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# The Rights of the Victims in Submitting a Complaint against the Criminal Act of Counselling in Indonesia

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**ABSTRACT:** The crime of sexual intercourse committed by adults accompanied by persuasion or promises is not regulated as a crime formulation in the Criminal Code (KUHP), so that women as victims do not get justice because the complaints made are not processed by the police, The purpose of this study is to analyse the regulation of the rights of victims in filing complaints against perpetrators of criminal acts of sexual intercourse and to analyse and find weaknesses in the regulation of victims' rights in filing complaints against perpetrators of crimes of sexual intercourse as well as reconstructing regulations on the rights of victims in filing complaints against acts of sexual intercourse so that they can be used as offense so that it can provide a value of justice. This research is a non-doctrinal/socio-legal-research research with a descriptive study. The approach method in this research is Juridical Sociological by using constructivism paradigm. The results showed that the act of sexual intercourse carried out by adults accompanied by persuasion or certain promises is a crime that has not been accommodated by current regulations so that the protection of the victim is not fulfilled as well as the victim's right to complain about the sexual act experienced because the police do not can follow up the complaint so that the criminal sanctions imposed on the perpetrators cannot be carried out. Weaknesses in the current regulations include lagging behind the Criminal Code as the basis of criminal law in accommodating the rights of victims of sexual intercourse in filing complaints, which are weaknesses in terms of legal substance, the resolution of cases by the police which is not optimal is a weakness in terms of legal structure and weaknesses in the perspective of legal culture related to vacancies. the law on the victim's right to file a complaint in the act of sexual intercourse which causes the victim to be reluctant to file a complaint, because the settlement will only be done through mediation, and does not provide a deterrent effect. Reconstruction of Article 284 of the current Criminal Code by including the element of deliberately breaking the promise to be responsible for sexual acts and the victim has the right to file a complaint with the police for the actions he has experienced so that the victim's rights can be fulfilled and get justice.

**KEYWORDS:** Victim; Criminal act; Intercourse; Complaint; Indonesia.

## I. INTRODUCTION

Pancasila is the philosophy of the Indonesian nation. The philosophy of the Indonesian nation is a philosophy that was born or excavated from the culture and life of the Indonesian nation that has existed since hundreds of years ago during the ancient kingdoms. The philosophy or philosophy of Pancasila is based on an attitude of balance between kinship but does not simply exclude the individual. As stated by Soediman Kartohadiprodjo, Pancasila is basically not a free individual but an individual who is bound in the sense of kinship [1].

It is known that until now the material criminal law that applies in Indonesia is still using the Criminal Code/WvS (Wetboek van Strafrecht voor Nederlandsch Indie) inherited from the Dutch colonial era and has been implemented since January 1, 1918 (based on S.732.1915) with a philosophical background of individualism and liberalism. different from the views and concepts of the value of the nation's life.

This situation can cause the goal of criminal law enforcement to obtain substantive justice as expected by the community, not being fully realized. Because they still apply laws and regulations that are not based on the values that grow and develop in society [2].

The definition of women according to Zaitunah Subhan, the word woman comes from the word "empu" which means appreciated. Furthermore, Zaitunah explained the shift in terms from women to women. The word Woman is considered to come from Sanskrit, with the root word Wan which means lust, so the word woman has the meaning of being lusted after or is a sex object.

In the 2019 Komnas Perempuan Annual Note Press Release (CATAHU), it shows an important trend, based on reports of violence in the private/personal sphere received by the Service Provider Forum for Women Victims of Violence, there is an increasing and quite large number of dating violence, which is 2,073 cases. In the private sector, the highest percentage was physical violence

41% (3,951 cases), followed by sexual violence 31% (2,988 cases), psychological violence 17% (1,638 cases) and economic violence 11% (1,060 cases). This year, CATAHU also found that the highest perpetrators of sexual violence in the private/personal sphere were girlfriends as many as 1,670 people, followed by biological fathers as many as 365 people, then in third place was uncles with 306 people.

