

OPTIMIZATION OF PROTECTION OF WOMEN FROM A SOCIAL COMMUNITY AND LEGAL PERSPECTIVE

Edi Krisharyanto
Endang Retnowati
Septiana Prameswari

ABSTRACT

The lack of community participation in efforts to tackle violence against women means that many cases go undetected. Even with the development of technology, society's involvement in violence against women is increasing and varying. This research is intended to analyze and contribute to thinking about the role of society and law in providing optimal protection for women. Because this is normative legal research, the approach used is a statutory approach. From the research results, it is known that cultural factors that are deeply rooted in Indonesian society, namely patriarchal culture, are one of the factors that trigger violence against women, which occurs starting from the family environment and social interactions. Starting from physical violence, sexual violence, verbal violence. The lack of public awareness to get involved in efforts to prevent acts of violence has resulted in acts of violence against women increasing. Therefore, society as a social base where women as members or citizens must take responsibility for providing protection to women through preventative and treatment measures. In an effort to increase public legal awareness, the Government must continue to carry out outreach and training. Optimization of legal functions and law enforcement, both through its function as social control and as a tool for carrying out social change.

Keywords: Optimization; Protection of Women; Society and Law Enforcement.

INTRODUCTION

God created men and women with their own unique qualities. This uniqueness ultimately naturally gives specific characteristics to both of them. Different but complementary characteristics. If we look at the history of human creation, women were created from men's left ribs. It can be said that women are part of men who come from a place full of protection. This means that humans basically have to complement each other and it is the man's job to protect. However, it is generally understood that men have the highest degree.

Likewise, in the reality of social life, physical differences between men and women are interpreted to mean that men are stronger and more powerful than women. Concepts like this ultimately influence the concept of dividing roles between the two, where because women are weaker than men, they are given tasks and responsibilities that are light and safe in the sense that they do not have serious physical risks, while men are just the opposite. According to Mosse, in every society, men and women have different gender roles. The differences made in their communities cause the status and power of men and women in society to become different.¹

Likewise, in household relationships, the husband's position is as the leader in the family, and the wife as the companion. In Javanese culture, the wife is even placed as a "winging partner" and not as a companion. The husband has greater power in the family. The wife does not have any abilities, even to carry out certain actions she must have the husband's permission. Especially if the action has legal consequences. In fact, this condition was later legalized by law, namely through articles 105, 108, 109, 110 and 1330 of the Civil Code, which stated that the wife was deemed to be someone who was not competent to carry out legal actions. Only then through SEMA No. 3 of 1963 concerning the Idea of Considering Burgerlijk Wetboek as Not a Law, these articles were abolished. In an effort to eliminate discrimination between husband and wife in domestic relations, the Marriage Law no. 1 of 1974 which is regulated in Article 31 paragraphs (1), (2) and (3) that, husband and wife have equal rights and positions both in domestic life and in society, each is capable of carrying out legal actions and the husband is the Head Family while the wife is a housewife.

Even though there is a law that legitimizes the wife's position as equal to that of the husband, this is due to the strong patriarchal culture generally adhered to by Indonesian society, which positions men as more powerful and powerful, while women are subordinate to them, both in social and domestic life. Likewise with Javanese culture which is generally admired as rules that must be obeyed. So the existence of this law does not greatly influence or change the position of the wife. The husband's role as head of the household should be interpreted as meaning that the husband has the responsibility to protect his family but it is actually the opposite.

He considers quarrels in the household to be normal, part of the dynamics of household life. A husband scolding or even beating his wife is normal, not a violation of the law. The wife's helplessness is often used by the husband to perpetuate his power. In our social culture, it is inappropriate for anyone other than family members to interfere in someone's household affairs. So when problems occur in the household, people generally don't care and even tend to ignore them. This situation causes domestic violence to escalate. The idealism of marriage as envisioned by the Marriage Law "forming a happy and prosperous family" is just a concept.

