



Legal Protection for Commercial Sex Workers as Victims of Sexual Violence in Surabaya

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Article	Abstract
Keywords: Commercial Sex Workers; Legal Protection; Sexual Violence	<i>Commercial sex workers (CSW's) are vulnerable to sexual violence as they engage in a profession that involves providing sexual services to meet the biological needs of their clients. However, crimes often occur outside the agreed-upon terms or in cases where no agreement on the exchange of services has been made, resulting in harm to workers who often engage in CSW due to economic necessity. Thus, clear and robust legal protection is necessary to maximize justice and achieve legal certainty as the aim of criminal law for both victims and non-victims, thus minimizing future incidents. This research employs an empirical juridical method, utilizing an online questionnaire distributed through social media platforms such as Twitter and Instagram to collect data, as well as conducting direct interviews with victims and law enforcement personnel to gain accurate information based on field observations. The results include various forms of protection afforded to the victims, as well as an explanation of the challenges faced during the awareness-raising process within the community regarding sexual violence. This high level of awareness is crucial to ensure that individuals are no longer indifferent or ashamed to protect or assist close relatives who may be victims of sexual violence within their immediate communities. Especially in Surabaya.</i>

INTRODUCTION

Commercial sex workers or shortened (PSK) in general is a woman who is the successor to the generation of family and nation, so the existence of women who are physically and mentally healthy and social is very necessary. Women are also the first and main educators in the family. For this reason, women must be protected by the state. One of the rights of women that must be protected by the State is the right to be respected.

Sex work is a profession that sells services to satisfy the sexual needs of customers. Usually this service is in the form of renting out her body. Among Indonesian society, prostitutes are viewed negatively, and those who rent or sell their bodies are often considered to be the scum of society. This view is based on the response that the presence of prostitutes can channel the sexual appetite of those who need it (usually

men) without channeling it, it is feared that their customers will attack and rape any woman. Various actions and strategic measures have been taken by the government in dealing with this problem, both by taking persuasive action through social institutions to using repressive action in the form of prosecution for those who are engaged in the field of prostitution. But what is faced is that prostitutes cannot be eliminated but rather have a tendency to increase from time to time.

Her dignity as a human being and the right to determine her own decisions. It is this right that makes women different in the positions needed in various fields of work to build the nation and their families towards prosperity. However, among women positioning themselves in various fields of work such as teachers, doctors, entrepreneurs, there are also women who work as prostitutes. Sex workers are tasked with serving sexual activities with the aim of getting wages or rewards from those who have used their services. (Koentjoro, 2004). If seen from a broader view. We will find out that what prostitutes actually do is an activity that involves not only the woman who performs sexual services in exchange for money. But it is an activity that involves many parties. The trafficking network also stretches over a wide area, sometimes not within one country but several. One of the articles on sexual crimes that contains elements of violence is article 285 which formulates "whoever by force or threat of force forces a woman to have sexual intercourse with him outside marriage shall, being guilty of rape, be punished by a maximum imprisonment of twelve years". The occurrence of a crime of violence in society results in the existence of parties who are victims of criminal acts and also perpetrators of criminal acts. in the event of a criminal offense, the party who is severely disadvantaged or suffers is the victim. In Law Number 13 of 2006 concerning the protection of witnesses and victims, the definition of victims is provided in Article 1 paragraph (2), namely;

(a victim is a person who suffers physical, mental and or economic loss caused by a criminal offense).

The opinion regarding the definition of victims was also expressed by Arif Gosita, victims are those who suffer physically and mentally as a result of the actions of other people who seek the fulfillment of the interests of themselves or others which are contrary to the interests of the human rights of the injured party. (Gosita, Problems of Victims of Violence, 1993). According to Muladi, victim's are people who both individually and collectively have suffered losses, including physical losses as well as mental, emotional, economic losses, or substantial interference with their fundamental rights, through acts or commissions that violate criminal law in each country, including abuse of power. (Muladi, 1997)

