

## LEGAL ANALYSIS OF THE ROLE OF THE POLICE IN INVESTIGATIONS FOR LEGAL PROTECTION OF VICTIMS OF RAPE, ADULT AND CHILD WOMEN (Analysis of Aceh Qanun No. 6 of 2014 concerning Jinayat Law)

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### ABSTRACT

Rape is a very deviant behavior carried out by humans who have crossed the limits of their humanity, even beyond the animal side. At present the crime of rape is a crime that has received sufficient attention in the community. As for the formulation of the problem in this research, namely how to arrange Police investigations into victims of the criminal act of rape of adult women according to the Criminal Code and Qanun in the Police, what forms of legal protection for victims of criminal acts of rape to fulfill the victims' rights based on Qanun Aceh No. 6 of 2014 concerning the Jinayat Law, what are the obstacles in the Police's investigation of rape victims in the police. The results of the study are that the form of legal protection for victims of rape in investigations is in the examination of victims of law enforcement officials who are members of the criminal justice system starting from police investigators, public prosecutors to judges during examinations in court still treating victims of rape crimes as an object, not a subject whose rights must be heard, respected and protected by law. Obstacles in investigating victims of rape in the police are that it is difficult for investigators to find the whereabouts of perpetrators who have fled and become fugitives.

### INTRODUCTION

The Republic of Indonesia is a state based on law, this idea is expressly stated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, 4th amendment (hereinafter referred to as the 1945 Constitution), which states that: "The Republic of Indonesia is a state based on law."

The rule of law (rechtsstaat) is closely linked to human rights. In other words, a state based on law must recognize the existence of human rights. This can be seen in the characteristics of a rule of law, which reflect the essence of the rule of law itself.

Indonesia, as a nation based on the rule of law, places law as its supreme authority. Every action taken by the government, society, and individuals must be based on the law. Actions and actions must comply with statutory regulations. In other words, society must use laws and regulations as a guideline for regulating every human action or behavior.

Law as a tool of social control means that law is something that can determine human behavior, where this behavior is defined as something that deviates from the rule of law and, as a result, the law can impose sanctions or action against violators. This means that law directs society to act correctly based on what is determined by the law itself.

Crime is not a hereditary event (innate, inherited), nor is it a biological inheritance. Criminal behavior can be committed by anyone, both women and men, and can occur in childhood, adulthood, or old age. Rape is a crime that receives considerable attention in society. Newspapers and magazines often report on rape. Studying history, this type of crime has actually existed for a long time, or can be said to be a classic form of crime that will always follow the development of human culture itself. Crime will always exist and develop over time, although perhaps not significantly different from before. This crime of rape does not only occur in large cities with relatively advanced culture and legal awareness or knowledge, but also occurs in rural areas that still relatively uphold traditional values and customs.

Rape cases often present difficulties in resolving them, both during the investigation, prosecution, and sentencing stages. These difficulties, along with the aforementioned limitations, also pose difficulties in proving, for example, rape or indecent acts, which are generally committed in the absence of others.

The crime of rape has been processed to the court, but in these cases the perpetrators were not given the maximum sentence in accordance with

the provisions of the legislation contained in the Criminal Code (KUHP) CHAPTER XIV concerning Crimes Against Morality (Articles 281 to 296), especially those regulating the crime of rape (Article 285) which states: "Anyone who by violence or threat of violence forces a woman to have sexual intercourse with him outside of marriage, is threatened with rape, with a maximum prison sentence of twelve years.

Barda Nawawi Arief stated that combating crime requires a rational effort from society, namely through criminal policy. Crime prevention policies and efforts are essentially an integral part of social defense efforts. The primary goal of criminal policy is to protect society to achieve social welfare.

Victims' issues often receive little attention. Even if there is attention, it's often limited to the need to present them as "witnesses" to the crime. Meanwhile, their need for effective reparation is often overlooked. This is also true for rape victims. Rape cases are common, and victims suffer greatly, both physically and emotionally.

Feelings of shame, perceived disgrace, and low support from society, the government, and law enforcement hinder women victims of violence from reporting their experiences. Many victims also refrain from reporting their cases to the authorities, as they are ingrained with an ingrained sense of worry and fear that their actions will not resolve the problem and alleviate the burden they face, but will instead create a heavier burden. Besides fear of being asked to re-reveal or describe their cases, victims also worry that the authorities will not be serious about addressing their suffering. This suggests that rape victims do not yet consider that the law governing the crime of rape is inadequate to protect them.

## RESEARCH METHODS

This research is descriptive and analytical in nature, meaning that it describes, examines, explains, and analyzes the issues of legal protection for

rape victims in criminal justice, which are linked to existing laws and regulations, and then analyzed. This research is a scientific activity based on specific methods, systematics, and thinking that aims to study a particular law through analysis.

Based on the object of research, which is positive law, the approach used in this study is a normative juridical approach. As a normative juridical study, this study is also conducted by analyzing the law, both written in books (law as it is written in the book) and the law decided by the judge through the judicial process (law as it is decided by the judge through the judicial process), or what is often referred to as doctrinal research.

