

**IMPLEMENTATION OF LEGAL PROTECTION FOR COMMERCIAL SEX
WORKERS EXPERIENCING VIOLENCE
BY DIVA JOSEPHINA AND FERONICA
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Abstract

Prostitution is often categorized as a “victimless crime,” a characterization that overlooks the various forms of violence experienced by commercial sex workers (CSW) in the course of their work. This study examines the implementation of legal protection for CSW under Indonesian law. In practice, prostitution implicitly fulfils the elements of employment, as it involves the provision of services in exchange for income. However, such work is considered contrary to moral norms under Article 52(1) of Law No. 13 of 2003 on Manpower, resulting in CSW not being recognized as workers within an employment relationship, despite fulfilling the elements of employment under Article 1(15), namely work, wages, and orders. The Indonesian Criminal Code does not explicitly criminalize prostitution. Nevertheless, several regions, including Jakarta, Tangerang, and Aceh, criminalize prostitution through regional regulations. This research employs an empirical juridical method through interviews with two CSW in South Tangerang. The findings indicate that both respondents experienced violence but chose not to report it, believing that legal protection would not be available to them. Legal protection for CSW may formally be found under Law No. 31 of 2014 on the Protection of Witnesses and Victims and Law No. 12 of 2022 on Sexual Violence Crimes. However, access to such protection largely depends on victims’ willingness to report themselves, which is often hindered by fear of stigma and re-victimization. Consequently, CSW remain in a condition of “legal vacuum” that prevents effective legal protection.

Keywords: legal protection, commercial sex workers, violence

A. INTRODUCTION

The commercial sex industry is a complex aspect of society that affects millions of women worldwide. Prostitution is the provision of sexual services, such as oral sex or sexual intercourse, for payment. A person who sells sexual services is called a prostitute or commonly referred to as a commercial sex worker (Utami, 2021). Sex workers are labeled as immoral because their work violates prevailing moral norms. The assumption that prostitution has numerous negative impacts, such as contributing to domestic violence, increased divorce rates, increased crime rates, mental health problems for children living in areas where prostitution occurs, and disrupts the peace and

tranquility of local communities, tends to marginalize and exacerbate the stigma surrounding sex workers. Despite the fact that some individuals choose to become prostitutes of their own free will, in many cases, the reason someone enters this often-looked-down profession is the influence of external factors such as poverty, lack of education, or coercion from others.

One critical issue arising from women's involvement in sexual work is their vulnerability to exploitation. Exploitation, according to Article 1 paragraph (7) of Law of the Republic of Indonesia Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons ("TPPO Law"), is defined as an act involving the use of an individual without their consent, including but not limited to practices such as prostitution, forced labor or services, forms similar to slavery, oppression, extortion, physical, sexual, or reproductive organ exploitation, and illegal acts such as the trade or transplantation of organs and body tissue, or the misuse of an individual's labor or expertise by another party to obtain material or immaterial benefits.

The objectification of women explains why the majority of people in society treat them unfairly. Exploitation encompasses various forms of violence, including sexual violence, physical violence, and psychological violence. Factors such as gender inequality, economic pressure, limited access to education, and ignorance of their rights make women involved in the commercial sex industry vulnerable to exploitation. The reality that sex workers "sell their bodies" makes it difficult for many to discern the line between violence and the service provided. A person's behavior becomes violent if it exceeds the boundaries of the initial agreement. Even something as trivial as removing a contraceptive device without prior consent from both parties constitutes violence.

In Indonesia, legal protection for sex workers is inadequate and can even be considered non-existent. The Indonesian legal system fails to protect their rights as workers or even as human beings. Clients of sex workers, especially men, perceive female sex workers as selling themselves, thus using this fact as a "permission" for them to treat them inhumanely and arbitrarily. The stigma that persists in society that female sex workers are "unclean" and "immoral," has a negative impact on sex workers, often experiencing unfair treatment from authorities when they become victims of crime.

Given that sex workers are often victims of violence and socially marginalized due to the taboo or illegal nature of their work in some jurisdictions, researchers are interested in further examining the realities of sex workers so that they can be provided with appropriate legal protection. Appropriate legal protection can help change society's perception of sex workers as victims of violence, reduce stigma, and raise awareness of their rights and the importance of providing equal protection for all individuals, regardless of their occupation or social status. This research will discuss the existing legal protection system for sex workers and analyze the reality of cases of violence that occur.