In addition, we often hear, read about the problem of women who are victims of persuasion or promises to have intercourse with their boyfriends/girlfriends. One example was that it went viral in a thread on Twitter with the username @allthesudden on February 1, 2020, who claimed to be pregnant, and ordered to have an abortion with a man with the initials AM, who is the younger brother of a celebrity with the initials SU and CS. In her tweet, the woman claimed to have dated a man with the initials AM and had time to travel abroad, and in the end the woman became pregnant, and when she asked for an answer, she was ordered to have an abortion, and chose not to be responsible for reasons of different religions [3].

Another example is the true story of a woman who believes in men's words, which was told on Instagram by the account @tichandelier who claimed to have had sex with a boyfriend who had been in a relationship for 3 years, at first refused to have a relationship like husband and wife, but the boyfriend gives a promise or flirtation by saying that he will be responsible if something happens. And in the end the relationship happened.

In the Reformation era, efforts to realize the National Legal System have a mission to ensure the upholding of the rule of law and human rights based on justice and truth. Whereas in the Criminal Code (KUHP) as well as in other laws and regulations, this has not been able to ensnare perpetrators of sexual intercourse committed by adults based on persuasion or promises.

Because in the Criminal Code (KUHP) it has not been regulated regarding adult intercourse based on persuasion or promises, where the perpetrator and the victim are both adults which occur because of persuasion or promises such as getting married. included in a series of lies cannot be prosecuted. Therefore a victim cannot file a claim (report or complain) against the actions of men who have cheated and are irresponsible, many cases like this, where victims report cases like this to the police, but only at the reporting stage, investigators always refuse report from the victim on the grounds that the sexual act that occurred has not been regulated in the Criminal Code or in other laws and regulations in force in Indonesia. Therefore, women who are victims do not get dignified justice for themselves. So that women who are victims are very harmed physically and mentally. Not to mention the social sanctions that can be obtained from the community, the good name of the family becomes polluted [4].

## II. OBJECTIVES

1. To analyse the regulation on the rights of victims in filing complaints against perpetrators of sexual acts that are currently not based on the value of justice.
2. To analyse and find weaknesses in the regulation of victims' rights in filing complaints against perpetrators of sexual intercourse based on the value of justice.

## III. RESEARCH METHOD

The method used in this research is a normative juridical approach, with secondary data sources, namely data obtained by digging up library data. In this research, what is meant by secondary data includes:

1. Primary legal materials, namely binding legal materials consisting of the basic norms of Pancasila, the 1945 Constitution, MPR stipulations, laws and regulations, jurisprudence and so on.
2. Secondary legal materials, namely legal materials that are closely related relation to primary legal materials and can be help analyse and understand legal materials The primary sources are the Draft National Criminal Code Concept, the results of research by related experts, the work of legal experts (relevant books), the results of scientific meetings (seminars, symposiums, discussions) and others.
3. Tertiary legal materials that will provide information/explanation instructions on primary and secondary legal materials, such as legal dictionaries, indexes, and others.

The data obtained were then analysed by descriptive analytical method.

### *A. The Regulation Of Victims' Rights In Filing Complaints Against Perpetrators Of Sexual Intercourse Has Not Been Based On The Value Of Justice*

The criminal law system in Indonesia in the form of the application of the principles of criminal law and punishment within the framework of criminal law enforcement is still based on the Criminal Code (KUHP) as a legacy of the Dutch colonial era, which is clearly emphasized through the birth of Law Number 73 of 1958 which outlines declare the enactment of Law Number 1 of 1946 concerning criminal law regulations in Indonesia. The Criminal Code as the basis of criminal law in Indonesia regulates various things, one of which specifically regulates criminal acts regarding decency that can occur in the community. Criminal acts of decency in the Criminal Code are regulated in Chapter XIV starting from Article 281 to Article 296 [5].

Crimes of decency in the doctrine of criminal law include personal offenses or subjective offenses which therefore cannot be measured objectively, such as crimes of murder and persecution. Crimes of decency can be classified as criminal acts that are cultural in nature, meaning that criminal acts of decency are very loaded with local cultural values. Efforts to enforce the law

against perpetrators of criminal acts of decency faced with complicated problems, including crimes in the field of decency are generally positioned as a complaint offense. Therefore, law enforcement officers in enforcing the law against perpetrators of criminal acts of decency require a complaint from the complainant and the complainant is generally a victim of a crime of decency [6].