Lack of supervision regarding guarantees of protection and justice gives rise to violent practices, with women and children being the groups that experience the most acts of violence and discrimination.² Based on data from the Online Information System

¹ Mosse, Julia Cleves, 2007, Gender dan Pembangunan, Putaka Pelajar, Yogyakarta. h.30-31

² Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia, Perlindungan Kaum Perempuan Wujudkan Indonesia Hebat (Siaran Pers Nomor: B- 024/Set/Rokum/MP 01/04/2017), <https://kemenpppa.go.id/index.php/page/read/29/1390/perlindungan-kaum-perempuan-wujudkan-indonesia-hebat>, diakses pada 5 Maret 2022.

for the Protection of Women and Children, in 2020 there were 7,404 reported cases of violence against adult women, of which 60.75% were domestic violence.³ Certainly, there are many more that are not detected, because in general they are reluctant to report because they are embarrassed, afraid or because they still want to defend their household.

The lack of community participation in efforts to overcome violence against women means that many cases go undetected, and even tend to increase. Society even contributes to violence against women, where they treat women as objects. Even with the development of technology, society's involvement in violence against women is increasing and varying. The act of uploading and distributing photos of other people that contain elements of sexual harassment is widespread. In some jobs we often see exploitation of women's bodies. There is objectification of women, through social media women are degraded, made into objects or commodities, and bought and sold. Women's appearance and bodies are often the subject of jokes, from ordinary people to officials, even intellectuals. It is ironic and very worrying that everything they do is considered a natural act, some even consider it a form of admiration. Whether they realize it or not, what they are actually doing is very dangerous for women, especially if it is done continuously, it will have a psychological impact in the form of mental stress.⁴

The case of sexual violence at the Bandung Islamic Boarding School, the case of a student in Mojokerto who committed suicide, and the case of an Unsri student increasingly adds to the long list of violence against women. It is also proof that the protection given to women is still weak. Violence against women is still lurking and can happen at any time if it is not addressed immediately. Protection for women must be immediately addressed.

Women play an important role in the sustainability of a nation. For the reproductive function to give birth to a quality future generation, women must be qualified, physically and mentally healthy and have high intellectual abilities. For this reason, women must be safe, free from pressure both physically and psychologically and able to appreciate themselves both in the family and in society. Handling cases of violence against women must be handled immediately and protection of women must be a priority for the state.

Based on the explanation above, the problem that will be discussed in this paper is how to optimize protection for women from a social perspective and a legal perspective?

The approach methods used in this discussion are the statutory approach and the conceptual approach. The legal materials used include primary legal materials, namely related laws and regulations as well as secondary legal materials, literature, journals, articles related to the issues discussed.

DISCUSSION

Women's Protection in a Social Perspective

The phenomenon of acts of violence against women in Indonesia never stops. In fact, based on research results, it is stated that the majority of Indonesian women have experienced physical or sexual violence. According to data released by the government with assistance from the United Nations Populations Fund (UNFPA), in March 2017 a third of Indonesia's female population had experienced sexual and physical violence.⁵ Even though there are various laws that regulate the elimination of violence against women, in fact they have not been able to prevent and take firm action against acts of violence against women. Women's struggle to achieve gender equality can indeed be said to be successful. In several fields such as education, work, politics, women have succeeded in gaining their rights and involvement in development. However, the struggle to achieve gender equality here is not linear with the struggle to eliminate violence against women. The protection of women still needs to be fought for.

Violence against women is more specifically defined as gender-based violence, this is because violence against women is caused by inequality or gender inequality where there is unequal power between men and women, men are more powerful than women.⁶ Women occupy a disadvantageous position, starting from household relations, husbands are placed in a higher position than wives. So the husband can do anything. Moreover, it is supported by the existence of Javanese culture which has taken root in people's lives, which places the wife as a "Konco Wingking" which means a back friend, the wife's position is behind the husband, the wife is not allowed to be beside, let alone in front of the husband. This term also means that the wife is under the husband. The wife's duty to serve the needs of her husband or family, in Javanese terms is known as: *cooking, macak manak* (kitchen, well, mattress). Even in Javanese society, in particular, there is a term that puts women "Suargo Nunut, Neroko Katut" meaning that if the husband is successful then the wife feels it, conversely if the husband is miserable the wife is also miserable. Gender violence impacts almost all spaces in women's lives, such as the home, workplace, public places and society. Even though the type of violence experienced varies from one culture to another, there is an important problem that arises beyond the boundaries of ethnicity/race, religion or socio-economic class, namely that women are vulnerable to acts of violence because of their gender.⁷ This is because women are considered the weakest social creatures, both physically and psychologically, so it is very easy to become victims.

