights that have a very serious impact on both adults and children who are victims of them (Suseni & Untara, 2020). These crimes are classified as serious crimes against humanity due to their extensive impact on the physical, psychological, and social conditions of victims. Physically, sexual crimes can result in various injuries, ranging from minor to severe injuries, permanent disability, and even death. From a psychological perspective, sexual crimes can disrupt the mental stability of the victim, which can manifest in symptoms such as difficulty sleeping, fear when meeting people who have similar characteristics to the perpetrator, eating difficulties, indigestion, hysteria, eating disorders, depression, decreased learning ability, to the emergence of suicidal intentions and attempts. Socially, victims of sexual crimes often face difficulties in interacting with their environment, especially if that environment negatively stigmatizes them (Anggoman, 2019).

Legal protection for victims of online gender-based violence is a constitutional command contained in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that: "Every child has the right to survival, growth and development and the right to protection from violence and discrimination." The state and government have a constitutional obligation to provide protection to all Indonesian citizens, in accordance with the mandate of Article 28I paragraph (4) of the 1945 Constitution which states: "The protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government." Therefore, the protection of victims of online gender-based violence is included within the framework of the fulfillment of human rights within the existing system structure.

Previously, in handling cases of online gender-based violence, Article 27 paragraph (1) of Law Number 11/2008 jo. Law Number 19 of 2016 concerning Electronic Information and Transactions was used to ensnare the perpetrators of criminal acts. This article states that: "Every person intentionally and without right distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that have content that violates decency." This provision allows the authorities to take action against perpetrators who distribute indecent or inappropriate content online, including

those related to online gender-based violence, such as the dissemination of private photos or videos without the victim's consent.

However, on the other hand, Article 27 paragraph (1) can also lead to the potential criminalization of victims, especially if the victim is the one who first sent the indecent photo or video, without the intention to spread or violate the law. This risks worsening the victim's psychological state as they could be trapped in a legal process that actually harms them. In this context, although Article 27 paragraph (1) can be used against perpetrators of online gender-based violence, its application needs to be more careful so as not to criminalize victims who are actually the injured party in the violence.

Furthermore, Law No. 44/2008 on Pornography also has a role in handling cases of online gender-based violence. However, the application of this law is not entirely consistent, especially when it comes to gender-based violence involving immoral or pornographic content. Article 8 of Law No. 44 of 2008 clearly states that "Every person is prohibited from intentionally or with his/her consent becoming an object or model containing pornographic content." This article, in essence, aims to prohibit the exploitation of individuals in the creation or dissemination of pornographic content. However, in the context of online gender-based violence, this creates problems related to the status of victims who may be trapped in the dissemination of content without consent or by coercion.

On the other hand, the Explanation of Article 4 paragraph (1) of Law No. 44/2008 clarifies that "What is meant by 'making' does not include for oneself and one's own interests," which should provide an exception for individuals who make pornographic content for personal consumption. However, Article 6 of the Act, which prohibits people from playing, showing, utilizing, possessing, or storing pornographic products, mentions exceptions only for those who have the authority in accordance with laws and regulations. Thus, although there are exceptions related to the creation of content for personal consumption, in practice this creates the potential for criminalization for individuals who become objects or models in the content, including victims of online gender-based violence.

Based on these provisions, Law No. 44/2008 does not provide clear legal certainty in handling cases of online gender-based violence. Although intended to prevent the spread of pornography and protect individuals from exploitation, the articles allow for the possibility that victims, who are initially the aggrieved party, could be ensnared in the law. This lack of clarity points to inconsistencies in legal protection for victims, especially in cases where they do not have full control over the dissemination of personal content that could be

fatal to their reputation and psychological well-being. As such, the law needs to be updated to provide stronger protection to victims of online gender-based violence without criminalizing them.

Previous research on legal protection of victims of online gender-based violence, such as that conducted by Adkiras (2021), revealed that although the Pornography Law and the ITE Law are intended to tackle the spread of pornographic content and crime in cyberspace, these two regulations tend to focus on sanctioning perpetrators without paying sufficient attention to the protection of victims. The research shows that in many cases, the law prioritizes punishing perpetrators, while victims who experience deep psychological and social impacts do not receive adequate legal protection.

The passing of Law Number 12 of 2022 on the Crime of Sexual Violence provides significant hope in law enforcement against online gender-based crimes or criminal acts of violence. This law comes as a step forward in providing firmer protection for victims of sexual violence, including gender-based violence that occurs in cyberspace. One of the main advantages of this law is its ability to accommodate various forms of sexual violence that not only occur physically, but also involve technology and digital platforms, such as online sexual harassment, dissemination of intimate content without consent, and exploitation through social media. With this law, victims of online gender-based violence can obtain clear and easier legal protection, while opening up opportunities for the application of stricter sanctions against perpetrators. In addition, Law No. 12 of 2022 also provides a strong legal basis for law enforcement to crack down on cases of online gender-based violence, ensuring that such acts of violence are not left without adequate sanctions, and guaranteeing victims' rights to justice and remedy.

Law Number 12 Year 2022 regulates online gender-based violence as a form of sexual violence crime, known as electronic-based sexual violence, as explained in Article 4 paragraph (1) letter i. "The forms of online gender-based violence are further regulated in Article 14 paragraph (1), which includes the acts of: a) recording and/or taking pictures or screenshots containing sexual elements without the consent or will of the person who is the object of the picture; b) transmitting information or electronic documents containing sexual content without the consent of the recipient and for sexual purposes; and c) stalking or tracking through an electronic system against someone who is the object of information or electronic documents with sexual purposes. Perpetrators of electronic-based sexual violence can be sentenced to a maximum imprisonment of four years and/or a maximum fine of Rp200,000,000.00." Furthermore, Article 14 paragraph (2) explains that "if the act is carried out with

the aim of blackmailing, threatening, or coercing someone, or to mislead or trick someone into doing or not doing something, then the perpetrator can be sentenced to a maximum imprisonment of six years and/or a maximum fine of Rp300,000,000.00."