By referring to the above definitions, it can be seen that victims are basically not only individuals or groups directly suffering from the consequences of actions that cause harm or suffering to themselves or their groups, even more broadly including close family or direct dependents of victims and people who experience losses when

making victims overcome their suffering or to prevent victimization. Talking about victimology, the term victimology comes from Latin *victima* which means victim and *logos* which means science. Terminologically, victimology means a study of victims, the causes of victims and the consequences of victims who are human problems as a social reality. (Yulia, *Victimology of Legal Protection for Victims of Violence*, 2010)

Victimology is a scientific knowledge or study that studies a victimization (criminal) as a human problem which is a social reality. (Yulia, *Victimology of Legal Protection for Victims of Violence*, 2010). Victimology provides a better understanding of crime victims as a result of human actions that cause mental, physical and social suffering. The aim is to provide an explanation of the true role of victims and their relationship with victims and provide confidence and awareness that everyone has the right to know the dangers faced in relation to their environment, work, profession and others. when talking about victims of crime, our perspective cannot be separated from victimology. Through victimology, various aspects related to victims can be identified, such as: the factors that cause crime, how a person can become a victim, efforts to reduce the occurrence of crime victims, rights and obligations of crime victims. (Sahetapy, 1995). Victims of violence, namely, forms of manifestation of acts of violence include acts of light or severe persecution, forcing people to do something unlawful, making people unconscious, rape and so on. (Gosita, *Problems of Crime Victims Collection of Krangan*, 1993)

In discussing victimology, it also talks about the types of victims, namely;

1. Biologically weak victims, namely, crimes caused by the physical condition of victims such as women, children, and elderly people (seniors) who are potential victims of crime. in terms of the aspect of responsibility lies with the community or local government because it cannot provide protection to helpless victims. (Yulia, *Victimology of Legal Protection of Crime Victims*, 2003)
2. Socially weak victimizing, namely, victims who are not noticed by the community concerned such as vagrants with weak social positions. for this reason, full responsibility lies with the criminal or society.
3. Self victimizing, namely, victims of crimes committed by themselves (or pseudo victims) or victimless crimes. for this reason, the responsibility lies solely with the victim because he is also the perpetrator of the crime.
4. Primary victimization, namely, victims in the form of individuals or individuals (not groups) legal protection can mean protection given to the law so that it is not interpreted differently and is not injured by law enforcement officials and can also mean protection given by the law against something. Almost all legal relationships must receive protection from the law. protection from the law. therefore there are many kinds of legal protection. so far the regulation of victim protection has not shown a clear pattern, in the positive criminal law in

force at this time the protection of victims is more of an "abstract protection" or "indirect protection". This means that various formulations of criminal acts in the legislation so far in essence there has been protection in abstracto directly against the legal interests and human rights of victims. (Arief, Protection of Crime Victims in the Criminal Justice Process Journal of Law and Criminology, 1993)

Protection of victims of sexual violence is an activity of developing human rights and human rights obligations. Attention and protection of victims of criminal acts of rape must be considered because they are very sensitive to various threats of mental, physical and social disorders. (Gosita, Bunga Rampai Viktimisasi, 1995). Commercial sex workers who experience criminal acts of sexual violence are victims of criminal acts that also need legal protection. Their position in the eyes of the law is the same as victims of other criminal acts regardless of who is the victim. As has been stated by the public view that commercial sex workers as sex objects certainly have an impact on them in society and in the eyes of the law. if they experience acts of sexual violence related to commercial sex workers they are certainly ignored or treated inhumanely and pay attention to their rights that must be fulfilled by the state through its legal instruments. In the settlement of criminal cases, the law often prioritizes the rights of suspects or defendants while the rights of victims are ignored, as stated by Andi Hamzah in discussing Criminal Procedure Law, especially in relation to human rights, there is a tendency to discuss matters relating to the rights of suspects without paying attention to the rights of victims. (Hamzah, 1986).

Based on the background described above, the author identifies the following problems:

1. How is legal protection for commercial sex workers as victims of sexual violence in Surabaya?
2. What obstacles are faced by the Surabaya Regional Police in Overcoming Sexual Violence in Surabaya Experienced by Commercial Sex Workers?