³ Kementerian Pemberdayaan Perempuan dan Perlindungan Anak Republik Indonesia, Menteri Bintang Dukung Wadah Penegakan Hukum dan Penanganan Kasus Berbasis Gender, <https://www.kemennppa.go.id/index.php/page/read/29/3176/menteri-bintang-dukung-wadah-penegakan-hukum-dan-penanganan-kasus-berbasis-gender>, diakses pada 5 Maret 2022.

⁴ Ika Kartika Febriana, *Objektifitas Perempuan dan Pengaruhnya Terhadap Kesehatan Mental*, Tempo.co, 15 Oktober 2018, di akses pada 5 Februari 2022 <https://kolom.tempo.co/read/1136290/objektifikasi-perempuan-dan-pengaruhnya-terhadap-kesehatan-mental>.

⁵ Usman Hamid, "Bagaimana Menguatkan Perlindungan Perempuan? Perkuat Peran Kmnas Perempuan", Jentera, 2019, <https://www.jentera.ac.id/publikasi/bagaimana-menguatkan-perlindungan-perempuan-perkuat-peran-komnas-perempuan-2/>

⁶ Dede Kanita, *Hak Asasi Perempuan dalam Peraturan Perundang undangan Jurnal Konstitusi*, Volume 12 Nomor 4, Desember 2015, h.720

⁷ Sopacua, M.G, "Perlindungan Hukum Terhadap Hak Perempuan Sebagai Korban Kekerasan Dalam Rumah Tangga (Kajian Perspektif Hak Asasi Manusia)", *Sasi*, 22(1) (2016), 74-84. Doi: <https://doi.org/10.47268/Sasi.V22i1.179>.

In Javanese culture there are various concepts or values about true women, including Nyi Hartati's teachings to her Rancangkapati daughters about the "Five-finger Figure". These teachings reveal that women must behave like: Thumb which means Pol Ing Tyas, as a wife must submit completely to her husband. What the husband and wife wish must be fulfilled. Accusing finger (index finger), the wife must never break the tudhung Kakung (husband's instructions), she must not question, or blame, the husband's most correct instructions. The wife's penunggul finger (middle finger) must always honor her husband and maintain his dignity. Ring Finger, the wife must always be happy in serving her husband. Jejenthik finger (little finger), the wife must be athak ithikan, that is, skilled and resourceful in serving her husband.⁸ Culture that has taken root in people's lives has influenced the behavior and attitudes of society and individuals in household and social relationships. Where the husband is the leader of the family so that the husband has higher power than the wife and has the right to order the wife, the wife's duty is to serve and obey the husband's orders, which is known as patriarchal culture.

In the midst of a modern society like today, it turns out that patriarchal culture is still alive in Indonesian society. This culture greatly influences the position of women in almost every aspect of life, such as work, politics, education, etc. Apart from that, there are quite a few rules that shackle women, thereby limiting their space for movement. Men have greater control in society, especially in their families. Therefore, the consequences of this culture lead to the emergence of harassment, discrimination and other violence.⁹

A wife in her domestic life is often faced with a dilemma, especially in situations where she experiences domestic violence. It's like eating simalakama fruit, if reported it will disrupt the integrity of the household, if left unsolved the problem could even continue to happen. Women's physical condition is often the target of violence. Especially sexual violence. When they are educationally and economically powerless, women often become victims of exploitation and exploit themselves. Sexual violence against women is a serious threat. anytime, anywhere and whoever, even within the family environment. Many cases occur in the family environment and are carried out by people who are supposed to provide protection. It is sad and ironic that there is no effort from family members who know about it to immediately take action/report it. even tend to hide. Fear, shame, under threat become reasons to allow actions. The impact is not only physical but also psychological, the future of the victim and the threat to future generations.