This study examines the existing legal protection framework for commercial sex workers and analyzes the realities of violence encountered by them. Previous research on prostitution includes two notable studies: “Prostitution as One Form of Trafficking in Women” by Rodja Andika Prakarsa (2005) and “A Juridical Review of the Legitimacy of Work Agreements in Cases of Child Trafficking for the Purpose of Prostitution” by Lian Dolly Sagita Hutagalung (2008).

In addition, outside the Faculty of Law at Atma Jaya Catholic University of Indonesia, there has been one prior study addressing violence against commercial sex workers, namely an article by Hadi Widodo Saputro and Gelar Ali Ahmad entitled “Legal Protection for Commercial Sex Workers as Victims of Sexual Violence in Surabaya.”

The present study differs from these earlier works primarily in its geographical focus. While the prior study were conducted in Surabaya, this research is carried out in the South Tangerang area.

B. METHODOLOGY

This research method uses empirical juridical legal research. Using this approach, the author will conduct an in-depth analysis of the reality of legal protection for sex workers as victims of violence. Primary legal data refers to field data obtained directly through interviews with sex workers and labor law experts. The interview with sex worker A was conducted on May 31, 2024, and with sex worker Z, eight interviews were conducted on June 4, 2024. The secondary legal data used in this study includes regulations related to labor and violence, books, journals, and other publications.

To collect primary data, the author visited and interviewed sex workers. Then analyzed the interview responses, which were obtained from the field data, and compared their implementation with secondary legal data. The author successfully interviewed two respondents who work as sex workers in South Tangerang. Before successfully interviewing the informants, the author attempted to identify relevant informants to serve as interview participants using several methods. These included personal networks, online applications, and visits to massage establishments that offer sexual services. The author consulted acquaintances who had previously used the services of CSW to obtain information about prostitution venues. However, of the three CSW contacted through this approach, none were willing to participate due to concerns regarding the potential disclosure of their personal identities. A similar outcome occurred when the author visited a massage establishment in Bumi Serpong Damai (BSD), South Tangerang. Although the author was able to engage in conversation with one sex worker, she expressed discomfort in recounting the violence she had experienced. She perceived violence as a “normal” aspect of sex work and felt she lacked the power or agency to report such incidents to the authorities.

The author subsequently sought informants through the MiChat application, widely known as a platform associated with online prostitution. Of the 55 individuals contacted, only four responded. Two declined outright, while the remaining two were willing to engage in further discussion. Due to financial constraints, the author ultimately interviewed only one of these individuals, referred to as informant A. Following this initial interview, informant A introduced the author to several of her peers who were also engaged in sex work. Of the five individuals contacted through this referral, only one agreed to be interviewed.

This recruitment process reflects the use of exponential non-discriminative snowball sampling, a technique in which initial participants refer the researcher to other potential participants within their network without specific selection criteria. Through this approach, the sample expands progressively as each informant provides access to additional contacts, enabling the researcher to reach a hidden or hard-to-access population such as CSW.

Secondary data collection was conducted by inventorying regulations, books, and journals related to labor, witness and victim protection, and sexual violence. This study uses a descriptive qualitative approach, which is a type of qualitative research. In this study, the author examines in depth the phenomenon of legal protection for sex workers who are victims of violence. Through interviews with sex workers in South Tangerang, the author collected primary data in the form of words and descriptions from the subjects' real-life experiences. The author then organized the information obtained into a descriptive chronology. This allowed the researcher to recount the lives and experiences of the research subjects in detail. The descriptive nature of this study ensures that the data obtained depicts the reality experienced by sex workers and provides deeper insights.

C. DISCUSSION AND FINDINGS

1. Commercial Sex Workers in Indonesia

a. The Position of Commercial Sex Workers in Indonesian Law

The practice of prostitution in Indonesia remains a complex gray area, both regarding the legal status of sex workers as workers and the status of individual sex workers as workers. Indonesian law does not explicitly regulate these two positions. So far, the Criminal Code (KUHP) only addresses prostitution in Articles 296 and 506. Both articles prohibit pimps. Article 296 addresses those who provide a place for indecent acts, while Article 506 addresses intermediaries in indecent acts (Jatmiko, 2015). Apart from the provisions in the Criminal Code, there are also several regional regulations that regulate violations of prostitution, such as:

- a. Article 42 Paragraph (2) of DKI Jakarta Regional Regulation Number 8 of 2007 concerning Public Order.
- b. Article 1 paragraph (7) of Tangerang City Regional Regulation Number 8 of 2005.
- c. c. Aceh Qanun Number 6 of 2014 concerning Criminal Law.