METHOD

The type of research used is Empirical Juridical. According to Soejono Soekanto, it describes the applicable laws and regulations associated with legal theories and the practice of implementing positive laws concerning the problem. (Soekanto S., 2006) This empirical juridical research has an object of study regarding community behavior which in this study was carried out through the method of filling out questionnaires online and through interviews with sources directly (which is primary data). The existing data is then analyzed by combining existing secondary data with primary data obtained.

RESULTS AND DISCUSSION

A. Forms of Sexual Violence Experienced by Commercial Sex Workers

Violence in various forms has become the motive for some of the cultural behavior of Indonesian society which until now has been the mainstream that reduces the values of the nation's personality and gives the impression that the human solidarity climate has not been fully able to have an introspective personality politically, economically and socially, the nation's personality and gives the impression that the human solidarity climate has not been fully able to have an introspective personality politically, economically and socially. Violence is also something that is violent or characterized by causing injury or death to another person, physical damage, goods or coercion. (M. Marwan, 2009) Based on its classification, forms of violence are further divided into three groups, namely: (Galtung, 1992)

a. Physical Violence

This form is the easiest to recognize, the categories of this type of violence are throwing, kicking, hitting/slapping, choking, pushing, biting, banging, threatening with sharp objects and so on. Victims of this type of violence are usually seen directly on the victim's physical body such as bruises, bleeding, broken bones, even worse violence on vital objects experienced during intercourse and other forms of heavier conditions. Real violence that can be seen, felt by the body. The form of physical violence is in the form of loss of health or normal ability of the body, up to the loss of one's life.

b. Psychological Violence

This type of violence is not so easy to recognize, the consequences felt by the victim do not give visible marks to others. The impact of this violence will affect the situation of feeling unsafe and comfortable, decreasing the self-esteem and dignity of the victim. The concrete form of this type of violence or offense is the use of harsh words, abuse of trust, humiliating people in front of others or in public, making threats with words and so on. As a result of this behavior, the victim will usually feel inferior, inferior, feel worthless, and weak in making decisions. Violence that has a target on the spirit or soul so that it can reduce or even eliminate the normal ability of the soul.

c. Sexual violence

Violence in the form of indecent treatment from other people, activities that lead to pornography, pornographic words, and involving children in the process of prostitution and so on. Included in this category are all actions that appear in the form of coercion or threatening to have sexual intercourse, torturing or acting sadistically and abandoning those who are classified as children. After having sexual intercourse, all behaviors that lead to sexual

harassment of children both at school, in the family, and the environment around where children live are included in this category of violence. Legal Protection for Commercial Sex Workers as Victims of Sexual Violence in Surabaya.

In Indonesia, commercial sex workers as perpetrators of prostitution are often referred to as bitches. This shows that the behavior of the bitch is very bad and becomes the enemy of society. The work of prostitutes or bitches has been known in society for centuries, this is evidenced by the many scattered records about them from time to time. Prostitutes (often called bitches) are not only troubling but also deadly, because they are considered to spread AIDS due to unprotected free sex behavior called condoms (for men) and femidom (for women).

The phenomenon of prostitution is not a new thing in people's lives. Since ancient times until now the practice of prostitution activities has existed. Many terms are used to refer to the perpetrators of prostitution or prostitutes such as: lonthe, jalang, wanita tuna susiala (WTS), and commercial sex workers (PSK). According to Kartono, prostitution itself is: A form of sexual deviation, with unnatural and unintegrated patterns of sexual impulses or urges, in the form of uncontrolled sexual appetites with many people (promiscuity), accompanied by exploitation and commercialization of sex, which is impersonal without affection in nature. (Kartono, 2001)

According to Merton, that social structure in reality has made certain people in society to act deviantly rather than comply with social norms. (Kusumo, 1997) This crime has many influences, among which economic and social elements have a role in the development of prostitution. Many factors in society prove that poor people are pressed for economic needs, so crime is a way to earn a living. In this case, becoming a prostitute is a desperate way to make money, both women and men.

