

THE ASPECT OF RESTITUTION FOR RESTITUTION AND/OR COMPENSATION FOR VICTIMS OF ONLINE GENDER-BASED VIOLENCE IN INDONESIA'S EXISTING REGULATION

*Aloysia Vira Herawati**

*Dian Noeswantari***

Abstract: *The 2023 Annual Report of the Indonesian National Commission on Women records that sexual violence is the dominant form of violence against women, 2,228 cases or 38.21%. From this figure, a total of 1,697 complaints of Online Gender-Based Violence cases were received. The overwhelming number of cases reflects the gloomy reality of law reinforcement, specifically on cases of online gender-based violence in Indonesia. This article aims to discuss the aspect of restitution and/or compensation for victims of online gender-based violence in Indonesia existing regulation. Several existing regulations on the handling of gender-based violence are explored, then pinpointing the existence of restitution and/or compensation within those regulations. This article argues that there should be a synchronisation of articles among several interrelated regulations in order to further and strongly signify the importance of restitution and/or compensation for victims of online gender-based violence.*

Keywords: *Sexual violence, Gender-based violence in cyberspace, Compensation.*

1. Definition of Online Gender-Based Violence

Online gender-based violence is an act of violence committed based on sex or gender that is facilitated by technology.¹ National Commission on

* Faculty of Law University of Surabaya; vira@staff.ubaya.ac.id.

** Centre for Human Rights Studies University of Surabaya; diann@staff.ubaya.ac.id.

¹ SAFEnet, 'Memahami dan Menyikapi Kekerasan Berbasis Gender Online: Sebuah Panduan' (SAFEnet, 2020) <<https://awasOnlineGenderBasedViolence.id/wp-content/uploads/2020/11/panduan-OnlineGenderBasedViolence-v3.pdf>> accessed 20 June 2024.

Women² issued a definition of online gender-based violence as "any act of gender-based violence, committed, supported or exacerbated in part or in whole by the use of Information and Communication Technology (ICT) through technology facilitated, which targets a woman as a victim, because she is a woman or disproportionately affects women, which results in, or may result in, women's physical, sexual or psychological distress or suffering, including for the threat of measures in the form of coercion or arbitrary deprivation of liberty, whether they occur in the public sphere or private life."

Online gender-based violence, like other gender-based violence, is deeply rooted in discriminatory social norms and gender inequality that is affiliated with offline violence. This online gender-based violence has intentionally inhibited freedom of speech and involvement in public agenda, particularly for women and girls. Research shows that online gender-based violence has expanded the gender digital gap and increased risks for equality and peaceful and sustainable living³.

According to the Swedish International Development Agency, "Gender-based violence is one of the most widespread violations of human rights and an obvious expression of unequal gender relations in a society, and also a serious hindrance to sustainable development". Therefore, online gender-based violence is widely recognized that it can alarm all of us because it can violate, persecute, harass, and silence a person in private and public spaces. This online gender-based violence is mainly targeted at everyone, regardless of gender, who uses the internet as a critical tool on the nexus of information and communication technologies and the right to freedom of expression.⁴ Online gender-based violence threatens freedom of expression as significant risks.

This online gender-based violence is now called technology-facilitated gender-based violence and is defined as a form of gender injustice and discrimination that takes place in online spaces.⁵ The term online gender-

² National Commission on Women, 'Kertas Kebijakan Saran dan Masukan National Commission on Women Terhadap RUU Perubahan Kedua atas Undang-undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik' (National Commission on Women, 2023) <<https://komnasperempuan.go.id/download-file/1000>> accessed 20 June 2024.

³ UN Women, 'Toolkit: Youth Guide to End Online Gender-Based Violence' <<https://asiapacific.unwomen.org/en/partnerships/30-for-2030/toolkit-youth-guide-to-end-online-gender-based-violence>> accessed 4 July 2024.

⁴ Swedish International Development Agency, 'Brief: Gender Based Violence Online'(SIDA 2021) <https://cdn.sida.se/app/uploads/2021/11/04102156/10204730_BRIEF_Gender-Based_Violence_Online_nov-2021_webb.pdf> accessed 4 July 2024.

⁵ Global Citizen, 'What is Online Gender Based Violence' <<https://www.globalcitizen.org/en/content/what-is-online-gender-based-violence-2/>> accessed 4 July 2024.

based violence is kind of technology facilitated on the Information and Communication Technology that is used to violate someone based on their gender via online, as defined by SAFEnet⁶ and Komnas Perempuan (Indonesia National Commission on violence against women) Indonesia⁷. Moreover, Martinez-Bacaicoa stated that online gender-based violence is considered part of what is referred to as technology-facilitated, and being defined as "any harmful behaviour committed through technology and directed at someone based on their gender"⁸.

According to the United Nations Regional Information Centre, technology-facilitated gender-based violence is "any act that is committed, assisted, aggravated or amplified by the use of information communication technologies or other digital tools which results in or is likely to result in physical, sexual, psychological, social, political or economic harm or other infringements of rights and freedoms."⁹ technology-facilitated gender-based violence, according to the UN Women, has facilitated and heightened forms of gender-based violence and escalated rapidly in the last decades. Consequently, there is an urgent need to protect and uphold women's rights in the digital era.

Globally, one in three women has endured violence in their life. Most violent perpetrators are intimate partners and traffickers. The violation is mostly being replicated online. The perpetrators are no longer limited to personal or interpersonal relationships. So, that threats from perpetrators significantly risk to safety and well-being. This kind of violation can describe unequal relation between couple that bring women to be violated by their partner. So, because most victims are women, it is called gender-based violence. Yet, the society has always been wronged women because of their gender roles and/or their identity. Therefore, this phenomenon of relationship's violation continues to happen because of societal biases associated with gender roles and identities rooted in decision-making.

2. Statistical Data on Online Gender-Based Violence Around the World

Global data on technology-facilitated gender-based violence from

⁶ Ibid.

⁷ Ibid.

⁸ Jone Martínez-Bacaicoa and others 'The role of gender and sexism in the moral disengagement mechanisms of technology-facilitated sexual violence' (Computers in Human Behavior, 2023) <<https://doi.org/10.1016/j.chb.2023.108060>> accessed 19 June 2024.

⁹ United Nations Regional Information Center, 'How Technology Facilitated Gender Based Violence Impacts Women and Girls' <<https://unric.org/en/how-technology-facilitated-gender-based-violence-impacts-women-and-girls/>> accessed 4 July 2024.

different organisations have shown that this issue has escalated at an alarming rate and is taking various forms. The United Nations Regional Information Centre reported that forms of technology-facilitated gender-based violence include misinformation and defamation 67%, cyber harassment 66%, hate speech 65%, impersonation 63%, hacking and stalking 63%, astroturfing (a coordinated effort to share damaging content across platforms concurrently, 58%, video and image-based abuse 57%, doxing 55%, violent threats 52%, and unwanted images or sexually explicit content 43%. These percentages mean that one in ten women in the European Union has experienced cyber-harassment since the age of 15, including having received unwanted and/or offensive sexually explicit emails or short messages or offensive and/or inappropriate advances on social networking sites.