These regulations clearly prohibit anything related to prostitution, from pimps, sex workers, to users of prostitutes' services. However, due to the nature of regional regulations that are only specifically formed and enforced in certain areas, these rules only apply to the people in those areas and are not binding on the people throughout Indonesia. Then, for prostitution that operates through online forums is regulated in Article 4 paragraph (2) of Law Number 4 of 2008 concerning Pornography. This article clearly prohibits acts that offer and/or advertise their sexual services directly or indirectly. Violations of this article carry a maximum prison sentence of 6 years and a maximum fine of IDR 3 billion. Meanwhile, sex workers who work and solicit clients directly in places such as brothels,

massage parlors, hotels, roadsides, or other places of prostitution can only be prosecuted if the area where they work has regulations prohibiting prostitution.

This provision may change if Law Number 1 of 2024 concerning the Criminal Code comes into effect in 2026. This is because Article 411 paragraph (1) of the law defines adultery as sexual intercourse between a man and a woman who are not married. This article can be used to prosecute anyone who engages in sexual relations outside of marriage. In the context of prostitution, this article can be used to prosecute both sex workers and their clients. Article 411 paragraph (2) of the new Criminal Code explains that paragraph (1) constitutes a criminal offense that can only be filed by a husband or wife for those who are married and by their parents or children for those who are not married. However, as Article 411 of the Criminal Code constitutes a complaint-based offense, only the husband or wife of a person bound by marriage, and the parents or children of a person not bound by marriage, are entitled to file a complaint regarding the criminal offense of adultery in accordance with the provisions of Article 411 of the Criminal Code.

It's important to note that prostitution occurs not only through online platforms but also in more conventional forms. Initially, prostitution was conducted in person, with sex workers meeting clients in specific locations such as streets, bars, or nightclubs. Prostitution can be divided into two types based on its location: indoor prostitution, and outdoor prostitution, which occurs in public places or on the streets. Indoor prostitution involves transactions taking place in hotels, brothels, or private apartments. In contrast, outdoor prostitution occurs in open spaces such as parks or sidewalks (Riccardo and Maria, 2017). Both forms of prostitution also experience different forms of victimization. Women in outdoor prostitution most often experience and report physical violence in the form of slaps, punches, or kicks, while those working in indoor prostitution are more likely to experience attempted rape.

b. The Position of Commercial Sex Workers as Victims

The concept of prostitution in Indonesia is considered a crime against morality, in accordance with views based on dominant social, cultural, and religious values. Much uncertainty remains surrounding the status of sex workers. They can be considered either perpetrators or victims of a crime. Prostitution itself is a practice often referred to as a "victimless crime." This term is used to characterize forms of crime such as gambling, pornography, and narcotics, where the parties involved voluntarily exchange goods and/or services. The key to emphasizing "victimless crime" is that an act can be considered victimless only if there is no harm or risk of harm. However, in the context of prostitution, this cannot be met. In criminal law enforcement, it is clearly regulated that crimes or criminal acts must clearly define the positions of the victim and the perpetrator. This relates

to the application of sanctions against perpetrators, accountability for their actions, and the rights of victims, including the right to restitution and other rights. We cannot conclude that prostitution does not produce victims without considering the potential risks they face.

CSW are vulnerable to violence, in the form of physical, psychological, and sexual violence. A common finding is that women in prostitution are the most vulnerable group to victimization. There are two common reasons why someone enters the prostitution industry: due to human trafficking or by choice. Prostitution resulting from human trafficking involves coercion or the woman's non-consent to sexual activity. Although prostitution resulting from human trafficking also involves financial transactions, the pimps primarily seek to make a profit (Parwanta, et. al., 2021).

A CSW who experiences physical, mental, and/or economic loss as a result of a crime falls into the category of victim as stipulated in Article 1 paragraph (2) of Law Number 13 of 2006 concerning Witness and Victim Protection. Due to the nature of sex work, the status of sex workers as victims does not meet the concept of the "ideal victim" proposed by Nils Christie. The concept of the "ideal victim" discusses in detail the characteristics that make a victim more likely to receive sympathy and support from society and the legal system. In his article "The Ideal Victim," published in 1986, Christie explained how certain attributes, such as physical weakness, innocence, and an inability to escape the situation, make a victim more likely to be accepted as a legitimate victim and worthy of assistance.