The conditions as above are not conducive to the realization of the ideals and goals of the state, as proclaimed in the Preamble of the 1945 Constitution which reads:

"to protect the entire Indonesian nation and the entire Indonesian homeland and to promote general welfare, educate the nation's life, and participate in implementing world order based on independence, lasting peace and social justice". Given that the substance of development is actually directed with the intention of building people as a whole, it has made physical development even though it is important, and for the success of human development. Or in other words, physical development must serve and be oriented towards the creation of conduciveness for the development of humans as creatures with the highest dignity.

The growth of the prostitution population in Surabaya did decrease due to the closure of the localization of prostitution places, but not significantly because some

people continued to pursue the profession due to lack of employment and other forms of work that they could do. The causes include the industrialization of a prolonged economic crisis that has led to an increase in unemployment, changes in socio-cultural values and patterns of life due to the influence of globalization and information flows.

In the research, researchers obtained the following data:

1. Data obtained online

Nama (disamar kan)	Jenis Kelamin	Domisili	Pernah Mengalami/ Tidak Pernah	Sudah Lapor/ Belum Lapor
Adhella	Wanita	Surabaya	Pernah	Belum
Dian Canza	Wanita	Surabaya	Pernah	Belum
Regina	Wanita	Surabaya	Pernah	Belum
Nana	Wanita	Surabaya	Pernah	Belum
Salma	Wanita	Surabaya	Pernah	Belum
Wanti	Wanita	Surabaya	Pernah	Belum
Nia	Wanita	Surabaya	Pernah	Belum
Bellaw	Wanita	Surabaya	Pernah	Belum
Rabiah	Wanita	Surabaya	Pernah	Belum
Andre	Pria	Surabaya	Pernah	Belum
Yanti	Wanita	Surabaya	Pernah	Belum
Rochana	Wanita	Surabaya	Pernah	Belum
Betty	Wanita	Surabaya	Pernah	Belum

Table 1. Online Questionnaire Research Data (source: research by the author)

From the table above, it is known that all informants through online questionnaires have experienced sexual violence, both women and men can generally experience sexual violence. The forms of sexual violence they experienced also varied from physical violence, in the form of forced sexual intercourse, slapping, touching body parts forcibly, verbal in the form of insults with demeaning words, non-physical in the form of false promises with the lure of wealth, and threats in the form of spreading their immoral videos as an excuse not to pay for services. Some informants also experienced sexual violence in different amounts, from once to more than three times.

13 responses

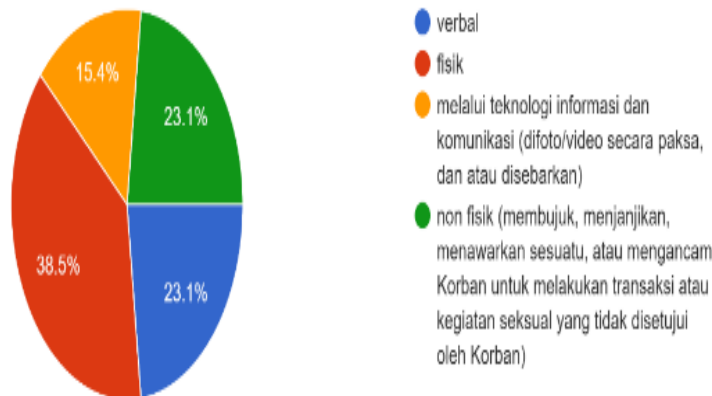


Table 2. Data on forms of sexual violence (source: research by the author)

13 responses

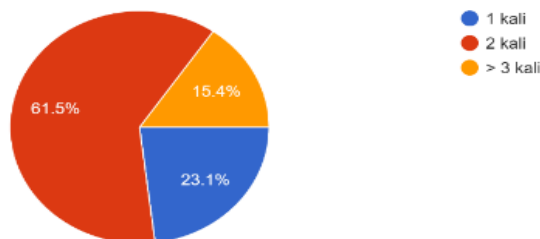


Table 3. Data on the number of assaults experienced by victims (source: research by the author)

From all informants, it is also known that they did not dare to report the incident mostly because they were afraid and ashamed of the consequences of their report which could have a negative impact on them. One of the informants' answers was that they were afraid of incurring more costs that would burden them. The informants consisted of women and men aged 20-30 years old, with the length of time they have been working varying from less than one year to more than one year. Some of them do this work based on their own will or coercion from others, which can occur due to environmental and economic influences that force them to pursue this line of work.