The Institute of Development Studies signified that 16 to 58% and the Economist Intelligence Unit stated that 38% of women have experienced technology-facilitated gender-based violence. Approximately 85% of women who spend time online have witnessed digital violence against other women. In the Arab States, 60% of women using the internet reported experiencing online violence, while five countries in sub-Saharan Africa revealed that 28% of women faced similar issues. A 2017 survey of women aged 18 to 55 in Denmark, Italy, New Zealand, Poland, Spain, Sweden, the UK, and the USA indicated that 23% of women had encountered at least one incident of online abuse or harassment. Additionally, Australia noted a 210% rise in image-based abuse attributed to the pandemic. In India, Sri Lanka, and Malaysia, there was a 168% increase in misogynistic online posts during pandemic lockdowns. Before the pandemic, 38% of women experienced online abuse, which increased by 27% during that time. Black and minority women reported higher prevalence rates, with 50% witnessing online abuse before the pandemic and 38% experiencing a rise during it. This data illustrates that certain vulnerable groups are at greater risk, with women facing various forms of discrimination, particularly those in vulnerable categories such as individuals with disabilities, Indigenous people, girl children, migrants, educated girls, young women, journalists, human rights defenders, activists, and lawmakers. Approximately 58% of young girls and women experienced some type of online harassment, and importantly, 73% of women journalists reported facing online violence in their professional roles.¹⁰

¹⁰ UN Women, “Technology Facilitated Gender Based Violence” <<https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/tech-facilitated-gender-based-violence>> accessed 4 July 2024.

Another essential report comes from a study conducted by Plan International, in which 47% of women were known to be attacked for sharing their opinions on gender injustices and feminist issues - this is as one form of insults, trolling, misinformation, deep fakes or AI generates fake photos, and other forms of online gender-based violence, to silence and shame women. Online gender-based violence and online spaces do not have enough rules and regulations to protect women from violence. Therefore, leading perpetrators often do not face consequences for their harmful actions. Data from Africa indicated that 51% of girls online experienced online gender-based violence in person, 85% of them faced multiple forms of harassment, and 39% of primary African girls were concerned about online safety.¹¹ In Canada, 18% of women experienced unwanted sexual behaviour online, and some of them experienced more than one, i.e., 33% of women between 15 and 24 years old, 30% of Indigenous women, and 50% of bisexual women.¹²

Interesting findings on the current state of online gender-based violence in several European countries are explored in the following.¹³ In Kazakhstan, the legislation does not provide a legal definition for cyberbullying, cyber-mobbing, or bullying. However, individuals engaging in such behaviours may be prosecuted by categorizing their actions as slander, which falls under one type of cyberbullying, punishable under Article 130 of the Criminal Code of the Republic of Kazakhstan. Additionally, individuals can protect their rights by filing a lawsuit to refute any information that tarnishes their honour, dignity, or business reputation, as outlined in Article 143 of the Civil Code of the Republic of Kazakhstan. A person whose reputation has been harmed by defamatory information can seek both the retraction of that information and compensation for any losses or non-material damages incurred. Furthermore, Article 131 of the Criminal Code addresses punishments for insulting or degrading another person's honour and dignity. While there are avenues to address certain forms of cyberbullying and cyber-mobbing, these methods are not particularly effective for combating these issues overall.

¹¹ Global Citizen, 'What is Online Gender Based Violence <<https://www.globalcitizen.org/en/content/what-is-online-gender-based-violence-2/>> accessed 4 July 2024.

¹² Government of Canada, 'Online Gender-Based Violence: It's Not Just Words' <<https://www.canada.ca/en/women-gender-equality/campaigns/gender-based-violence-its-not-just/infographic-online-just-words.html>> accessed 4 July 2024.

¹³ Aliya Kintonova, Alexander Vasyaev and Viktor Shestak, 'Cyberbullying and cyber-mobbing in Developing Countries' (2021) 29 (3) Information & Computer Security <<https://doi.org/10.1108/ICS-02-2020-0031>> accessed 20 June 2024.

In Uzbekistan, there appears to be a lack of statistics regarding bullying, cyberbullying, and cyber-mobbing. Article 10 of the law "On guaranteeing the rights of the child" states that every child has the right to protection against violations of their honour and dignity. However, there are no effective mechanisms in place for safeguarding against bullying and cyberbullying. Article 40 of the Code of the Republic of Uzbekistan on administrative responsibility addresses slander, which can be viewed as a punishment for one form of cyberbullying—specifically, misinformation. Slander is defined as the intentional spreading of false statements that harm another individual's reputation. In terms of protecting one's honour and business reputation through civil proceedings, Uzbekistan's legislation is similar to that of Kazakhstan.

In Turkmenistan, criminal liability for slander, including through information and telecommunication technologies, is provided for in Article 132 of the country's Criminal Code. However, as in the mentioned countries, there is no notice of "bullying," "mobbing", and, accordingly, mechanisms to prevent these phenomena. Similarly, Russian legislation also does not contain the concepts of "bullying," "cyberbullying", and "cyber-mobbing." However, information and legislative technology in the Russian Federation are developing much faster than in Central Asia. Introducing responsibility for bullying in schools and its varieties is only at the stage of initiatives of various public organisations.

A rather different situation occurs in Ukraine. Ukraine has advanced a little in the fight against bullying. The Code of Administrative Offenses divides the entities liable for bullying cases. Thus, responsibility comes for bullying, that is, actions of participants in the educational process, which consist of psychological, physical, and sexual violence, including the use of electronic communications. These actions are committed against a minor or by such a minor concerning other participants in the educational process. As a result of such actions, the mental or physical health of the victim could have been affected. The offender him/herself bears responsibility in case of reaching 16 years of age. If a minor commits bullying under 16 years of age – the offender's parents will bear responsibility. In addition, administrative responsibility is provided for the head of the educational institution if he/she fails to report to the authorised unit of the National Police of Ukraine about cases of bullying of a participant in the educational process. Thus, the Ukrainian legislator competently approached the problem of bullying and cyberbullying, providing for a liability.