One type of crime that is included in the type of crime of decency is the crime of sexual intercourse as the object of the problem in this study. Regarding the issue of sexual intercourse related to this research, then in the Criminal Code there are at least several articles that regulate and explain the act of sexual intercourse in question [7].

a. Article 284 of the Criminal Code

(1) Threatened with a maximum imprisonment of nine months:

1.a A married man who performs “ovelspel” even though it is known that Article 27 BW applies to him.

1.b A married woman who performs mukah.

2.a A man accompanies the act, even though he knows that the guilty party is married

2.b A woman who has participated in the act

(2) No prosecution shall be carried out except on the complaint of a tainted husband/wife, and if Article 27 BW applies, within a period of three months followed by a request for divorce or a change of table or bed for that reason as well.

(3) This complaint does not apply Article 72, Article 73 Article 75 of the Criminal Code

(4) Complaints can be withdrawn if the examination in a court trial has not yet started

(5) If for husband-and-wife Article 27 BW applies, the complaint is not heeded if the marriage has not been decided due to divorce or before the decision stating the table or bed separation becomes permanent.

b. Article 285 of the Criminal Code

Article 285 of the Criminal Code explains that "Whoever by force or threat of violence forces a woman to have sex with him outside of marriage, is threatened with rape, with a maximum imprisonment of twelve years".

c. Article 286 of the Criminal Code

Article 286 of the Criminal Code reads "Anyone who has sex with a woman outside of marriage, even though it is known that the woman is unconscious or helpless, is threatened with a maximum imprisonment of nine years.

d. Article 287 of the Criminal Code

(1) Anyone who has sexual intercourse with a woman outside of marriage, even though it is known or should be reasonably suspected, that she is not yet fifteen years old, or if it is not generally clear that she is not yet capable of marrying, shall be punished by a maximum imprisonment of nine years.

(2) Prosecution is only carried out on complaints, unless the age of the woman has not reached twelve years or if there is one of the things mentioned in Article 291 and Article 294.

From the four formulations of articles related to the act of sexual intercourse, it can once again be explained that the crime of sexual intercourse is indeed accommodated and mentioned in the Criminal Code. However, the purpose of intercourse which is specifically carried out on consensual basis because it begins with persuasion and certain promises is not clearly explained in these articles [8].

Regarding the formulation of Article 284, the purpose of intercourse is more to intercourse carried out by men and women where one of them is bound by marriage bonds with the other party. The formulation of this article is intended to regulate and impose sanctions on parties who have intercourse outside the marriage bond. This action is a complaint offense, where a complaint can be reported by a married couple with one of the parties having intercourse.

Meanwhile, the formulation of Article 285 is an act of sexual intercourse because of the element of coercion so that the action is classified as an act of rape. The element of coercion is carried out by the party who has more power and effort against the weaker party. In this case, such actions are carried out by targeting women who are in a weak condition as victims of these actions.

Referring to the description of the substance of the regulation in the Criminal Code for the existence of acts of sexual intercourse, in fact accommodation of the interests and rights of victims of the crime of sexual intercourse is not regulated in a concrete way. Women who are not included as underage women, are not victims of rape, are not bound by marriage ties with other parties and are in a empowered condition, become subjects that are not included in the formulation of the article on sexual intercourse in the Criminal Code [9].

Thus, there is a problem in terms of setting in the Criminal Code against the rights of women as victims of acts of sexual intercourse that begin with certain persuasion/promises. In this case, the Criminal Code is still 'half-hearted' to regulate the intent of intercourse and does not fully aggregate various moral issues, especially cases of sexual intercourse in the Criminal Code.Referring to such conditions, it is true that women who are victims of sexual intercourse carried out with persuasion or promises which are then not fulfilled or carried out open the possibility for women to experience Post Traumatic Stress Disorder [10].

Thus, the position of women as parties who also have sexual intercourse should be victims with a weak position, apart from being caused by trauma from the actions taken against them, also coupled with the birth of this law which has not accommodated the condition of women as victims of sexual intercourse accompanied by persuasion or promises that are not kept.