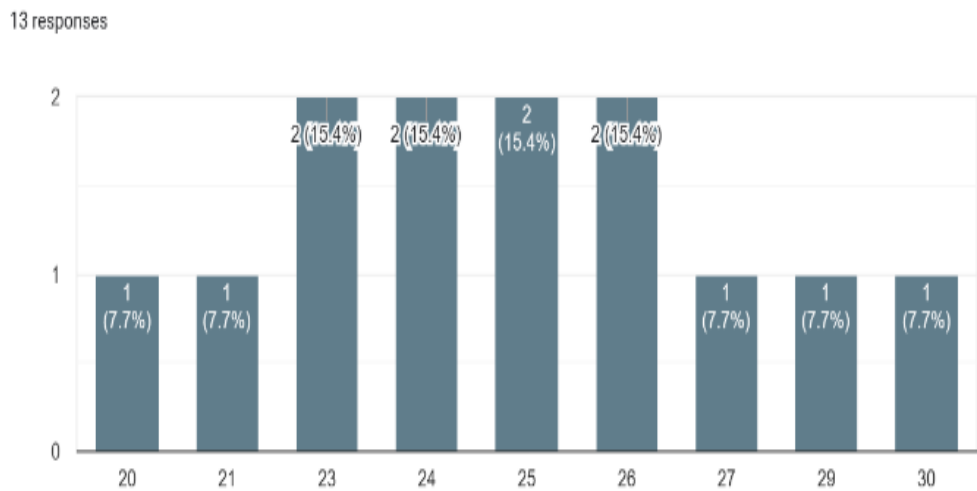


Table 4. Age data of online questionnaire informants (source: research by the author)

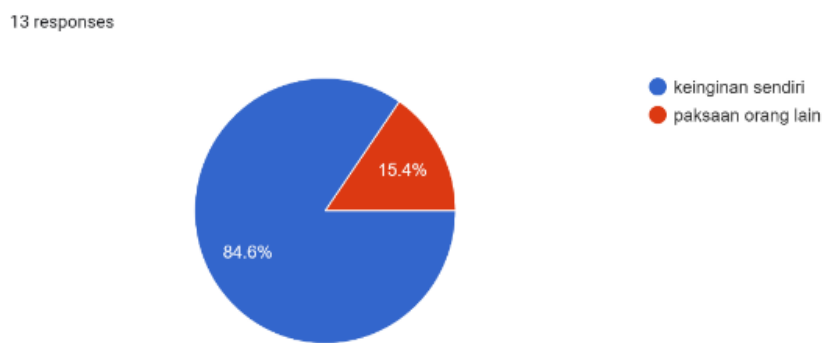


Table 5. Data on coercion into prostitution (source: research by the author)

2. Data obtained based on interview results

Commercial sex workers in Surabaya themselves are humans who explore the profession mostly because of the economic pressure they experience, as mentioned by the three informants for additional income or even as a permanent job to make ends meet. By coincidence, the informants we interviewed have reached adulthood with personal responsibility. Sexual violence experienced by the three informants interviewed by the researcher was in the form of physical violence in the form of touching forcibly or without permission by service users before the deal between prostitutes and service users. This sexual violence is indeed commonly experienced by several women who work as prostitutes, but this still violates the regulations which are regulated in article 6 of Law No. 12 of 2022 on Sexual Violence, with the contents; (Indonesia, 2022)