2. Implementation of Legal Protection for Commercial Sex Workers Who Experience Violence While Performing Their Work.

a. Forms of Violence Experienced by Commercial Sex Workers While Performing Their Work

Prostitution can be viewed from two different feminist perspectives. The idea that prostitution is a "means to buy sexual harassment" or "paid rape" can explain the concept of prostitution as an act of violence against women and a violation of human rights (Parwanta, et. al., 2021). This idea is rooted in the radical feminist perspective, which argues that prostitution is a form of modern slavery, because women are treated as commodities to be bought and sold. Prostitution is considered a reflection of structural injustice in society, where men have power and control over women, who are reduced to mere sexual objects (Kesler, 2022). This theory emphasizes that prostitution is not entirely the result of a woman's free choice, so the radical feminist perspective supports the criminalization of prostitution. In stark contrast to radical feminism, liberal feminism views prostitution as a representation of women's control and independence over men. This perspective grants women the right to

do whatever they want with their bodies. Prostitution becomes a business, just like any other business.

Both feminist perspectives have drawn criticism. Liberal feminism, which emphasizes women's sexual freedom, fails to link factors such as exploitation, human trafficking, and economic inequality to paid sexual activity, which may be the reasons why someone ends up working as a sex worker. Meanwhile, radical feminism, which views prostitution as a structural problem, ultimately ignores the rights of individual sex workers without considering their needs, well-being, and legal protections (Haak, 2019). The current development of prostitution has led most of society to consider women involved in it as perpetrators of prostitution crimes (Yaris and Ach, 2019). This view is related to the perception that sex workers who choose to engage in prostitution of their own free will cannot be considered victims, but rather individuals who consciously choose this profession. Coercion in the context of prostitution cannot be limited to the involvement of a third party. Coercion can come in the form of economic, psychological, or social pressure. Family neglect, drug addiction, and problematic relationships with abusive parents have been identified as factors associated with women's involvement in prostitution.

Most sex workers in Indonesia are widows who are forced into this profession due to economic factors, especially if they are the sole breadwinner in the family (Binahayati and Nunung, 2018). Z, one of the author's sources, is a concrete example of this social phenomenon. She divorced at the young age of 22 and was forced into prostitution due to debt. Her education, which was interrupted at elementary school due to family financial problems, played a major role in her entry into the prostitution industry. After divorcing her husband, Z felt there was nothing else she could do to earn money. Furthermore, Z felt that her "self-esteem" as a woman had been diminished because she had lost her virginity, meaning no one would accept her as a wife.

The entry of these marginalized groups into the world of prostitution makes them subject to double victimization or repeated victimization (Matthews, 2015). Double victimization occurs when a person or group becomes a victim of various types of crimes. In prostitution, a sex worker is at risk of experiencing victimization in various forms, such as physical violence, sexual violence, extortion, discrimination, and economic exploitation. Moreover, sex workers who fall outside the category of human trafficking or work without social or economic problems are still not free from forms of victimization resulting from their work. Meanwhile, in the context of prostitution, the exchange of services between sex workers and service users must always be based on mutual consent to avoid harm to either party. To reach mutual consent, the service user must fulfill the terms and conditions set by the sex worker, and vice versa. Without fulfilling these conditions, an act that initially begins

as prostitution can develop into rape. Failure to fulfill mutual consent between the two parties not only eliminates the voluntary aspect of the transaction but also increases the risk of harm and violence against sex workers.

3. Interview Results with Commercial Sex Workers Regarding Violence They Have Experienced

The view that service users can treat or act as they please towards sex workers is a thought that is still often found in Indonesian society (Parwanta, et. al., 2021). In reality, a sex worker is someone who sells sexual services, not their entire body. This misconception is the basic reason someone can commit violence against sex workers. The two sources whom the author interviewed with the initials A and Z said that they were often treated arbitrarily by service users. A (20 years old) admitted to having experienced physical violence several times in the form of beatings while serving customers. When one of A's customers was caught by his own wife using the services of a sex worker, A was verbally threatened to apologize to his wife for the customer's mistake which should not be A's responsibility.