A more advanced situation occurs in Italy. In Italian law, cyberbullying has a legal definition: "any use of the Internet for an insult, threat, abuse, blackmail, slander and identity theft of minors." The law also provides some valuable tips to prevent and reduce the spread of cyberbullying among young people and introduces some important innovations, such as criminalising the misuse of the internet to insult, defame, threaten, or steal a minor's identity. The police commissioner could warn minors (over 14 years old) who cyberbullied another minor. The warning procedure is to provide the minor and his/her parents (or another person carrying out parental responsibility) with a subpoena from the police commissioner. In addition, the law allows cyber victims and/or their parents to request website hosts and social media platforms to remove and block offensive content within 48 hours.

3. Types of Online Gender-based Violence

It is worth mentioning that online gender-based violence takes on several different types. The violence takes the form of threats of sexual or other types of harassment. These online gender-based violence may take the form of a one-off incident or, more likely, a persistent, targeted campaign, and possibly use online channels such as email, short text messages, direct messaging, social media or websites, or be perpetrated alongside 'real-world versions of the same kind of violence.'¹⁴ Some other forms of violence are unique to the internet such as:

1. doxing, that is revealing or publishing private or identifying information about someone online, or accessing an individual's private information and sharing it online,
2. flaming or trolling that deliberately upsetting other people by posting inflammatory or sexual content or posting insults or personal attacks on the Internet,
3. cyberstalking that is using social media, the use of internet, or GPS trackers to stalk or harass someone using technology,
4. revenge porn or non-consensual pornography or unsolicited pornography that distributes and publishes intimate or sexual images or graphic images or audio or videos or sexual clips posted without consent online,
5. cyberbullying or kind of bullying with the use of digital technologies,
6. sexting or sending sexual texts,

¹⁴ Get Safe Online.Org, 'Online Gender-Based Violence'

<<https://www.getsafeonline.org/personal/articles/online-gender-based-violence/>> accessed 4 July 2024.

7. accessing private data through hacking or hacking,
8. creating and disseminating fake news about the targeted individual,
9. attempted and successful attempts at blackmail,
10. zoom bombing or sending pornographic images shown during video calls or meetings, by uninvited parties,
11. sextortion or blackmailing by threatening to publish sexual information, photos or videos;
12. image-based abuse or sharing intimate photos without consent;
13. online gender and sexual harassment;
14. online grooming for sexual assault;
15. hate speech;
16. online impersonation; and
17. using technology to locate survivors of abuse in order to inflict further violence.

4. Online Gender-Based Violence in Indonesia

The National Commission on Women publishes its national report every year. Its 2023 report states that the number of general case complaints decreased in 2022 from the previous year to 457,895 from 459,094. The decrease in reporting was collected from data from service agencies and Religious Court bodies. Meanwhile, complaints to the National Commission on Women increased to 4371 from 4322 cases. With this number, the National Commission on Women receives an average of 17 daily complaints. A total of 339,782 of the total complaints were gender-based violence, of which 3442 were complaints to the National Commission on Women. Violence in the personal sphere still dominates the reporting of Online Gender-Based Violence cases, namely 99% or 336,804 cases. In complaints at the National Commission on Women, cases in the personal sphere reached 61% or 2,098 cases. For cases in the public domain, 2978 cases were recorded, of which 1,276 were reported to the National Commission on Women. Meanwhile, cases of violence in the state sphere were only found in the National Commission on Women, with an increase of almost two times, from 38 cases in 2021 to 68 cases in 2022.

National Commission on Women's complaint data throughout 2022 shows sexual violence as the dominant form of violence against women (2,228 cases or 38.21%), followed by psychological violence (2,083 cases or 35.72%). At the same time, the data from service institutions is dominated by physical violence (6,001 cases or 38.8%), followed by sexual violence (4102

cases or 26.52%). Looking into more detail on the data of complaints to the National Commission on Women in the public sphere, sexual violence has always been the highest (1,127 cases), while in the personal sphere, the most psychological violence (1,494 cases). In contrast to service institutions, this 2022 data shows that the most physical forms are found in the public and personal spheres. Data on complaints to the National Commission on Women is divided into three domains: personal domain, 2098 cases; public domain, 1276 cases; and state domain, 68 cases. Personal violence dominates every year. Throughout 2022, data on complaints of Gender-based Cyber violence at the National Commission on Women was 1.4% lower than before. The number of cyber cases in the personal sphere is 821 cases, dominated by sexual violence and the most committed by ex-boyfriends (549 cases) and girlfriends (230 cases). At the same time, cyber cases in the public domain are mainly carried out by "social media friends", with as many as 383 cases. During 2023, online loan cases increased by 225% or 13 cases compared to the previous year (4 cases).

Meanwhile, the cyber data reported by most service agencies is in non-governmental organizations and the women crisis centres, with as many as 103 cases. This data decreased by 67 cases compared to the previous year. However, the number of cyber cases reported from service agencies has increased by 112 cases, and most of the perpetrators of these cases are unknown people, boyfriends, or ex-boyfriends.¹⁵

The 2023 annual record of the National Commission on Violence Against Women records a total of 1,697 complaints of Online Gender-Based Violence cases received by the National Commission on Women. The most common types of violence are sextortion, non-consensual dissemination of intimate images, and online lending. However, our society often underestimates the online threat of Gender-Based Violence because violence is not "done directly". The Indonesian film "Like & Share" shows the culture of violence experienced by society. Not only the rise of Online Gender-Based Violence and the vulnerability of victims but also violent offenders by bystanders or bystanders. Violent offenders are unfortunately often committed by those who are supposed to protect the victim. The existence of hierarchies or power relations aggravates the suffering of the victim. In the end, women

¹⁵ National Commission on Women, 'Lembar Fakta Catatan Tahunan Komnas Perempuan 2023' <<https://komnasperempuan.go.id/download-file/949>> accessed 4 July 2024.

are again the victim. Women forced to guard their nakedness, allowed to suffer, and ridiculed for already engaging in sexual activity are some of the consequences of a culture of violence. Violence against women is condemned by society. Online Gender-Based Violence numbers are rising sharply now, which also means Online Gender-Based Violence is already being recorded and is starting to be taken seriously. The perpetrator has control over the victim, and the perpetrator is not averse to sextortion. The goal is to control the victim. The Film also shows online Gender-Based Violence, and there are primary perpetrators who first spread non-consensual content, and secondary perpetrators who enjoy and make fun of the victim. Therefore, society needs to learn not to become secondary actors and stop the spread of non-consensual content instead of spreading it more widely.¹⁶