In relation to the type of research used, namely normative and empirical juridical, with the aim of obtaining qualitative results, the approach taken is a statute approach, carried out by means of library research and field research.

The approach method used is descriptive analytical, meaning that this research is a study that describes, examines, explains and analyzes the problem of legal protection for victims of rape in criminal justice related to laws and regulations which are then analyzed. This research is a scientific activity based on certain methods, systematics and thoughts that aim to study a particular law by analyzing it.

## RESULTS AND DISCUSSION

Efforts to protect victims of rape are not solely the duty of law enforcement officers, but are also the obligation of society to help restore the condition of rape victims in community life.

These kinds of things are very important and are really needed by victims, because basically rape victims are double victims who, in addition to experiencing physical sexual violence, also experience psychological violence which is not easy and requires a long time to recover from.

The punishment the perpetrator received and the compensation the victim received do not necessarily restore their mental health. Therefore, the family plays a crucial role in helping the victim recover mentally, ensuring they feel protected by those closest to them.

This kind of treatment is also seen as a form of protection for victims, because with a good attitude from society, victims do not feel inferior or afraid in living in society.

Legal protection for rape victims is first provided by the police when they report the incident. Currently, the Indonesian National Police (Polri) has established a Special Service Room (RPK) staffed by female police officers, housed within a separate Special Unit to handle cases of violence against women and children.

Generally, society sneers at rape victims by judging that the rape that occurred was their own fault and the victim is considered to have deliberately provoked the rape. Apart from that, it is not uncommon for society to call rape victims naughty women and consider them to bring shame to society.

Theoretically, protection for crime victims can be provided in various ways, depending on the extent of the suffering or loss suffered by the victim. For example, for mental/psychological losses, material/monetary compensation is inadequate without efforts to restore the victim's mental health. Conversely, if the victim only suffers material losses, psychological services may seem excessive.

Every criminal act, in addition to the perpetrator, also results in victims. These victims can be the perpetrators themselves or victims who arise as a result of the crime committed by another party. A victim of a crime is the party who suffers in a criminal incident. Similarly, a rape victim suffers as a result of the crime they experienced. Therefore, it is important

to determine the extent to which victims have received the legal protection they expected.

Protection for victims of crime can be defined as providing legal recourse for the suffering or loss suffered by those who have been victims of a crime. Victim protection encompasses anything that can alleviate the suffering experienced by someone as a victim. Efforts to alleviate this suffering can be achieved by reducing the victim's physical and mental suffering.

Victims are those who suffer physically and mentally as a result of their own actions or the actions of others, seeking to fulfill their own or another party's interests in violation of the injured party's human rights. Victims can be individuals or groups, and can also be legal entities.

When a crime occurs, legal regulations often focus on punishing the perpetrator, often neglecting the victims of the crime. Yet, victims also deserve attention because they are essentially the ones who suffer the most damage in a crime.

Criminals are subject to criminal sanctions by the court, while the victims' well-being is seemingly ignored. This can undermine the values of justice inherent in the law, and therefore, regulations governing the treatment of victims of crime are necessary to address this issue.

The impact of crime results in victims and losses. These losses can be suffered directly by the victim themselves or by others. These losses can also affect relatives or others who depend on them for their livelihood. The nature of crime should be seen as something that harms the victim, therefore, the punishment imposed on the offender must also consider the victim's interests by providing reparation for the losses suffered. These losses must be repaired, not only physical but also non-physical.

Taking into account the interests of rape victims in sentencing is not just to fulfill the rights of the victim, nor is it merely a rational consideration

because logic says so, but more than that, it is also for the interests of the victim.

Legal protection efforts for rape victims involve the implementation of criminal law policies, specifically how to create and formulate sound criminal legislation. Ultimately, efforts to protect and mitigate victims of crime can be achieved. Similarly, the crime of rape is considered to degrade women and damage their dignity. Yet, women are the mothers of humanity, as it is from their wombs that human children are born.

Rape cases often involve children, girls, and adult women, including those with mental, physical, and social weaknesses who are vulnerable to various threats from within and outside their families. Threats of violence from outside the family home can often be deterred because they are visible to those around them. However, threats of violence within the home, perpetrated by family members, are often difficult for outsiders to detect.

Those who generally experience violence are wives, mothers, daughters, and female domestic workers. They often hesitate to report it due to, among other factors, family ties, certain social values, reputational issues, and the perceived difficulties that would arise if they did report it.

The prevalence of rape in everyday life leaves women feeling fearful, anxious, and insecure. This is further compounded by the victims' often powerless position in the criminal justice process. This means that law enforcement does not address their suffering.

Rape is a traumatic experience that can leave lasting scars. Post-rape syndrome has two stages: the acute phase, where the victim openly displays her disturbed emotions or conceals her suffering with fortitude and composure. Symptoms in the initial period include pain, nausea, loss of appetite, and sleep disturbances. If she has to take the morning-after pill to prevent pregnancy, she must also endure the pain caused by the rape. If she contracts a sexually transmitted infection, the treatment will be a constant

reminder of the tragedy. In the later phase, the victim often has nightmares and suffers from deep depression.