Law Number 12 Year 2022 provides clearer and more comprehensive legal certainty in dealing with online gender-based violence. One form of protection provided is the affirmation of actions that can be subject to criminal sanctions, such as taking pictures or videos without consent that contain sexual content and disseminating information that harms victims. With this arrangement, it is expected that victims of online gender-based violence can obtain more effective legal justice, without having to worry about being blamed or criminalized for their actions related to the dissemination of harmful content. The law also introduces more severe legal consequences for perpetrators who use online gender-based violence for extortion or threatening purposes.

In addition, the increase in penalties for perpetrators who commit violence with the intention of coercing or misleading victims shows the seriousness of the state in providing protection to victims of online gender-based violence. In this context, Law Number 12 of 2022 plays an important role not only as a law enforcement tool, but also as a means of prevention so that acts of gender-based violence do not become more widespread. With the provision of stricter penalties, it is hoped that it can reduce the number of cases of online gender-based violence in Indonesia and provide a sense of security and a sense of justice for victims, especially women who are often the main targets of this type of violence.

Electronic-based sexual violence regulated in Article 14 paragraph (1) of Law Number 12 of 2022 falls into the category of complaint offense, which means that legal action can only be initiated if the victim files a complaint. However, there are exceptions in the case of victims who are children or persons with disabilities, where no victim complaint is required to initiate legal proceedings. This provision reflects the state's special attention to its vulnerability, where victims in these categories may not be able to make a complaint due to age or physical and mental limitations. Therefore, although a victim complaint is the main requirement in this crime, the state still protects the rights of children and persons with disabilities by providing space for the authorities to act even without a direct complaint from the victim.

In addition, Article 14 paragraph (1) letters a and b stipulates that if electronic-based sexual violence is carried out in the public interest or as self-defense from other acts of sexual violence, then the act cannot be subject to punishment. This aims to provide justice for individuals who may be forced to

commit such acts in emergency conditions or as an effort to protect themselves. However, this provision does not apply if the victim is a child or person with a disability. Despite the consent or will of the victim, the law still prosecutes perpetrators for their acts of electronic sexual violence against these vulnerable groups. This shows that the state has a more protective approach to the rights of children and persons with disabilities, and emphasizes that there is no reason that can justify acts of violence against them, even if there is consent from the victim.

Law No. 12 of 2022 provides a significant step in the protection of victims of online gender-based violence by providing assistance for victims during the judicial process, as stated in Article 26 paragraph (1). This assistance aims to ensure victims receive the necessary legal and psychological assistance throughout their legal journey, in order to reduce the trauma that can arise during the judicial process. It also provides a sense of security to the victim, by ensuring that they do not feel alone in facing the legal process which can be overwhelming and exhausting. With these advocates, victims will feel more cared for and supported by the legal system.

In addition, Law No. 12 of 2022 also provides temporary protection to victims through several mechanisms, such as restrictions on the movement of the perpetrator that can be carried out by the Police. This aims to keep the perpetrator away from the victim for a certain distance or time, in order to prevent further violence. This law also regulates additional protection by giving victims the right to request protection from LPSK (Witness and Victim Protection Agency) and cooperate with UPTD PPA (Regional Technical Implementation Unit for Women and Children Empowerment). Not only that, victims are also given the right to request the removal of content that has been disseminated in cyberspace that can harm them, as stipulated in Article 46 and Article 47. All of this reflects the state's commitment to providing maximum protection to victims, ensuring they not only feel safe, but also protected from further impacts.

In the aspect of recovery, victims of online gender-based violence are also given rights that support their physical and mental recovery. Articles 66 to 70 of Law No. 12 of 2022 regulate the rights of victims, including the right to good treatment, effective protection, and recovery from the effects of the violence they have experienced. In addition, victims are entitled to restitution or compensation for losses incurred as a result of the criminal offense, as stated in Article 30. Moreover, the rights of victims' families are also regulated in Article 71, which provides protection and attention to victims' families who are also affected by the incident. Overall, Law Number 12 Year 2022 provides

comprehensive protection and guarantees the rights of victims to obtain justice, both in the form of physical, psychological, and legal protection. It is hoped that this law can be effectively implemented in tackling criminal acts of sexual violence, both online and offline, and provide legal certainty for victims.

Conclusion

The conclusion of this study shows that legal protection for victims of cyber-based violence in Indonesia has been strengthened through a number of regulations, including Law No. 12 of 2022 on the Crime of Sexual Violence. However, challenges in law enforcement and public awareness regarding gender-based violence in cyberspace still need to be addressed. To improve legal protection for victims, several recommendations can be made. First, there needs to be a broader socialization program on victims' rights and reporting procedures, so that victims feel more empowered to report the violence they experience. Second, specialized training for law enforcement officials in handling cases of cyber-based violence, including an understanding of digital technology, needs to be provided so that they are better equipped to handle these cases effectively. Third, reforms to existing policies, including revisions to laws, are needed to eliminate the potential criminalization of victims and ensure clearer protection for them. In addition, the provision of psychological support services for victims throughout the legal process is crucial to help them overcome the trauma experienced. Through these measures, it is hoped that legal protection for victims of cyber-based violence can be significantly improved, providing a sense of security and justice for those affected.

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