Online Gender-Based Violence has become an issue that has caught the public's attention in recent times. This issue has become more prominent after many public figures became victims of nude videos circulating on social media. The irony is that victims of Online Gender-Based Violence, who are primarily women, are criminalised in the cases they face. Data from the Southeast Asia Freedom of Expression Network or SAFEnet shows that from January to September 2023, there were 647 complaints related to online gender-based violence. A total of 236 cases came from the threat of spreading non-consensual intimate content or NCII, 178 cases of sexting, and 155 cases of NCII. This data is predicted to increase until the end of 2023. Data from the National Commission on Women noted that as of December 2023, there were 1,638 cases of Online Gender-Based Violence. Ex-boyfriends committed a total of 534 cases of online gender-based violence. Followed by 382 cases of online gender-based violence committed by strangers on social media, 373 cases committed by friends on social media, 220 cases committed by boyfriends, and the remaining 20 cases. Social media's abdication of responsibility points to the potential latent dangers of the structure or infrastructure of social media platforms. Victims of online gender-based violence experience psychological harm, social isolation, economic loss, limited mobility, and self-censorship. Victims of online gender-based violence are vulnerable to fear, anxiety, depression, and suicidal ideation. The social impact victims feel is experiencing social isolation withdrawing from the

¹⁶ Jurnal Perempuan, ‘Peringatan 16 HAKTP 2023: Online Gender-Based Violence dalam Budaya Populer’ <[https://www.jurnalperempuan.org/warta-feminis/peringatan-16-haktp-2023-Online Gender-Based Violenceo-dalam-budaya-populer](https://www.jurnalperempuan.org/warta-feminis/peringatan-16-haktp-2023-Online-Gender-Based-Violenceo-dalam-budaya-populer)> accessed 4 July 2024.

environment, and their mobility is increasingly limited. These social impacts are based on the victim's decision to withdraw from offline or online activities on social media because she continued to be humiliated after her photos and videos were spread without her consent.¹⁷

The number of digital rights violations in Indonesia during the second quarter of 2023 increased compared to the previous quarter. Only the amount of criminalisation of expression decreased while internet access disruptions, digital attacks, and online gender-based violence continued to rise. There were 16 cases of access disruption observed in the second quarter of 2023. This figure tripled from 5 disruptions in the previous quarterly period. These internet access disruptions span infrastructure, services, and policies. The breaking of undersea internet cables still occurs, and transmitter tower stations or Base Transceiver Station in Papua and North Kalimantan disrupted.

On the other hand, internet access disruptions in Papua occurred 11 times, according to monitoring on the IODA dashboard. Regarding the criminalisation of expression in the digital realm, there were at least 27 cases during the second quarter of 2023, with 33 victims of criminalisation. This period's reported cases decreased by 32% compared to the previous quarter. In terms of digital security, there were at least 55 digital security incidents. During this period, personal data leaks were still rampant and became the most common form of digital security incident compared to other forms of incidents. Digital security incidents increased by more than 66% compared to the previous period. The increase is due to personal data leaks in government and educational institutions. Citizens' security continues to be threatened by the increase in online gender-based violence. During the second quarter of 2023, SAFEnet's monitoring team handled 254 online gender-based violence complaints. This number is much higher than last year's period (April to June 2022), which was 180 cases. The age category of the complainants identified as victims were between 18 and 25, with 106 complaints (48%). This age is included in the young group. The second highest age was in the children category, 12 to 17 years old, with 77 victims (35%). As in previous years, the increase in cases of online gender-based violence against children deserves special attention.¹⁸

¹⁷Bincang Perempuan.Com, 'Korban Online Gender-Based Violence Makin Menderita' <<https://bincangperempuan.com/korban-OnlineGender-Based-Violence-semakin-menderita>> accessed 4 July 2024.

¹⁸ SafeNet, 'Laporan Pemantauan Hak-hak Digital Triwulan II 2023' <<https://safenet.or.id/id/2023/08/laporan-pemantauan-hak-hak-digital-triwulan-ii-2023/>> accessed 4 July 2024.

The National Commission on Women recorded 4,179 cases of sexual violence in May 2022-December 2023. The most common report received was electronic-based sexual violence, followed by sexual harassment and rape. Electronic-based sexual violence cases received by the National Commission on Women reached 2,776 cases.

This report examines the prevalence of online gender-based violence among school-age children in Indonesia, particularly during the COVID-19 pandemic and the shift to remote learning. Despite the risks faced by teenage students during their transition from childhood to adulthood, violence against them often receives less attention than cases involving adults. The study gathered data through an online survey of 15 to 19-year-old students from 100 high schools across six regions. It focused on four subcategories of gender-based violence and four subcategories of cyberbullying to assess their prevalence among secondary school students. The findings indicate that 37% of the 756 high school students who reported gender-based violence incidents in 2021 were boys, and one-third of these students experienced repeated cases within the past year.

Additionally, two-thirds of students who experienced cyberbullying also reported gender-based violence incidents. The study highlights the significant negative impacts on students' mental health and learning. To effectively address gender-based violence among secondary school students, the report emphasises the importance of adopting an inclusive approach, bridging the gap between policies and practices. It recommends implementing reporting mechanisms, providing psychological support, and improving education on safe internet and social media use.¹⁹

Internet and social media, as part of technology-facilitated information dissemination, is open, expansive and relatively ungoverned, which has resulted in high risks for online gender-based violence, particularly for women, girls, and other vulnerable groups targeted disproportionately. Any online gender-based violence has brought up severe and completely unacceptable consequences to the individual, ranging from embarrassment to loss of dignity and severe mental trauma leading to isolation, self-harm and even suicide; that has impacted victim's withdrawal from using the internet,

¹⁹ Worldbank Group, ‘Kekerasan Berbasis Gender Online Di Kalangan Pelajar SMA/SMK di Indonesia’ <<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099637206212330304/idu00f5de5e50031c048fc0b2a30efcfaa5410a0>> accessed 4 July 2024.

losing access to all its benefits, their sense of empowerment, and access to fundamental human rights. Furthermore, victims of online violence become the target for blame simply because of their views, private behaviour or the fact that they have attempted to defend or counter the abuse. The incidence of online gender-based violence has increased substantially since the outbreak of the COVID-19 pandemic. The recent increase in economic hardship, restricted movement, social isolation, and mental health issues has, unfortunately, created ideal conditions for perpetrators.²⁰

Indonesia has laws on the protection of online-gender bases, such as Act No. 1/2024 on information and electronic transactions (ITE Law) has regulated on illegal content, content removal, and sanctions for violators, Act No. 27/2022 on personal data protection (PDP Law) has regulated the protection of personal data, including personal data related to online sexual violence, and Act No. 12/2022 on criminal offences of sexual violence (TPKS Law) has regulated criminal acts of sexual violence, including online sexual violence. These Acts has regulated illegal content that including online sexual violence, given victims of online gender-based violence the rights to report the illegal content to the authorities, removal of illegal content, sanctions for the perpetrator that including criminal and administrative sanctions, cooperation with other parties such as internet service providers, social medias, and others to handle online sexual violence, and also protection of personal data that including personal data related to online sexual violence, and on providing assistance and protection for victims of online sexual violence that including providing access to psychological, legal, and other assistance. Yet, Act No. 1/2024 on information and electronic transactions does not specifically regulate online sexual violence, but rather focuses on regulating information and electronic transactions and its' online distribution in general. Also, Act No. 27/2022 on personal data protection does not specifically regulate online sexual violence, but focuses more on the protection of personal data in general. Only, Act No. 12/2022 on criminal offences of sexual violence has more comprehensive and access for the protection of the victims of online sexual violence, specifically on various forms of sexual violence that including online sexual violence, and also have more focus on the criminal aspects and punishment of perpetrators. Yet, this

²⁰ Get Safe Online.Org, 'Online Gender-Based Online'
<<https://www.getsafeonline.org/personal/articles/online-gender-based-violence/>> accessed 4 July 2024.