It didn't stop there, Z revealed that many guests didn't follow the terms and conditions they had set. A and Z set a price of 800 thousand rupiah for one sexual act with the condition that customers must use a contraception. The use of condoms is something that customers often violate by removing condoms secretly in the middle of sex (stealthing), "It's happened often, not just once or twice," Z replied when the author asked for further explanation of the violent act. Z expressed his helplessness when in that position: "The guest doesn't like wearing condoms, so in the middle of the act they would often take them off secretly without my knowledge. I then would only find out after it was over because I just felt it and it was too late."

Cases of stealthing as a form of sexual violence do not yet have a clearly established legal standing in Indonesian law. Article 6(c) of the Law on the Crime of Sexual Violence (UU TPKS) refers to elements of abuse of trust arising from deception. The act of stealthing fulfills this element, as the client removes the condom without consent and in a covert manner. Based on an initial agreement and trust regarding condom use, the CSW continues to carry out the sexual activity without being aware that the condom has been removed by the client. The client then exploits this situation to continue the sexual act.

The removal of the condom eliminates the element of consent in the sexual relationship between the CSW and the client. The continuation of sexual activity by the client without a condom constitutes a violation of Article 6(a) of the UU TPKS concerning physical sexual acts, as such conduct is contrary to the will of the CSW, who had only consented to engage in sexual activity under the condition that a condom was used.

The fact that women involved in prostitution offer their bodies for commercial purposes has led to the assumption that women in such situations are unlikely to be victims of rape. Consequently, the issue of rape in prostitution is often overlooked. It didn't stop there, verbal abuse from dissatisfied customers with sexual services was often hurled in front of A and Z. Their colleagues often experienced physical violence, such as punches, slaps, and unpleasant treatment such as being spat on by customers, especially by customers who came drunk. In addition to violence, one of A's colleagues also experienced theft when her cellphone was secretly taken by a customer. BBC News reported that the number of violence experienced by sex workers in 2021 reached 282 cases, 259 of which occurred against female sex workers (BBC, 2024). This shows the vulnerability of female sex workers to experience various forms of violence while carrying out their work. Despite facing various forms of violence, both informants expressed reluctance to report the violence they experienced. A stated that any dealings with the police required payment. A flatly refused any interaction with the authorities because she believed the police would not respond to her report. On the other hand, Z felt more afraid of the consequences of having to reveal the reality of their work to the police. So far, not a single female sex worker from the A and Z communities has ever reported the violence they experienced to the police. Cases of violence that should be criminalized are often considered non-existent because the sex workers, as victims, choose not to report them to the authorities. Even if they do muster the courage, it is difficult for their cases to be taken seriously and handled. Jennifer James argues that sex workers are victims of existing legal policies and their enforcement, which may lead to unfair treatment and limit their access to basic rights.

4. Legal Protection for Commercial Sex Workers Experiencing Violence

The violence and exploitation experienced by women in prostitution are often overlooked in the legal process. In a criminal court trial, evidence becomes a crucial element in determining material truth and ensuring justice for all parties involved.¹³⁴ Law enforcers make efforts to seek material truth in a criminal case in order to avoid errors in sentencing someone in accordance with the provisions of Law No. 48 of 2009 concerning Judicial Power, Article 6 paragraph (2), which states that:

"No one can be punished unless the court, based on valid evidence according to law, is convinced that the person is responsible."

Based on these provisions, in the process of resolving criminal cases, law enforcement is required to collect evidence and facts related to the criminal case being handled in full. The provisions in Article 183 of Law No. 8 of 1981 concerning the Criminal Procedure Code ("KUHAP") stipulate that a judge may only sentence someone if there are two or more valid pieces of evidence. The provisions on valid pieces of evidence are stated

in Article 184 paragraph (1) of the KUHAP which includes 5 forms, namely witness testimony, expert testimony, The principle of *unus testis nullus testis* which means one witness is not a witness, is contained in Article 185 paragraph (2) of the KUHAP. This principle underlines the importance of having more than one piece of evidence or witness to avoid errors in sentencing. In other words, the testimony of a single witness cannot be used as the sole basis for deciding the guilt of the defendant, because this is considered insufficient to ensure material truth in a criminal case.