Schools, campuses and Islamic boarding schools which are supposed to be safe places also have no guarantees. Higher education or advanced religious knowledge, which should make people more self-aware and become role models, turns out to not always be the benchmark. In fact, these places become protective frames, safe places for perpetrators to carry out their actions. Not all victims dare to report it because it concerns their self-image and future, this condition actually makes it worse and will make the act happen again and again. Verbal violence is psychological violence, which can be carried out by anyone, anywhere, anytime, even via social media. Husbands who look down on their wives or daughters, male friends to female friends. Through obscene words, harassment, insults, self-deprecation, prolonged criticism or it could be through soft words but if you look closely the words are manipulative, for example, "if you really love me, do that for me" etc., this is very dangerous. This is what is called objectification, which often occurs not only by ordinary people but also by intellectuals, even officials. Women's physique and appearance are often the subject of jokes and jokes. A form of harassment that is carried out unknowingly, which is considered normal.

Not all violence against women is caused by external factors, there are times when internal factors trigger incidents of violence against women. There are women's own contributions to this, for example when women go out at night alone, go out at night alone with those who are not their friends or dress inappropriately. You can't just hide behind human rights. However, in our society the values of politeness still apply and are still maintained and adhered to. Emancipation fought for by R.A. Kartini and the struggle for gender equality should not be misunderstood. Women cannot act completely the same as men. Naturally, there are things in women that are different from men that women themselves must be involved in guarding and protecting. In this case it is necessary to build awareness and resilience in women themselves so that they are able to protect themselves, as an effort to anticipate if there are actions that could harm them by providing access for women to obtain adequate education, access to information, and suitable work.

Women's protection essentially includes all efforts aimed at protecting and providing a sense of security to women as well as fulfilling their rights through consistent, structured and systematic attention aimed at achieving gender equality. Providing protection for women must start from the smallest environment in society, namely the family. The family or home must be a safe place for women (both as wives and children). The principle of gender equality must start from the family. Husband and wife each have equal responsibilities. The wife must respect the husband's rights, while the husband must respect the wife's rights.

In Indonesia, Komnas HAM is an independent institution responsible for protecting human rights.¹⁰ On the other hand, Komnas Perempuan is an independent body that specifically protects and protects women's human rights. The struggle to realize gender equality has actually started with Law no. 1 of 1974 concerning Marriage. Article 31 paragraphs (1), (2) and (3) emphasize that the husband is the head of the family and housewife. Each of them has equal rights and obligations in domestic life and in society, and is able to carry out legal actions. The husband's role as head of the household must be interpreted as meaning that the husband has the responsibility to protect his family (wife and daughters) both physically and psychologically. In domestic life between husband and wife, no one is more powerful, no one rules or is ruled, but rather serves each other. Their rights and obligations are balanced. This should not just be acknowledged, but there must be implementation. Although this will be a big challenge for husbands because they have to break away from tradition and male egoism. Women are part of society, which cannot be separated, part of citizens who need special treatment. Without special treatment, it will be difficult for women to obtain protection and fulfill

⁸Budi Susanto dkk, 2000, *Citra Wanita dan Kekuasaan (Jawa)*, Kanisius, Yogyakarta, h.24.

⁹Endi Sukarno, *Perempuan dalam Cengkraman Budaya Patriarki*, Radar Jogja, 9 Oktober 2019, diakses pada 15 Februari 2022, <https://radarjogja.jawapos.com/opini/2019/10/09/perempuan-dalam-cengkraman-budaya-patriarki/>.

¹⁰Laurensius Arliman, 'Komnas Ham Sebagai State Auxiliary Bodies Di Dalam Penegakan Hak Asasi Manusia Di Indonesia', *Jurnal Bina Mulia Hukum*, 2.1 (2017), 54–66. Hlm. 57.

their constitutional rights, this is as a result of the patriarchal system that is perpetuated.¹¹ We can imagine what this world would be like without women.