### *B. Weaknesses in the regulation of victims' rights in filing complaints against perpetrators of sexual intercourse based on the value of justice*

**1. Substance Weakness**

The criminal law that applies in Indonesia until now is criminal law which is mostly adopted from the Netherlands which is codified in the Criminal Code (KUHP). This is in accordance with the provisions of Law Number 1 of 1946 concerning the Criminal Law Regulations. However, in its development, the Criminal Code is considered incomplete or unable to accommodate various problems and dimensions of the development of new forms of crime, which of course are in line with the development of thoughts and aspirations of the needs of the community. In addition, the current Criminal Code is not a criminal law that originates from basic values and socio-philosophical, socio-political, and socio-cultural values that live in Indonesian society.

The current KUHP as a colonial legacy is not a complete criminal law system, because there are several articles/delicts that have been revoked, including those that have been annulled by the Constitutional Court. However, most of them remain colonial heritage, making it difficult to accommodate the problems of the Indonesian people. Therefore, a new law has emerged outside the Criminal Code which regulates special offenses and special rules. However, the new law outside the Criminal Code, although it is a national product, is still under the auspices of the general rules of the Criminal Code (WvS) as a colonial master system. In short, the Criminal Code does not reflect the face of Indonesia (in line with basic Indonesian values) [11].

It is undeniable that the progress achieved through science and technology has had an influence on criminal law. With these advances, both directly and indirectly, have an effect on the development of crime. Advances in the industrial sector, for example, cause pollution which will give birth to environmental crimes. Advances in the economy and trade have spawned smuggling crimes, consumer fraud, banking crimes, capital market crimes, and intellectual property rights crimes such as copyrights, trademark rights and patents.

Besides the reasons for the development of society, there are other reasons that demand the need to reform the criminal law, namely political reasons, sociological reasons and practical reasons. These three reasons are actually classic reasons that demand the need for a country to reform the law. Political reasons are based on the idea that an independent country must have its own national laws. Sociological reasons require the existence of laws that reflect the cultural values of a nation, while practical reasons, among others, stem from the fact that usually the former colonized countries inherit the laws of the countries that colonized them in their original language, which is then not understood by the younger generation of the country. the newly independent [12].

The irrelevance of the Criminal Code is reflected in the opinion of Barda Nawawi who stated the nature of the importance of reforming the criminal law in this case the Criminal Code which is explained by several approaches:

a. Policy Approach.
   1) As part of social policy that criminal law reform is part of efforts to overcome social problems.
   2) As part of the criminal policy that criminal law reform is part of efforts to protect the community.
   3) As part of law enforcement policy that criminal law reform is part of efforts to reform legal substance in order to make law enforcement more effective.

b. Value approach.

   Criminal law reform is an effort to review and reassess the socio-political, socio-philosophical, and socio-cultural values that underlie and provide content for the normative content and substance of criminal law. Furthermore, the renewal of criminal law has become a very urgent need for fundamental changes to achieve the ideals of a better criminal and more concerned with aspects of human rights. This need is in line with a strong desire to realize a law enforcement that is as fair as possible. As is well known, law enforcement is not a neutral activity, but rather has its own social structure, so that it differs from time to time, from system to system and from place to place [13].

   The problem of not being accommodated by various legal problems that exist, is felt and developed in the community into a criminal problem is actually born from the substance of the Criminal Code which is a form of criminal law inherited from the Dutch colonial government. As mentioned in the previous section, that related to the act of sexual intercourse which is currently a problem raised by researchers is one of the criminal issues that have not been accommodated in the Criminal Code which is currently still used in Indonesia.

   The development of a criminal act that occurs is not only accompanied by the development of technology but also accompanied by the development of society which also increasingly encourages the birth of various modus operandi or implementation of criminal acts. In comparison, in the Criminal Code which only regulates sexual intercourse carried out with violence or threats of violence, it is a form of sexual intercourse that still exists today and has developed since the existence of the Criminal Code [14].