Act No. 12/2022 has lacked on the attention to victims' rights and psychological recovery. Therefore, there needs to integrate between the PDP Law, ITE Law, TPKS Law and other regulations related to online sexual violence to provide more comprehensive protection for victims.

5. Regulations on the Restitutions of Online Gender-Based Violence and Its Impact on the Victims

Indonesian criminal law regulates sexual harassment in several laws and regulations, including Act No. 12/2022 on criminal offences of sexual violence. However, the Criminal Code does not provide a limitation on verbal sexual violence, while the criminal offences of sexual violence regulate it in Article 11 Paragraph (1). The Criminal Code regulation is harmonised to facilitate criminal offences related to fornication, copulation, and rape as criminal acts of sexual violence, and Article 425 of the Criminal Code serves as a bridging article to the criminal offences of sexual violence. Therefore, victims of criminal offences of sexual violence whose criminal offences are regulated in the Criminal Code can obtain victims' rights and be handled following the special criminal procedure law for handling criminal offences of sexual violence as stipulated in the Act No. 12/2022.²¹

This Act No. 12/2022 regulates the Prevention of all forms of Criminal Acts of Sexual Violence Handling, Protection, and Restoration of Victims' Rights (TPKS); coordination between the Central Government and Regional Governments; and international cooperation so that the Prevention and Handling of Victims of sexual violence can be carried out effectively. In addition, it also regulates the involvement of the community in the prevention and recovery of victims to realise an environment free from sexual violence.

There are nine forms of sexual violence regulated by Act No. 12/2022, including non-physical sexual harassment, physical and sexual harassment, forced contraception, forced sterilisation, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence.²² Furthermore, there are several shortcomings of the TPKS Law: ef socialisation, law enforcement officers having different interpretations, law enforcement officers not understanding the criminal elements of criminal

²¹ Handrawan Herman and others, 'Batasan Kekerasan Seksual Secara Verbal dalam RKUHP dan Undang-Undang TPKS' (2023) 5 (1) HOLR <<https://journal.uho.ac.id/index.php/holresch/article/view/216/100>> accessed 4 July 2024.

²² Siti Aminah Tardi, '9 Tantangan Pelaksanaan UU TPKS' (*Hukum Online.Com*, 12 May 2023) <<https://www.hukumonline.com/berita/a/9-tantangan-pelaksanaan-uu-tpks-lt645da75a5c46d/?page=all#>> accessed 4 July 2024.

offences of sexual violence, lengthy and expensive scientific proof, difficulty finding expert witnesses, victim/witness assistance mechanisms, victim/witness protection mechanisms and restitution with the Witness and Victim Protection Agency, assistance that has not built legal empowerment of victims, facilities and infrastructure and operational costs. Law 12/2022 mandates ten implementing regulations, but the government has shortened them to seven, consisting of three government regulations or Peraturan Pemerintah (PP) and four presidential regulations (PerPres). The National Police Chief has also issued several internal regulations instructing all investigators and prosecutors to implement Act No. 12/2022, such as Regulation of the Chief of the Indonesian National Police No. 6/2019 on Criminal Investigation, Regulation of the Chief of the Indonesian National Police No. 8/2021 on Handling Crimes Based on Restorative Justice, and Regulation of the Chief of the Indonesian National Police No. 3/2008 on the Establishment of Special Service Rooms and Procedures for Examining Witnesses and/or Victims of Crimes must be synchronised with the Act No. 12/2022. As a result, law enforcement officials still tend to respond to cases of sexual violence without using the victim protection paradigm.

Currently, sexual crimes have transformed into other forms and types of sexual violence. Social media-based sexual violence, for example. Much violence that occurs, especially against women, starts from the results of virtual interactions between victims and perpetrators. The narrative of severe punishment for sexual violence cases is well known to the public, such as castration to the death penalty. However, this still sparks debate in the community about how to measure justice from different perspectives. Therefore, efforts are needed to identify alternative forms of punishment that are recognised not only by the state but also socially. Furthermore, the importance of effective and impactful punishment for perpetrators of sexual violence teaches that sexual violence is a form of crime that cannot be tolerated and normalised.²³

Act No. 13/2006 on Witness and Victim Protection was revised into Act No. 31/2014 on the Amendment to Law Number 13 of 2006 on Witness and Victim Protection (LPSK). The forms of protection done by the Witness

²³ Marsha Maharani, Andy Yentriyani and Dewi Rahmawati Nur Aulia, 'TIF Seri 07 - Pasca UU TPKS, Bagaimana Implikasi Putusan Hukum Kepada Pelaku Kekerasan Seksual?' (*The Indonesian Institute*, 25 April 2024) <<https://www.theindonesianinstitute.com/tif-seri-107-pasca-uu-tpks-bagaimana-implikasi-putusan-hukum-kepada-pelaku-kekerasan-seksual/>> accessed 4 July 2024.

and Victim Protection Agency that can provide for the witnesses and victims of criminal offences are set out in the provisions of Article 5, Article 6, Article 7, Article 9, and Article 10 of Act No. 13/2006 on Witness and Victim Protection. The forms of protection provided are:

1. Physical and psychological protection includes security and escort, placement in a safe house, getting a new identity, medical assistance, testimony without being directly present in court, rehabilitation assistance, and psychosocial assistance.

2. Legal protection in the form of leniency, witnesses, victims, and whistle-blowers cannot be prosecuted.

3. Fulfilment of witness procedural rights, namely assistance, receiving information about the progress of the case, reimbursement of transportation costs, receiving legal advice, temporary living expenses until the protection time limit and so on, following the provisions of Article 5 of Law No. 13/2006.

The protection provided to victims or witnesses can be provided at the stages of investigation, investigation, prosecution, and or examination in court based on initiatives from law enforcement officials, security forces, and/or requests submitted by victims. Other forms of legal protection that victims can receive include compensation, retribution, and rehabilitation. With legal protection from the Witness and Victim Protection Agency, the guarantee of security for witnesses and victims is expected to be stronger.