As expressed by Vivekananda, countries and nations that do not respect their women will never become great, either now or in the future. The fundamental reason that caused the nation's drastic downfall was because it had no respect for the lives of women who were depicted as *sakti* (wives).¹² For Indonesia, women are an asset, potential and important investment who can contribute significantly according to their capacity and abilities, said the Minister of National Development Planning. Bappentation in the Trading Development and Gender Equality forum which took place on the sidelines of the 2019 Asian Development Bank Annual Meeting in Nadi, Fiji.¹³ This is how important the role of women is for the survival of a nation and for the family, as well as as human beings who have the right to obtain their rights as they deserve.

Efforts to prevent and take action against violence against women must involve various parties, including the community. Society must take responsibility in efforts to prevent and overcome violence against women. Society must care about women's protection. Many cases go undetected and untreated due to low public awareness.

Society is the basis or center for preventing acts of violence against women. For this reason, the government as the authority in policy making must be able to build public awareness to participate in efforts to provide protection for women. Through outreach and training programs that are carried out consistently, structured, continuously or sustainably, in all government areas and all levels of society. Apart from that, it is no less important to collaborate to involve institutions or educational institutions, religious institutions, social institutions, and other institutions to get involved in strengthening protection for women.

Protection of Women in Legal Perspective

Indonesia is a country of law, so law must be used as a means of strengthening protection for the community. The law must be used consciously to regulate and protect the interests of society. Laws that are able to provide protection to society, in this case especially protection to women. The importance of using legal norms here is because legal norms have normative legitimacy, are formed by institutions that have authority and have the power to compel compliance, and there are sanctions that can provide a deterrent effect to those who violate them.

Optimizing the function of law, which is not only a tool of social control but also functions as a means or tool that can change people's behavior (tool of social engineering). Similarly, Satjipto Raharjo stated that law as a means of social engineering is consciously used to achieve an orderly or social condition as desired or to make changes as desired, erasing habits that are no longer deemed appropriate and creating new patterns of behavior.¹⁴

Talking about legal protection for victims of violence, which in this case is women, then the protection provided is based on legal instruments that have been regulated by the Government. Currently there are several laws that have been formed with the aim of providing protection to women, namely: (1) Law no. 23 of 2004 concerning the Elimination of Domestic Violence; (2) Law no. 21 of 2007 concerning Eradication of the Crime of Human Trafficking; (3) Law no. 23 of 2002 concerning Child Protection; (4) Law No. 35 of 2002 Amendment to Law No. 23 of 2002 concerning Child Protection.

With this law, it is hoped that it will not only prevent and take action against violence against women. But it also changes habitual patterns in society. Behavior in the household that was once considered normal becomes an act that violates the law. Changing so that there is no arbitrariness and discrimination in the family and society, especially in the treatment of wives and women in general, although this is not easy, must still be attempted.

The law cannot perform its function optimally without law enforcement. As stated by Prof. Sudikno Mertokusumo, through law enforcement the law will be seen in reality.¹⁵ It is the process of implementing legal norms in real life in society and the state. Likewise, as stated by Jimly Asshiddiqie,¹⁶ law enforcement is the process of making efforts to uphold or function real legal norms, as guidelines for behavior in traffic or legal relations in social and state life.¹⁷ In order for legal protection and law enforcement to realize justice, there are 3 (three) conditions that must be fulfilled as stated by Bagir Manan, namely: Legal rules are made in ways that are in accordance with legal awareness, and enforced correctly and fairly; Law enforcement actors must be fair and just; and the social environment as a place where law applies supports the application of fair legal rules. In some ways the law is a mirror of society.¹⁸ For this reason, law enforcement is a determining factor in the success of the law in achieving its goals.

In line with what Bagir Manan stated, there are five factors that influence the law enforcement process, namely legal factors or regulations, law enforcement, infrastructure, society and culture.¹⁹ In order for the law, in this case the law, to apply effectively, there are 3 (three) aspects as a basis that must be fulfilled. Based on Law No. 12 of 2012 concerning the Formation of Legislative Regulations, it is emphasized that the formation of statutory regulations must be carried out based on the principles of the Formation

¹¹ Muhamad Fauzan, Riris Ardhanariswari, 2009, *Pengaruh Gender Mainstreaming Terhadap Perlindungan dan Penegakan Hak Perempuan Di Indonesia Menurut UUD 1945*, dalam *Memahami Hukum dari Konstruksi sampai Implementasi*, Jakarta, PT Rajagrafindo Persada, h.279

¹² Darwin, M. Muhadjir, 2005, *Negara dan Perempuan: Reorientasi Kebijakan Publik*, Yogyakarta, Media Wacana, h.8.