In a different perspective, the act of sexual intercourse that developed due to the existence of other modes of carrying out the act of intercourse was actually not realized by the drafters of the Criminal Code at that time about the existence of a mode that would accompany the existence of an act of intercourse. In this case, with the development of a criminal act in practice it is not followed by the development of the basic regulation of criminal law.

In this case, the Criminal Code is the basis of criminal law as a legal product of the Dutch heritage, it must be acknowledged that it has lagged the regulation of various developments of criminal acts that occur in society. This lag as a legal basis is further a weakness of the Criminal Code as the basis of criminal law in ensnaring the perpetrators of criminal acts as well as in fulfilling the rights of victims of criminal acts.

The reluctance to reform the Criminal Code as the basis of criminal law in Indonesia is still clearly illustrated where until the completion of this dissertation there has not been an update or amendment to the Dutch-herited Criminal Code. Various efforts have been made to produce a new Criminal Code, but always encounter obstacles in the process of discussion and enactment.

Regarding the problems studied by the researcher, in fact the formulation related to this kind of crime has been accommodated in the draft of the Criminal Code in the early 2000s which was formed by criminal law experts. However, the intention to produce a new criminal law product that is in accordance with developments and in line with the problems that have always been experienced and felt by Indonesian citizens has never been penetrated and is determined to be a new legal product.

The final phase of the obstacles to the ratification of the Criminal Code as a new legal basis is clearly seen from the postponement of the discussion of the Draft Criminal Code Bill in 2019 which experienced rejection in almost all of Indonesia because the formulation of the articles in the draft was considered by the majority of the public and legal observers to contain various problems, including the regulation of criminal acts of decency. This further confirms that the Criminal Code with all its problems which have not been able to accommodate various developments and modes of criminal acts has been left behind even with the objects it regulates in the Criminal Code. Therefore, reform of the Criminal Code is a necessity in realizing fair law enforcement, especially justice for every victim who directly feels the impact of the crime committed against him.

c. Structural Weaknesses

Regarding the function of law enforcement, Article 4 of the Police Law explains that the National Police aims to realize internal security which includes the maintenance of public security and order, order and enforcement of the law, the implementation of protection, protection, and service to the community, as well as the establishment of public peace by upholding the rights of the people. human rights.

The mandate of the article in the Police Law shows that the basis for carrying out the functions of the Police is carried out on two functions, namely the law enforcement function and the preventive or preventive function. Law enforcement is carried out by taking legal action as described by the researchers in the previous section, as well as a prevention function carried out in the form of protection, guidance, and service to the entire community.

The implementation of the functions of the police is not only carried out by the police institution at the Central Government but is also carried out by one Police at the level below it, starting from the Police at the Provincial level which is formed as the Regional Police (Polda), Police at the Regency level. / City formed as the Resort Police (Polres), to the Police at the District level which was formed as the Sector Police (Polsek). In addition, the implementation of the Tigas and police functions are also further carried out by the Bhayangkara Pembina Security of Community Order (Bahbinkamtibmas) who carries out duties up to the village level [14].

The technical basis for the implementation of the division of tasks at the level of the police institution has been regulated in Government Regulation of the Republic of Indonesia Number 23 of 2007 concerning the Legal Areas of the State Police of the Republic of Indonesia. One of the ranks of the police in the regions carrying out these duties and functions is the Ngawi Police, which is a police unit in Ngawi Regency. The determination and mention of the Ngawi Resort Police in this study was carried out because the Ngawi Resort Police received complaints related to the issues studied in this study.

In 2021, the report on the case in question occurred at the Widodaren Police Station which is included in the Ngawi Police District area. At least two complaints were submitted to the local police by women as victims of sexual intercourse carried out on persuasion or certain promises.

The two complaint reports were made by two different people and received the same treatment from the party who had intercourse, which was not accompanied by responsibility for the persuasion or promise made during the intercourse. The two reports were made by a woman with the initials S.A and another woman named A.I.

The two women both complained and made a police report but with the result of different sexual acts, where the woman with the initials S.A did not experience the impact of physical changes after the act of intercourse (not pregnant), while the woman named A.I felt the impact of physical changes in the form of pregnancy caused by the act of sexual intercourse.