The subjects of the Witness and Victim Protection Agency's protection include:

1. A witness is a person who can provide information for investigation, investigation, prosecution, and examination in court about a criminal act that he/she himself/herself heard, saw, and or experienced, including people who can provide information related to a criminal case even though he/she did not hear, saw, and experienced it himself/herself, as long as the person's information is related to the criminal act.

2. Victims are people who experience physical, mental, and or economic losses caused by a criminal act. Then, the perpetrator witness is a suspect, defendant, or convict who cooperates with law enforcement to reveal a criminal offence in the same case.

3. Whistle-blowers provide reports, information, or information to law enforcement regarding criminal offences that will, are, or have occurred. LPSK also protects experts, namely people with expertise in specific fields

needed to shed light on a criminal case for investigation, prosecution, and examination in court.

According to Lawrence M. Friedman²⁴, the legal system is a system consisting of three main components, namely:

1. Legal Structure, is the arrangement or hierarchy of legal institutions in a country. This legal structure includes laws and regulations, legal institutions such as courts and prosecutors, and also legal processes such as investigations and trials,

2. Legal Culture, is the values, norms and customs that prevail in society and influence legal behaviour. These legal habits include legal values such as justice and equality, legal norms such as the prohibition of violence, and legal customs such as the use of law to resolve conflicts,

3. Legal Process or Substance, is the steps taken to enforce the law. The legal process includes investigation and prosecution, court and judgement, and execution and enforcement.

According to Friedman, these three components are interrelated and influence each other, and also impact the effectiveness of the legal system. The legal structure provides the framework for legal customs and form for legal processes, while legal culture or customs influence legal behaviour and legal processes that reflect from its values and attitudes that influence the implementation or operation of the law. The legal process or substance itself affects legal outcomes and public satisfaction with the legal system; this is to determine whether customary norms are valid and enforceable. Moreover, Friedman views law as a product of social processes and reflects the values and interests of society at a given time. Law is not only concerned with formal written rules, but also involves unwritten norms that shape human behaviour. Legal culture is an important variable in the process of generating static law and legal change.

The structure (law enforcement officials including LPSK), the law's substance and the community's legal culture, which tends to resolve cases of domestic violence in a family manner, have an effect in revealing the occurrence of criminal offences. This has reflected from some regulations, such as Act No. 13/2006 on witness and victim protection revised into Acts No. 31/2014, and also Government Regulation No. 35/2020 concerning

²⁴ Lawrence M. Friedman, *The Legal System: A Social Science Perspectives* (Russel Sage Foundation: United States 1975).

Amendments to Government Regulation No. 7/2018 concerning Providing Compensation, Restitution, and Assistance to Witnesses and Victims, and Government Regulation No. 44/2008 on the provision of compensation, restitution and assistance for the witnesses and victims has shown the state's progress in protecting witnesses and victims. Future legal politics in the form of regulations must accommodate legal needs to fulfil a sense of justice for the community, especially witnesses and victims (including pioneers), where the role of the Witness and Victim Protection Agency must be proactive, professional and proportional.

Acts No. 31/2014 aims to strengthen the protection of witnesses and victims, including institutional strengthening of the Witness and Victim Protection Agency. Witness and victim protection are based on the principles of respect for dignity, security, justice, non-discrimination, and legal certainty. Some changes from the revision include provisions on compensation and restitution, procedures for the appointment and dismissal of members of the Witness and Victim Protection Agency, and special handling for perpetrator witnesses. This Agency has an important role in providing protection and other rights to witnesses and victims in accordance with Law No. 13/2006. According to the Act No. 13/2006 witnesses and victims have the right to, among other things, protection of personal, family, and property security, as well as freedom from threats, provide testimony without being pressured, obtain information on case progress, and have their identity kept confidential.

Regulation of the Supreme Court (PerMA) of the Republic of Indonesia No. 1/ 2022 on Procedures for Settling Requests and Providing Restitution and Compensation to Victims of Crime. PerMA No. 1/2022 was issued because the criminal justice system's development is orientated towards the interests of the perpetrator and the protection of victims. Therefore, PerMA 1/2022 aims to ensure that victims of certain criminal offences have the right to restitution, compensation, and protection. Although various laws have regulated the right to restitution and compensation, there are no technical rules for resolving the application for the rights in question. Moreover, Government Regulation No. 43/2017 on the Implementation of Restitution for Children who are Victims of Crime and Government Regulation No. 44/2008 as amended by Government Regulation No. 7/2018 and later by Government Regulation No. 35/2020 on the Provision of Compensation, Restitution and Assistance to Witnesses and Victims state that further provisions related to the

technical implementation of the examination of restitution requests are regulated by PerMA. Thus, the Supreme Court enacted PerMA No. 1/2022 on 25 February 2022 and promulgated it on 1 March 2022. The issuance of this PerMA is so that there is uniformity in its application with several pre-existing regulations, including laws and regulations governing restitution and compensation are Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children who are Victims of Crime and Government Regulation No. 7/2018 as amended by Government Regulation Number 35 of 2020 concerning Amendments to Government Regulation No. 7/2018 concerning Providing Compensation, Restitution, and Assistance to Witnesses and Victims.²⁵

The PerMA No. 1/2022 applies to (1) requests for restitution in cases of crimes of gross human rights violations, terrorism, trafficking in persons, racial and ethnic discrimination, child-related crimes, and other crimes determined by the Decision of the Witness and Victim Protection Agency; and (2) requests for compensation in cases of gross human rights violations and terrorism as referred to in the provisions of laws and regulations, including the merging of requests and examination of compensation with restitution. This PerMA also recognises the existence of Restitution in the Jinayat Procedure Law by equating Compensation as referred to in Qanun No. 7 of 2013 concerning Jinayat Procedure Law with Restitution. PerMA No. 1/2022 also regulates the types of restitution as referred to in several laws and regulations. Forms of restitution include:

1. Compensation for loss of wealth and/or income;
 2. Compensation for losses, both material and immaterial, incurred due to suffering directly related to the criminal offence;
 3. Reimbursement of medical and/or psychological treatment costs;
 4. Injury or death, and/or
 5. Other losses suffered by the Victim because of the criminal offence
- include basic transport costs, lawyer fees, or other costs associated with the legal process.