- a. Punished for physical sexual abuse:
 - a. Every person who commits a sexual act physically directed against the body, sexual desires, and/or reproductive organs with the intention of degrading the dignity of a person based on his/her sexuality and/or his/her decency which is not included in the provisions of other heavier punishment with other more severe punishment with imprisonment for a maximum of 4 (four) years and/or a fine of maximum of Rp50,000,000.00 (fifty million rupiah).
 - b. Every person who commits sexual act physically directed against the body, sexual desire, and/or reproductive organs with the intention of placing someone under his/her power unlawfully, either inside or outside of marriage shall be punished with imprisonment for a maximum period of 12 (twelve) years and/or a maximum fine of Rp300,000,000.00-, (three hundred million rupiah).
 - c. Every person who abuses his/her position, authority, trust, or influence arising from deceit or a relationship of circumstances or taking advantage of someone's vulnerability, inequality or dependence of a person, coerces or by misleadingly moves that person to do or allow to be done copulation or obscene acts with him or with another person, shall be punished with imprisonment a maximum imprisonment of 12 (twelve) years and/or a maximum fine of a maximum fine of Rp300,000,000.00 (three hundred million rupiah).

It can be concluded according to the data above that for legal protection in Surabaya against prostitutes who experience sexual violence does not yet exist, the city of Surabaya itself does not have rules regarding the legal protection of prostitutes. Due to the absence of cases reported to the police as law enforcement officials, it is also due to the lack of socialization to the public that prostitutes also have the same rights as humans in general to get legal protection. There is still no special treatment in national regulations or regional regulations such as the city of Surabaya which regulates the legal protection of sex workers who are victims of sexual violence.

Putting aside that being a Commercial Sex Worker (PSK) is an immoral act, but the PSK itself is a subject of development that has human rights that need to be pursued and protected as well as a form of rehabilitation that needs to be pursued for a better life. Law is a manifestation of the command and will of the state carried out by the government to carry out the trust and protection of the population, both inside and outside its territory. The government itself is authorized to carry out its duties which are regulated in national law, which is useful for harmonizing the relationship between the government and the population in a sovereign state

territory, developing and upholding a harmonious national culture so that there is a harmonious, prosperous and prosperous life of the nation and society. (Admosudirdjo, 1988).

Law also functions as a protection of human interests. In order for human interests to be protected, the law must be implemented. Here, prostitutes are placed as subjects who are guilty of the actions or work they undertake. (Admosudirdjo, 1988) Protective efforts here are directed at providing adequate legal protection for prostitutes (especially women who prostitute as legal subjects not on the basis of the work they do). The efforts include, among others:

1. Protection from the government and other parties,
2. Proper health or medical services,
3. Special handling of the activities of prostitutes,
4. Assistance and legal aid (if any),
5. Spiritual guidance,
6. Psychiatric recovery therapy,
7. Confidentiality of identity.

The current form of protection is not as practical as, for example, efforts to help provide work to replace the job. They do not yet have strong handling but still hold counseling programs about the risks of prostitution and prevention with the patrols of Satpol PP every night.

The definition of legal protection according to Philipus M. Hadjon (Hadjon, 1987) legal protection is as a collection of rules or rules that will be able to protect one thing from another. In relation to consumers, this means that the law provides protection for the rights of customers from a non-fulfillment of these rights. the rights of victims have progressed greatly, especially for prostitutes, namely:

"the rights of victims include the right to personal and family security, the right to legal assistance, the right to case settlement information, the right to assistance with living expenses, medical and psychosocial assistance, the right to provide testimony outside the trial and the right not to be prosecuted for testimony or reports and the rights of victims can be provided at all stages of criminal justice in the criminal justice environment".

As stipulated in Article 5 of Law No. 13/2006 on Witness and Victim Protection, the scope of victims' rights include:

- a. To obtain protection for personal security, family, and property, and to be free from threats related to the testimony that will, is, or has been given;
- b. Participate in the process of choosing and determining the form of protection and security support;
- c. Provide testimony without pressure;
- d. Receive an interpreter;

It is understood that the law is only one solution from many ways to remember one of the problems of this nation in the framework of criminal law in general and human rights in particular to solve the problems of this nation, it does not mean that the law is the most solutive solution without causing new symptoms that will be faced by this nation. One form of deviation itself that the author wants to make a study of a study is the increasing behavior of immoral criminal acts (prostitution) or what is often referred to as a form of prostitution, which is often refined with Commercial Sex Workers (PSK) in our country, Indonesia, especially Surabaya as a form of failure to provide protection from the state against the population.