Legal protection can be defined as efforts made by the government or authorities through the implementation and enforcement of existing regulations to protect individuals and groups from various forms of threats, violence, and injustice. Sex workers as victims should have the right to receive protection that can guarantee their safety, welfare, and basic rights. Law Number 13 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims (“Witness and Victim Protection Law”) defines protection as all efforts to fulfill rights and provide assistance to provide a sense of security for witnesses and/or victims, which must be implemented by the Witness and Victim Protection Agency (“LPSK”) or other institutions in accordance with the provisions of the Witness and Victim Protection Law. The Witness and Victim Protection Law discusses the rights of witnesses and/or victims of criminal acts in general, while Law Number 12 of 2022 concerning Crimes of Sexual Violence (Sexual Violence Crime Act) discusses the rights of witnesses and/or victims who experience criminal acts of sexual violence.

Protection for witnesses and/or victims as outlined in the Witness and Victim Protection Law and the Sexual Violence Crime Act can be seen in the following table.

<p>The Rights of Sex Workers As Victims</p>	<p>Law Number 31 of 2014 concerning the Protection of Witnesses and Victims</p>	<p>Law Number 12 of 2022 concerning the Criminal Act of Sexual Violence</p>
<p>Protection regarding the security of one's person, family, and property, as well as freedom from threats related to</p>	<p>Article 5 paragraph (1) letter a.</p>	<p>Article 66 paragraph (1) and Article 66 paragraph (2) relate to the rights to protection, treatment, and recovery for victims of sexual violence, including victims of</p>

testimony that one will, is, or has given.		sexual violence with disabilities. Article 67 paragraph (2): Fulfilling victims' rights is the responsibility and obligation of the state.
Selection of forms of security-related protection and support	Article 5 paragraph (1) letter b	
To avoid getting trick questions.	Article 5 paragraph (1) letter e	
Access to information related to case development.	Article 5 paragraph (1) letter f	Article 68 letters a and b. Article 69 letters a, b, and c. Article 70 paragraph (2) letter c, d, and k.
Access to information on court decisions.	Article 5 paragraph (1) letter g	
Identity secrecy or getting a new identity	Article 5 paragraph (1) letter i Article 5 paragraph (1) letter j	Article 69 letter d
Getting new or temporary residence	Article 5 paragraph (1) letter k	Article 70 paragraph (2) letter g

	Article 5 paragraph (1) letter l	
Legal advice	Article 5 paragraph (1) letter n	Article 68 letter c Article 70 paragraph (2) letter e
Receive temporary living expenses assistance until the protection period ends.	Article 5 paragraph (1) letter o	Article 69 letter a
Rights to restitution	Article 7A paragraph (1)	Article 30: paragraph (1) Compensation for loss of wealth and income arising from suffering directly related to sexual violence; costs of medical and/or psychological care; and/or other losses suffered by the victim as a result of the crime of sexual violence.
Protection from behavior by law enforcement officers that demeans victims.		Article 60 paragraph (3) relates to behavior and words that demean Article 69 letter e.
The right to access and appropriate accommodation for victims with disabilities.		Article 70 paragraph (2) letter f.

Provision of educational facilities		Article 70 paragraph (2) letter i
Provision of spiritual and religious guidance.		Article 70 paragraph (2) letter h
Penghapusan konten bermuatan seksual untuk kasus seksual kekerasan melalui sarana elektronik		Article 70 paragraph (2) letter l
Obtain transportation costs as needed.	Article 5 paragraph (1) letter m.	Article 70 paragraph (2) letter g.
Victims of torture, sexual violence, and serious abuse are provided with media assistance, psychosocial rehabilitation, and psychological support.	Article 6 paragraph (1) letters a and b.	Article 68 letters d, e, and Article 70 paragraph (1) letter a (medical rehabilitation); letter b (mental and social rehabilitation); letter c (social empowerment); and letter e (social reintegration). Article 70 paragraph (3) relates to the right to recovery after the judicial process (physical and psychological health care assistance; strengthening community support; assistance with the use of compensation and/or

		restitution; provision of social security, health, economic, and other services).
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In 2022, the Indonesia Judicial Research Society (IJRS) conducted a study on criminal justice reform for vulnerable groups experiencing sexual violence, based on an indexation of court decisions from 2018 to 2020. The study found that 34% of the decisions examined still contained statements that blamed, demeaned, and/or intimidated women within judicial rulings. Furthermore, research conducted by Komnas Perempuan in 2020 indicates that judges adjudicating sexual violence cases frequently raise questions concerning the private relationships between victims and their partners, notwithstanding the irrelevance of such matters to the case at hand.