¹³ Optimalisasi Peran Perempuan dalam Pembangunan, <https://www.kemendiknas.go.id/optimalisasi-peran-perempuan-dalam-pembangunan>

¹⁴ Satjipto Raharjo, 2009, *Hukum dan Perubahan Sosial: Suatu Tinjauan Teoritis dan Pengalaman-Pengalaman Di Indonesia*, Yogyakarta, Genta Publishing, h.128-129.

¹⁵ Sudikno Mertokusumo, *Mengenal Hukum Suatu Pengantar*, Yogyakarta: Universitas Atma Jaya (2010), h. 207

¹⁶ Vanya Karunia Mulia Putri, *Faktor-Faktor yang Mempengaruhi Hukum*, 11 Oktober 2021, diakses pada 20 Februari 2022, <https://www.kompas.com/skola/read/2021/10/11/170000469/faktor-faktor-yang-mempengaruhi-penegakan-hukum>

¹⁷ Ikmalia, "Kenapa Hukum Di Indonesia Timpang?" *Kompasiana.com*, 6 Juni 2021, diakses pada 20 Februari 2022, <https://www.kompasiana.com/ikmalia48927/60bbc94dd541df2448287312/kenapa-hukum-di-indonesia-timpang>.

¹⁸ Ega Krisnawati, *Apa yang Dimaksud Penegakan Hukum di Indonesia?*, <https://tirto.id/apa-yang-dimaksud-dengan-penegakan-hukum-di-indonesia-gke5>.

¹⁹ Soejono Soekanto dan Mustafa Abdullah, *Sosiologi Hukum Dalam Masyarakat*, Jakarta, Rajawali Press, 1987, h.20.

of Good Legislative Regulations. There are several principles, including the "Can Be Implemented" principle, which means that every legislative regulation must take into account the effectiveness of legislative regulations in society both philosophically (*filosofischegrondslag*), sociologically (*sociologischergrondslag*) and juridically (*yuridischergrondslag*). The philosophical basis means that the regulations that are formed must take into account the outlook on life, awareness and legal ideals which include the spiritual atmosphere and philosophy of the Indonesian nation which originates from Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia. The sociological basis is a consideration that illustrates that regulations are formed to meet the needs of society in various aspects. The juridical basis is a consideration that illustrates that rules are formed to overcome legal problems and to fill legal gaps, taking into account existing rules, those that will be changed or those that will be revoked in order to guarantee legal certainty and the community's sense of justice.

By using these three basic considerations, what are the rules governing the protection of women in Indonesia? Have these three foundations been fulfilled by the current regulations? Philosophically, the rules contained in the Domestic Violence Law, the Human Trafficking Law and the Child Protection Law, are an elaboration of the philosophical values contained in the foundations of the Indonesian state, namely Pancasila and the 1945 Constitution of the Republic of Indonesia. They are explicitly stated in the preamble to each law. Sociologically, the existence of this law is to meet the needs of society related to problems in the household, children and human trafficking. This is also to answer women's wishes for protection of their rights. However, not all of society's hopes have been realized. Special regulations are needed that regulate the protection of women from sexual crimes. Currently the rules used to deal with sexual crimes, if the victim is a child, special rules apply, namely Law no. 23 of 2002 concerning Child Protection in conjunction with Law No. 35 of 2002 Amendment to Law no. 23 of 2002 concerning Child Protection. If the victim is an adult woman, the Criminal Code as regulated in the second Book on Crimes Chapter XIV on Crimes of Morality applies from article 281 to article 303. 23 of 2004 concerning the Elimination of Domestic Violence, the provisions in the Criminal Code are deemed to be no longer appropriate and unable to fulfill society's sense of justice, so they need to be reformed immediately. Considering that the impact caused by sexual crimes is not only physical but also psychological; trauma, stress.