²⁵ Isabela Samelina, 'Tata Cara Pengajuan Restitusi dan Kompensasi kepada Korban Tindak Pidana' (*Mahkamah Agung Republik Indonesia*, 4 February 2024) <<https://pn-purwakarta.go.id/tata-cara-pengajuan-restitusi-dan-kompensasi-kepada-korban-tindak-pidana.html>> accessed 4 July 2024 (see also at <https://kepaniteraan.mahkamahagung.go.id/prosedur-berperkara/2068-inilah-ketentuan-restitusi-dan-kompensasi-korban-tindak-pidana>, <https://www.hukumonline.com/klinik/a/tata-cara-permohonan-restitusi-dan-kompensasi-untuk-korban-tindak-pidana-lt62503bd0f3ae8/>, and <https://setkab.go.id/inilah-pp-tentang-pemberian-kompensasi-restitusi-dan-bantuan-kepada-saksi-korban-yang-baru/>)

Material damages are losses that are suffered and can be calculated based on nominal amounts of money so that the assessment is carried out objectively when material claims are granted in the judge's decision. For example, medical expenses and vehicle repairs for traffic accidents. Whereas immaterial is defined as "cannot be proven", it is the loss suffered as a result of unlawful acts that cannot be proven, recovered and/or cause temporary loss of enjoyment of life, fear, pain, and shock so that it cannot be calculated based on money. The scope of immaterial losses, according to the Decision of the Supreme Court of the Republic of Indonesia Number 650/PK/Pdt/1994, immaterial compensation can only be given in some instances such as cases of death, severe injury and humiliation. Compensation is broadly defined in the Lerner's Belief in a Just World literature, referring to traditional monetary compensation and other justice responses that provide vindication, signalling a victims' innocence and a perpetrator's blameworthiness. For example, judicial rulings – especially harsh penalties – denounce a perpetrator's conduct and message the community that such conduct is not socially sanctioned, a form of compensation in the Lerner's Belief in a Just World field.²⁶

Conclusion

The regulation of online gender-based violence restitution in Indonesia covers several important aspects. Act No. 12/2022 on criminal offences of sexual violence and Act No. 1/2024 on information and electronic transactions are the two main regulations governing online gender-based violence. Act No. 1/2024 on information and electronic transactions regulates sanctions for perpetrators of online gender-based violence, including criminal sanctions and administrative sanctions. Meanwhile, Act No. 12/2022 on criminal offences of sexual violence regulates the criminal offence of sexual violence and sanctions for perpetrators. These Laws contains online gender-based violence that take the form of sexual harassment, rape, and other sexual violence committed through online media.

Victims of online gender-based violence have the right to report the incident to the authorities and get help and protection. They are also entitled to restitution, including damages and rehabilitation. Restitution is a kind of compensation given to the victim or his/her family by the perpetrator of the

²⁶ Shalini Nataraj-Hansen, Kelly Richards, 'Why do fraud victims get blamed? Lerner's Belief in a Just World and its application to victims of online fraud' (2023) 30 (3) Journal of Financial Crime <<https://doi.org/10.1108/JFC-02-2022-0037>> accessed 20 June 2024.

criminal offence or a third party. At the same time, compensation is given by the state whether the perpetrator of the criminal offence cannot provide total compensation for which he/she is responsible. Victims of online sexual violence need the restitution to recover their life. This is because of that significant impact on victims, including psychological trauma, economic loss, and social loss. Therefore, it is important to provide adequate protection and restitution to the victims. Therefore, in order to protect victims of online gender-based violence, efforts need to be made to increase public awareness, strengthen regulations and sanctions, and provide adequate assistance and protection to victims.

Indonesian regulations have a strong legal basis to address gender violence on social media, but their effectiveness remains a challenge. This means that the regulations need to be synchronized to develop an effective mechanism for providing restitution, compensation, compensation, and assistance to victims and/or witnesses comprehensively and holistically. Further efforts are needed to ensure that victims receive adequate protection, their rights are fulfilled, and their psychological recovery is prioritised. The role of the community in preventing and reporting sexual violence is also important, including providing support to victims, and the government's role is crucial in preventing and responding to sexual violence, as well as providing support to victims./.

REFERENCES

1. Civil Code of Indonesia.
2. Criminal Code of Indonesia.
3. Decision of the Supreme Court of the Republic of Indonesia Number 650/PK/Pdt/1994.
4. Government Regulation No. 35/2020 on the Provision of Compensation, Restitution and Assistance to Witnesses and Victims.
5. Government Regulation Number 43 of 2017 on the Implementation of Restitution for Children who are Victims of Crime.
6. Government Regulation Number 7 of 2018 on the Provision of Compensation, Restitution and Assistance to Witnesses and Victims.
7. Government Regulation of the Republic of Indonesia Number 44 of 2008 on the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims.

8. Law of the Republic of Indonesia Number 12 of 2022 on Sexual Violence Crime Law.

9. Law of the Republic of Indonesia Number 13 of 2006 on Witness and Victim Protection.

10. Law of the Republic of Indonesia Number 31 of 2014 on the Amendment to Law Number 13 of 2006 on Witness and Victim Protection.

11. Qanun Number 7 of 2013 concerning Jinayat Procedure Law with Restitution.

12. Regulation of the Chief of the Indonesian National Police Number 6 of 2019 on Criminal Investigation.

13. Regulation of the Chief of the Indonesian National Police Number 8 of 2021 on Handling Crimes Based on Restorative Justice.

14. Regulation of the Chief of the Indonesian National Police Number 3 of 2008 on the Establishment of Special Service Rooms and Procedures for Examining Witnesses and/or Victims of Crimes.

15. Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2022 on Procedures for Settling Requests and Providing Restitution and Compensation to Victims of Crime.

16. Kintonova A, Vasyaev A and Shestak V, 'Cyberbullying and cyber-mobbing in Developing Countries' (2021) 29 (3) Information & Computer Security <<https://doi.org/10.1108/ICS-02-2020-0031>> accessed 20 June 2024.

17. Bincang Perempuan.Com, 'Korban Online Gender-Based Violence Makin Menderita' <<https://bincangperempuan.com/korban-OnlineGender-Based-Violence-semakin-menderita>> accessed 4 July 2024.

18. Detik.Com, 'Komnas Perempuan Catat 4.179 Kasus Kekerasan Seksual pada 2022-2023' <<https://news.detik.com/berita/d-7323790/komnas-perempuan-catat-4-179-kasus-kekerasan-seksual-pada-2022-2023>> accessed 4 July 2024.

19. Rosyidah FN, Rachim HA and Pitoyo, '*Social Media Trap: Remaja dan Kekerasan Berbasis Gender Online*' (2022) 7 (1) Sosioglobal <<https://jurnal.unpad.ac.id/sosioglobal/article/view/27083/pdf>> accessed 18 June 2024.

20. Get Safe Online.Org, 'Online Gender-Based Online' <<https://www.getsafeonline.org/personal/articles/online-gender-based-violence/>> accessed 4 July 2024.