Against these two complaints, the police then took steps and efforts to resolve the issue. After receiving the report or complaint, the police will then study it to take further steps or legal action. This is due to the fact that the victim's honor and future have been damaged by the act of sexual intercourse which was carried out and accompanied by certain persuasion or promises, but the perpetrator did not carry out the persuasion or promises.

The police's steps in completing this complaint report pay attention to various legal bases, one of which is the Criminal Code. After observing the existing legal basis, the police did not proceed further because the perpetrator and the victim were both adults, and carried out on a consensual basis, there was no element of coercion and there were no articles in the Criminal Code or other laws that could ensnare the perpetrators.

In this case, when referring to acts of decency regulated in the Criminal Code, more specifically acts of sexual intercourse, in fact there are only Articles 284 and 285 relating to these actions. However, when examined more specifically the two formulations of the article and the act of sexual intercourse committed, the act of intercourse referred to as a complaint report does not meet the two elements in the article [15].

As for the settlement of the two complaint reports, the police only took mediation steps in following up on the reports. Regarding the complaint report of the first victim with the initials S.A, mediation was carried out and both parties agreed to resolve the problem amicably. Meanwhile, for the second case experienced by a woman with the initials A.I who was pregnant as a result of sexual intercourse, mediation was also carried out by the police until an agreement was finally reached where the perpetrator would be responsible for marrying the victim.

The steps taken by the police can actually be appreciated because there was mediation and an agreement from both parties. However, when viewed from the perspective of protection and justice for victims who experience physical and psychological impacts from sexual acts and promises that are not kept, it is necessary to review the steps taken by the police.

In fact, if it is intended to fulfill the victim's sense of justice, the act of the perpetrator who does not want to be responsible for his actions needs to be carried out by legal proceedings. However, if it refers to the absence of legal norms governing these regulations, the police as an institution in law enforcement cannot take the next step. In this case, the issue of legal substance affects the legal structure in this case by the police as a state institution that has duties and responsibilities in the field of public security.

In principle, the police in carrying out their duties and functions in terms of taking action and law enforcement against each case are always based on the basis of rules or regulations that regulate, without exception for acts of sexual intercourse accompanied by persuasion or promises as the problem in this study. . However, with the principle of the rule of law adopted in Indonesia which implies that all existing law enforcement processes must also be based on existing written legal norms, so when referring to the Criminal Code which has not accommodated the act of sexual intercourse in question, it actually makes the police not optimal. in completing the complaint report submitted by the victim.

The Ngawi Police Police's step in completing the report only by mediating (after an in-depth examination of the complaint report was previously carried out) is a way to resolve the case, because in addition to the absence of an article in the Criminal Code that accommodates this action, the police are also not rash in taking legal action that could have an impact related parties, ranging from weak legal actions taken to legal processes that will not run optimally because if it is continued in the prosecution process by the Prosecutor's Office it will be found that the action in question does not meet the elements contained in the articles of intercourse in chapter about morality in the Criminal Code [16].

d. Cultural Weaknesses

Regarding the legal vacuum related to the discussion in this study, the legal vacuum in question also has an impact on sentencing efforts that should be able to be carried out on the perpetrators as well as the fulfilment of the rights of the victims. There are at least three impacts of the existence of a legal vacuum that regulates the crime of sexual intercourse accompanied by such persuasion or promise. The three impacts are as follows:

1) Community Reluctance to Complain

The existence of both material and immaterial losses experienced by a person provides an opportunity for him to complain about any actions he has experienced to law enforcement in this case the police. Complaints made by the victim or by the family of the victim who suffered losses are carried out on the basis of legal considerations regulated in the legislation.

This shows that there is an element of legal certainty when the reported act has been clearly regulated in the legislation. However, when the act is not regulated mutatis mutandis in the existing legal rules, the police will certainly not take further legal steps from the reported complaint.

2) Form of Complaint Settlement Only Mediation is carried out

Of the two cases concerning complaints made by victims of the crime of sexual intercourse accompanied by certain promises or persuasion which were reported to the police as discussed by the researcher in the previous section, due to the absence of legal norms that can ensnare the perpetrators, the next process carried out by the police is only carried out by mediation between the victim and the perpetrator.