Attention and protection for crime victims is one of the increasingly pressing needs of various countries to provide compensation, restitution and services for crime victims, but it turns out that it is still difficult to fight for the rights and interests of crime victims in the criminal justice system.

Victimology is a scientific field that examines all aspects related to victims in various areas of life and livelihood. Protecting victims of rape is an activity that promotes human rights and human rights obligations. Rape victims must be given attention and protection because they are highly vulnerable to various threats of mental, physical, and social harm. Furthermore, they often lack the ability to care for, defend, and defend themselves.

To protect victims, rape victim management is necessary, encompassing prevention, therapy, and rehabilitation. Attention should be directed to the victim, their family, their community, and the wider community.

Then in another decision Number 05/JN/2016/MS.Lgs concerning the crime of rape, the punishment imposed on the perpetrators was: the first perpetrator was sentenced to 16 years in prison, followed by the second perpetrator was sentenced to 15 years in prison. However, neither restitution nor compensation was included in the verdict as a form of restitution promised in the Qanun Jinayat. It is likely that the victim did not request that restitution be imposed on the perpetrators.

Based on this, it appears that the system for fulfilling restitution for victims in Aceh through the Qanun Jinayat remains complicated. The complexity of victims in obtaining their right to restitution is as complex as other victims in Indonesia whose right to restitution is handled by the Criminal Procedure Code and the Law on Witness and Victim Protection

through the LPSK. The next question is why restitution in the formulation must be an additional punishment and separated from the main punishment for perpetrators of rape. The result of this separation between the main and additional penalties creates legal uncertainty for victims in obtaining compensation. This is further complicated by the rule that restitution can only be submitted by the prosecutor upon a request from the victim, plus the judge in determining the amount of "uqubat restitution" must consider the financial capabilities of the convict.

The police, whose duties and functions are to protect, enforce the law, and serve the community, are required to be more intensive when handling crimes committed by perpetrators of rape against their own children, so that it is hoped that the handling can directly touch or find the root of the problem. Similarly, the police at the South Aceh Police, which is the main implementing agency of the Regional Police located in South Aceh, in carrying out its authority and duties must also be able and able to change the way it handles rape cases.

It also states that "when questioning a rape victim, the investigator should, as far as possible, avoid offending the victim, let alone asking questions that would corner the victim, making them feel as if they were to blame for the rape. This can cause the victim to experience psychological trauma and make them unwilling to elaborate on the actual crime."

From the statement above, the author can conclude that handling rape cases must be carried out optimally and in an integrated manner between law enforcement agencies and other law enforcement agencies within the criminal justice system. All aspects require attention and improvement, including medical, internal service, and legal aspects, which must be optimized. Social support from family and community members must be strengthened to ensure rape victims receive a sense of legal protection.

## CONCLUSION

Regulations for investigations into victims of rape crimes in the police are regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code, Law Number 13 of 2006 concerning Protection of Witnesses and Victims, Law Number 16 of 2011 concerning Legal Aid, Circular Letter of the Supreme Court Number 10 of 2010 concerning Guidelines for the Provision of Legal Aid Number 10/Bua.6/Hs/SP/VIII/2010 and Aceh Qanun No. 6 of 2014 concerning Jinayat Law. The status of this Qanun is recognized in the Indonesian legal hierarchy, standing on par with regional regulations. Recognition of this Qanun means it has binding legal force.

The form of legal protection for victims of rape during investigations is In examining victims, law enforcement officers who are part of the criminal justice system, starting from police investigators, public prosecutors, to judges, during examinations in court, still treat victims of rape as objects, not as subjects whose rights must be heard, respected, and protected by law.

Obstacles in investigation of victims of rape in the police is investigators have difficulty finding the whereabouts of perpetrators who have fled and become fugitives, investigators have limited space and time so it is difficult to complete case files according to the specified target, investigators experience a shortage of personnel from the PPA Unit, lack of information about the perpetrator so that investigators have difficulty tracking the whereabouts of the perpetrator who fled, during the investigation the investigators have difficulty obtaining information from victims who have severe psychological trauma; the victim and family who will carry out the post-mortem process to make a police report experience economic limitations to pay for the post-mortem costs, lack of adequate facilities and infrastructure for the investigation and disclosure of the crime

of rape in the PPA Unit of the South Aceh Police. Efforts made to provide protection to victims of rape are divided into three parts. First, before the court hearing, when reporting, the victim is placed in a special service room (RPK) which is a special, closed and comfortable room in the National Police unit, women and children who are victims of rape can report their cases safely to the policewomen on duty. Second, during the court hearing, the victim is accompanied by members of the Legal Aid Institute (LBH) / NGO in giving testimony so that the victim can be calmer and not feel afraid during the trial. Third, after the trial, the victim has the right to receive protection such as getting a new identity, getting a new residence.

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