Therefore it requires special treatment and the number of cases is not small. So a law on sexual crimes must immediately be formed that contains sanctions that can provide a deterrent and restorative effect on victims. No less important is the reform of the Criminal Procedure Law, the complexity of the evidentiary system regulated in the Criminal Procedure Code, as well as the process of investigation, investigation and examination in court, which are obstacles to handling cases of sexual violence, which is very detrimental to victims getting justice. Using the evidentiary methods contained in the Criminal Procedure Code will fulfill procedural requirements, but will not fulfill substantial justice.²⁰

Law enforcers and the public forget that women who are victims of a crime do not stop when the case is over, but the impact caused by the perpetrator's treatment of the victim causes deep psychological wounds. In Law no. 34 of 2014 concerning Witness and Victim Protection regulates the provision of protection to victims, but in reality the provision of protection against psychological injuries experienced by victims is not provided/neglected by law enforcement officials. This is also exacerbated by the justification given by society regarding the stigma that it is natural for female victims to experience criminal acts because, for example, the victim's clothes are inappropriate, they often come home late at night and other stigmas. However, the fact is that the stigma circulating in society is inversely proportional to what is happening, for example in cases of sexual harassment at Islamic boarding schools where female victims here wear closed clothes and wear hijabs. With the existence of a law, all related legal issues can be handled because there is a legal basis. This law becomes the juridical basis for issues as regulated. So that there is no legal vacuum and there is legal certainty. The legal basis for the formation of the National Commission on Violence Against Women is Article 28 I Paragraph (4) of the 1945 Constitution. The National Commission for Women is tasked with providing institutional protection for women in Indonesia, one of which is due to domestic violence.²¹

The second factor, related to law enforcement, is the law enforcers, namely Judges, Prosecutors, Police, Advocates, KPAI, KOMNAS Perempuan, KOMNAS HAM, etc. They are required to be professional in handling cases and have high mental and intellectual abilities. It cannot be denied that the issue of law enforcement in Indonesia has been in the spotlight. The quality of our law enforcement is very weak, the contributing factors include the low mental and intellectual level of the law enforcers. This was also expressed by Prof. Muladi, that the quality of human resources in legal matters in Indonesia needs to be improved, both mentally and intellectually. Many are intelligent but cannot be responsible.²²

For example, the handling of the Valencia domestic violence case, the law is good, but if the law enforcement is not good it automatically affects law enforcement. Judges and law are two things that are interconnected and cannot be separated. To fulfill society's sense of justice, judges must be professional, if the law is unclear or incomplete then the judge must make a breakthrough through legal discovery activities (*rechtsvinding*) through interpretation methods.²³ Interpreting the law progressively which is done creatively and innovatively, even going beyond the logic of regulations.²⁴ It is time for judges to be progressive, making law a tool for bringing about social change. In line with what is regulated in Article 5 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power, where judges are obliged to understand, follow the law and the sense of justice that lives in society. The judge's obligations as regulated in these provisions are carried out through judicial activism.²⁵ Likewise with other law enforcers, it is time to change their mindset from positivistic legal, which in law enforcement always refers to written rules to progressive law. Optimizing the function of supervisory institutions, such as the Supreme Court, Judicial Commission, Attorney General's Office, Ombudsman, etc., in supervising and providing guidance to law enforcers.

²⁰ Niken Savitri, Pembuktian Dalam Tindak Pidana Kekerasan Terhadap Anak, *Jurnal Bina Mulia Hukum*, Volume 4, Nomor 2 Maret 2020, h. 290

²¹ Luh Gede Mega Karisma and I Gde Putra Ariana, 'Kedudukan Komisi Nasional Hak Asasi Manusia Sebagai Lembaga Negara Independen Dalam Sistem Ketatanegaraan Indonesia', *Kertha Negara: Journal Ilmu Hukum*, 4.3 (2016), 1–6. Hlm. 4.