The mediation that is carried out is actually in addition to the absence of legal norms that can ensnare the accused perpetrator but is also intended to provide protection to the victim so that the perpetrator is willing to take responsibility and fulfil the promise or persuasion made when the crime of sexual intercourse was committed. This responsibility is even more binding when the mediation carried out by the police and the perpetrator with the victim is seated together and made before the police so that the perpetrator cannot deny and deny mediation in the future because it is carried out in front of law enforcement officers.

The mediation step taken is actually a reflection of the conception and practice of resolving cases currently being carried out by law enforcement agencies, namely restorative justice. Restorative Justice is seen by many people as a philosophy, a process, an idea, a theory and an intervention. Restorative justice is a judiciary that emphasizes reparation for losses caused or related to criminal acts. Restorative Justice is carried out through a cooperative process that involves all parties (stakeholders)

3) Does not cause a deterrent effect

Actions that violate the law as well as norms that exist in society have an impact on being sentenced to a person, so that through these criminal sanctions it is intended to reaffirm existing values, both legal values and social values. With the existence of criminal sanctions that provide an obligation for the perpetrator to be obliged to carry it out, it is hoped that it will give birth to a deterrent effect on the perpetrator so that the perpetrator no longer does it again as well as a warning to other parties who will take an action that will lead to criminal sanctions to think again in doing an action. criminal.

The application of criminal sanctions for a criminal act is one form of handling a case as well as demonstrating the enforcement of criminal law. The purpose of criminal law in general is to protect the interests of individuals (individuals) or human rights and protect the interests of the community and the state with a harmonious balance from crimes/disgraceful acts on the one hand and from the actions of arbitrary authorities on the other.

## CONCLUSIONS

1. The act of sexual intercourse as an act of adultery committed by an adult accompanied by persuasion or a certain promise to marry so that intercourse occurs is actually a criminal act. The regulation of these actions when referring to the existing Criminal Code has not been accommodated in the adultery chapter or articles specifically regarding sexual intercourse, so it shows the existence of a norm vacuum. The absence of an article formulation that accommodates these actions makes efforts to fulfill the rights and protection of women as victims who experience the impact of the act of intercourse cannot be fulfilled. In addition, the void of norms for these actions makes the victim's rights unfulfilled in complaining about the act of sexual intercourse experienced because the police as law enforcement officers cannot follow up on the complaints submitted. Therefore, law enforcement efforts by the police cannot be continued so that complaints from victims who hope that criminal sanctions will be imposed on the perpetrators will not be achieved. Thus, the regulation of the rights of victims of the crime of sexual intercourse has not been based on the value of justice.
2. Weaknesses in the regulation of victims' rights in filing complaints against perpetrators of criminal acts of sexual intercourse based on the value of justice, among others: the backwardness of the Criminal Code as the basis of criminal law in accommodating the rights of victims of sexual intercourse in filing complaints is a weakness in terms of legal substance, settlement of cases by parties The police force that is not optimal is a weakness in terms of the legal structure and weaknesses in the perspective of legal culture related to the legal vacuum of the victim's right to file a complaint against the crime of sexual intercourse which causes the victim to be reluctant to file a complaint, because the settlement will only be done through mediation, and does not provide a deterrent effect.
3. Reconstruction of the regulation on the rights of victims in filing complaints against perpetrators of the crime of sexual intercourse based on the value of justice is focused on the revision of the Criminal Code, especially Article 284 by incorporating new legal norms that regulate the rights of victims to file complaints and provide confirmation of the explanation of the Criminal Code regarding the granting of rights to victims of sexual intercourse. the. As for the formulation of Articles in the Draft Criminal Code in the future.

## SUGGESTIONS

1. It is hoped that the government and the DPR as the formulator of regulations will accommodate the issue of adult sexual intercourse accompanied by certain persuasion or promises as the construction of the formulation of norms described above in the formulation of the Criminal Code which is currently being discussed by the DPR and the Government.
2. Law enforcers, especially the police, should consider various aspects such as justice and the usefulness of law in receiving complaints from victims so that victims get justice.

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