These findings demonstrate that judicial conduct which continues to blame, demean, and/or intimidate women may manifest in several forms. First, the inclusion of vulgar or explicit statements in judicial decisions that degrade female victims, including descriptions of sexual acts between the victim and the perpetrator, as well as derogatory expressions such as “promiscuous,” “cheap,” or “disobedient to her husband.” Second, intimidation of victims through verbal aggression, including shouting. Third, the articulation of statements reflecting victim-blaming attitudes, such as references to the victim’s clothing, manner of interaction, social status, occupation, or presence at a particular place and time.

Judges play a pivotal role in ensuring that women receive equal protection and justice throughout judicial proceedings, in accordance with the Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2017 (PERMA 3/17) concerning Guidelines for Adjudicating Cases Involving Women in Conflict with the Law. Articles 4 and 5 of PERMA 3/17 provide comprehensive guidance for judges in adjudicating cases involving women, whether as victims, witnesses, or defendants. Judges are mandated to consider principles of gender equality and non-discrimination in the adjudication process.

Judges are required to identify disparities in social status between the parties, which may affect the dynamics of the case. They must also consider inequalities in legal protection and any forms of discrimination that may impede access to justice. Additionally, judges are obligated to consider the psychological

impact experienced by victims, as well as their physical and psychological vulnerability. Existing power relations must be carefully assessed, as they may render victims or witnesses unable to act freely. Furthermore, any prior history of violence perpetrated against the victim or witness constitutes a critical factor in judicial evaluation.

The judicial practices identified in the IJRS and Komnas Perempuan studies are inconsistent with Article 5 of PERMA 3/17, which explicitly prohibits judges from engaging in conduct or making statements that demean, blame, or intimidate female victims. The provision further prohibits judges from justifying discrimination against female victims, questioning or considering a victim's sexual history or background as a basis for acquittal or sentence mitigation, and issuing statements that reflect gender-based stereotypes. These findings underscore the heightened vulnerability of women victims of violence to secondary victimization within the judicial process.

Based on the author's interviews, none of the CSW were willing to report incidents of violence due to various factors, including fear of the consequences of reporting, social stigma, and the risk of secondary victimization. CSW frequently perceive that reporting such incidents would prolong their suffering without any assurance of legal redress. Consequently, legal protection for CSW in the South Tangerang area remains ineffective. In practice, CSW tend to refrain from reporting acts of violence rather than subject themselves to a protracted legal process that may further marginalize or potentially criminalize them. Based on the author's interviews, no sex workers were willing to report due to various factors, such as fear of repercussions, social stigma, and the risk of secondary victimization they might face. Consequently, legal protection for sex workers in South Tangerang has not been effectively implemented. They prefer not to report the violence they experience rather than face the tedious legal process that could potentially ensnare them as sex workers.

D. CONCLUSION

The government has yet to recognize sex workers as workers within the framework of labor law. Moreover, several regions, including DKI Jakarta, Tangerang City, and Aceh, have enacted regional regulations prohibiting prostitution, thereby criminalizing the legal status of sex workers in those jurisdictions.

The Law on the Protection of Witnesses and Victims and the Law on Sexual Violence Crimes (TPKS Law) have in fact provided legal guidelines concerning the rights and protection of victims, including sex workers who experience violence. However, the implementation of

such protection depends largely on the willingness of victims to report the violence they have experienced.

This study found that none of the informants, nor their colleagues, were willing to report acts of violence to the authorities. Sex workers are often reluctant to report violence due to the high likelihood of being blamed or criminalized themselves. Fear of secondary victimization, as well as uncertainty regarding access to justice, further discourages them from seeking legal remedies. Consequently, protection mechanisms that should be available in practice cannot be effectively implemented, leaving sex workers without the support and protection they require.

The issues discussed in this research are closely related to societal attitudes toward sex workers. Stigma and discriminatory treatment affect the recognition of sex workers both as workers and as victims entitled to legal protection. Therefore, efforts to eliminate stigma and discrimination should be pursued through educational approaches. In addition, strengthening the capacity of law enforcement officials through a victim-centered approach is necessary to ensure that reports of violence are handled fairly and without discrimination.

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