²² <https://nasional.tempo.co/read/774837/tiga-sebab-penegakan-hukum-indonesia-menurun-versi-muladi>

²³ Mohamad Naif Us Zaman, *Hukum Progresif: Hukum Progresif sebagai Terobosan dalam Memandang Hukum*, *Hukum Progresif: Hukum Progresif sebagai Terobosan dalam Memandang Hukum | Heylawedu*.

²⁴ Sudikno Mertokusumo, *op.cit.* h.211

²⁵ Indriati Atmarini, 2018, *Keaktifan Hakim dan Peradilan Administrasi*, Purwokerto, UM Purwokerto Press, h. 191

The third factor is infrastructure, handling of domestic violence and sexual crimes cases is different from other general cases. So it is necessary to support facilities or facilities that are not only related to institutions in the field of justice but also adequate rehabilitation facilities and human resources who have capabilities in the field of psychological treatment.

Fourth, Community, community participation either through non-governmental organizations or existing groups is very necessary, as an effort to prevent or make complaints when it is known that there are acts of violence against women. Community legal awareness to comply with existing regulations and respect and protect women's rights. It is hoped that the community can also act as an agent of change.

Lastly is the cultural factor; On the one hand, there is culture that hinders the implementation of protection for women, which must be eliminated, for example patriarchal culture, but on the other hand, there is culture or local wisdom that must be preserved, especially regarding case resolution. So far, case resolution has relied more on formal institutions, such as the courts. In resolving cases of violence against women, especially domestic violence, there needs to be specific resolution steps, outside of formal institutional channels, outside of courtrooms while still taking into account the type of violence or violation committed. The importance of bringing local wisdom to life, through awareness, empowerment and community participation such as using mediation, deliberation, fines. As a form of trying to ensure that relationships within the family remain harmonious and harmonious, it will be much wiser and wiser.²⁶

As envisioned by the legal ideals of Pancasila, namely realizing protection for humans, by providing protection both passively and actively. Passively by preventing arbitrary actions and actively by creating humane conditions so that social processes run naturally, every human being fairly gets broad opportunities to develop his potential and the aim of maintaining and developing "humanity and morals of the people" based on belief in the Almighty God".²⁷

Of course, all of this cannot be separated from the state's responsibility in realizing the goals of the state, realizing prosperity and protecting the rights of its citizens. The state, through its instruments, is obliged to form instruments or tools capable of providing protection for women, namely through the formation of laws, implementing law enforcement, providing or providing adequate supporting facilities and infrastructure, being involved in efforts to increase public legal awareness through socialization, training, etc.

CONCLUSION

Optimizing and strengthening protection for women from acts of violence must start from the smallest elements of society, namely the family and society as a social base where women are members or citizens, obliged to participate actively. By reporting every known act of violence against women, as well as by preventing acts of violence against women through awareness to change discriminatory behavior or culture towards women and not using them as objects.

Law and law enforcement must optimize their function both as social control, including providing sanctions that have a deterrent effect and as a means to carry out social change, although this is not easy because of the vast territory of Indonesia and the diversity of backgrounds and cultures. The law and its enforcement must be able to fulfill legal certainty and what is more important is the community's sense of justice. The professionalism and mentality of law enforcers are indicator factors for upholding law enforcement, support for adequate facilities and infrastructure as an effort to rehabilitate victims.

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²⁶ Anthon F. Susanto, 2010, Ilmu Hukum Non Sistematis: Fondasi Filsafat pengembangan Ilmu Hukum Indonesia, Yogyakarta, Genta Publishing, h. 247.

²⁷ Bernard Arif Sidharta, 2013, Ilmu Hukum Indonesia, Upaya Pengembangan Ilmu Hukum Sistematis yang Responsif Terhadap Perubahan Masyarakat, Yogyakarta, Genta publishing, h.105.

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Edi Krisharyanto
Faculty of Law, Universitas Wijaya Kusuma Surabaya
e-mail: edikrisharyanto_fh@uwks.ac.id

Endang Retnowati
Faculty of Law, Universitas Wijaya Kusuma Surabaya
Email: endangretnowati49@yahoo.co.id

Septiana Prameswari
Faculty of Law, Universitas Wijaya Kusuma Surabaya
Email: septiana_fh@uwks.ac.id