B. Constraints of the Surabaya Regional Police in Overcoming Sexual Violence in Surabaya Experienced by Commercial Sex Workers

In handling a case, it does not escape the obstacles or obstacles to a settlement process that can be accepted by the victim according to the applicable rules. These constraints or obstacles can be categorized in two forms, namely the form of internal constraints and external constraints. Internal obstacles in the form of credible case evidence, where so far the case reports received by the police are in the form of oral reports that are not supported by credible evidence as a form of authenticity of the report without any element of lies in the victim's report; the next obstacle is an external obstacle in the form of difficulties for the police in socializing the dangers and impacts of sexual violence which has been considered taboo by the general public, from these obstacles there is a lack of public concern about the crime of sexual violence.

The police apparatus as the spearhead of justice enforcers explained in an interview conducted by the author (5/04/2023) the absence of reports on cases of sexual violence experienced by commercial sex workers in the Surabaya area due to the absence of accurate evidence as the basis for reports that usually exist in the form of post mortem reports on bodies affected by physical sexual violence, because the reporter is less economically capable, it can also be in the form of screenshots of online chat media if it is about non-physical sexual violence, as well as a lack of explanation of the sequence of events of the reporter in the process of making reports so far. In the end, the report could not be continued into the investigation process by the police.

The police themselves regret this because sexual violence cases themselves are sensitive cases, so the police also cannot help outside their authority. Because in a criminal offense there are criminal elements that must be fulfilled, to be able to become a complete criminal offense, things such as accurate evidence, and a clear report are needed in order to achieve legal certainty in this case for the police to continue the report process.

Commercial sex workers (PSK) who are vulnerable as victims of sexual violence often do not report the incident to the authorities for various reasons, for example in interviews conducted by the author are afraid of the consequences that will be obtained after the report or the costs that will be charged to the reporter in the process of reporting until the trial of the case where the reporter here is a commercial sex worker who is economically disadvantaged and has difficulty getting a decent job so that he works as a PSK.

CONCLUSION

Based on the results of the discussion above, the protection efforts for commercial sex workers as victims of sexual violence must be understood that the position of the law is as one solution from many ways to remember that one of the problems of this nation in the framework of criminal law in general and human rights in particular resolves the problems of this nation, does not mean that the law is the most solutive solution without causing new symptoms that will be faced by this nation. One form of deviation itself that the author wants to make a study of a study is the increasing behavior of immoral criminal acts (prostitution) or what is often referred to as a form of prostitution, which is often refined with Commercial Sex Workers (PSK) in our country, Indonesia, as a form of failure to provide protection from the state against the population, so that forms of protection of the rights of victims in cases of sexual violence experienced by PSK are among others:

- a. Obtaining protection for personal security, family, and property, as well as freedom from threats relating to testimony that will, is, or has been given;
- b. Participate in the process of choosing and determining the form of protection and security support;
- c. Provide testimony without pressure;
- d. Receive an interpreter;
- e. Protection from the government and other parties,
- f. Appropriate health or medical services,
- g. Special handling of the activities of prostitutes,
- h. Assistance and legal aid (if any),
- i. Spiritual guidance,
- j. Psychiatric recovery therapy,
- k. Confidentiality of Identity.

Suggestion

In connection with the above conclusions, there are several things that can be suggested by the author and are expected to be taken into consideration for parties related to this writing.

There needs to be awareness for the surrounding community that they as commercial sex workers (PSK) also have the right to live properly and exist in the

midst of society without ridicule and negative views of them, because they actually do not want to work as commercial sex workers and they have fallen into the world of prostitution and there needs to be special attention from the government to minimize criminal acts of violence that occur against PSK and legal protection efforts to overcome them.

The legal efforts intended by the author include: protection from the government and other parties, proper health or medical services, special handling of the activities of prostitutes, legal assistance and assistance, spiritual guidance, psychiatric recovery therapy, confidentiality of identity.

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