21. Global Citizen, 'What is Online Gender-Based Violence' <<https://www.globalcitizen.org/en/content/what-is-online-gender-based-violence-2/>> accessed 4 July 2024.

22. Government of Canada, 'Online Gender-Based Violence: It's Not Just Words' <<https://www.canada.ca/en/women-gender-equality/campaigns/gender-based-violence-its-not-just/infographic-online-just-words.html>> accessed 4 July 2024.

23. Herman H and others, ' Batasan Kekerasan Seksual Secara Verbal dalam RKUHP dan Undang-Undang TPKS' (2023) 5 (1) HOLR <<https://journal.uho.ac.id/index.php/holresch/article/view/216/100>> accessed 4 July 2024.

24. Samelina I, 'Tata Cara Pengajuan Restitusi dan Kompensasi kepada Korban Tindak Pidana' (*Mahkamah Agung Republik Indonesia*, 4 February 2024) <<https://pn-purwakarta.go.id/tata-cara-pengajuan-restitusi-dan-kompensasi-kepada-korban-tindak-pidana.html>> accessed 4 July/2024 (see also at <https://kepaniteraan.mahkamahagung.go.id/prosedur-berperkara/2068-inilah-ketentuan-restitusi-dan-kompensasi-korban-tindak-pidana>, <https://www.hukumonline.com/klinik/a/tata-cara-permohonan-restitusi-dan-kompensasi-untuk-korban-tindak-pidana-lt62503bd0f3ae8/>, and <https://setkab.go.id/inilah-pp-tentang-pemberian-kompensasi-restitusi-dan-bantuan-kepada-saksi-korban-yang-baru/>).

25. Martínez-Bacaicoa J and others, 'The role of gender and sexism in the moral disengagement mechanisms of technology-facilitated sexual violence' (2023) 152 *Computers in Human Behavior* <<https://doi.org/10.1016/j.chb.2023.108060>> accessed 19 June 2024.

26. Perempuan J, 'Peringatan 16 HAKTP 2023: Online Gender-Based Violence dalam Budaya Populer' <[https://www.jurnalperempuan.org/warta-feminis/peringatan-16-haktp-2023-Online Gender-Based Violenceo-dalam-budaya-populer](https://www.jurnalperempuan.org/warta-feminis/peringatan-16-haktp-2023-Online-Gender-Based-Violenceo-dalam-budaya-populer)> accessed 4 July 2024.

27. Maharani M, Yentriyani A, Aulia DRN, 'TIF Seri 07 - Pasca UU TPKS, Bagaimana Implikasi Putusan Hukum Kepada Pelaku Kekerasan Seksual?' (*The Indonesian Institute*, 25 April 2024) <<https://www.theindonesianinstitute.com/tif-seri-107-pasca-uu-tpks-bagaimana-implikasi-putusan-hukum-kepada-pelaku-kekerasan-seksual/>> accessed 4 July 2024.

28. National Commission on Women, 'Kertas Kebijakan Saran dan Masukan National Commission on Women Terhadap RUU Perubahan Kedua atas Undang-undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik' (National Commission on Women, 2023) <<https://komnasperempuan.go.id/download-file/1000>> accessed 20 June 2024.

29. National Commission on Women, 'Lembar Fakta Catatan Tahunan Komnas Perempuan 2023' <<https://komnasperempuan.go.id/download-file/949>> accessed 4 July 2024.

30. National Commission on Women, 2023. Kertas Kebijakan Saran dan Masukan National Commission on Women Terhadap RUU Perubahan Kedua atas Undang-undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik. <https://komnasperempuan.go.id/download-file/1000>.

31. SafeNet, 'Laporan Pemantauan Hak-hak Digital Triwulan II 2023' <<https://safenet.or.id/id/2023/08/laporan-pemantauan-hak-hak-digital-triwulan-ii-2023/>> accessed 4 July 2024.

32. SAFEnet, 2020. Memahami dan Menyikapi Kekerasan Berbasis Gender Online: Sebuah Panduan. SAFEnet. <https://awasOnlineGenderBasedViolence.id/wp-content/uploads/2020/11/panduan-OnlineGenderBasedViolenceo-v3.pdf>.

33. Nataraj-Hansen S and Richards K, 'Why do fraud victims get blamed? Lerner's Belief in a Just World and its application to victims of online fraud' (2023) 30 (3) Journal of Financial Crime <<https://doi.org/10.1108/JFC-02-2022-0037>> accessed 20 June 2024.

34. Tardi SA, '9 Tantangan Pelaksanaan UU TPKS' (*Hukum Online.Com*, 12 May 2023) <<https://www.hukumonline.com/berita/a/9-tantangan-pelaksanaan-uu-tpks-lt645da75a5c46d/?page=all#>> accessed 4 July 2024.

35. Swedish International Development Agency, 'Brief: Gender-Based Violence Online' (SIDA 2021) <https://cdn.sida.se/app/uploads/2021/11/04102156/10204730_BRIEF_Gender-Based_Violence_Online_nov-2021_webb.pdf> accessed 4 July 2024.

36. UN Women, 'Toolkit: Youth Guide to End Online Gender-Based Violence' <<https://asiapacific.unwomen.org/en/partnerships/30-for-2030/toolkit-youth-guide-to-end-online-gender-based-violence>> accessed 4 July 2024.

37. UN Women, 'Technology Facilitated Gender Based Violence' <<https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/tech-facilitated-gender-based-violence>> accessed 4 July 2024.

38. United Nations Regional Information Center, 'How Technology Facilitated Gender Based Violence Impacts Women and Girls' <<https://unric.org/en/how-technology-facilitated-gender-based-violence-impacts-women-and-girls/>> accessed 4 July 2024.

39. Worldbank Group, 'Kekerasan Berbasis Gender Online Di Kalangan Pelajar SMA/SMK di Indonesia' <<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099637206212330304/idu00f5de5e50031c048fc0b2a30efcfaa5410a0>> accessed 4 July 2024.



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CONTENTS

PART II ENSURING THE RIGHTS OF VICTIMS OF GENDER- BASED VIOLENCE

PHẦN II BẢO ĐẢM QUYỀN CHO NẠN NHÂN CỦA BẠO LỰC TRÊN CƠ SỞ GIỚI

- Policy and Legal Instruments on Restitution and Compensation for Victims of Gender-Based Violence Human Rights Adjudication (ECtHR) and European Union Law9
Prof.Dr. Robert Esser
- Các công cụ chính sách và pháp lý về khôi phục và bồi thường cho nạn nhân của bạo lực trên cơ sở giới Tòa án Nhân quyền (ECtHR) và Luật Liên minh châu Âu.....26
GS.TS. Robert Esser
- The Aspect of Restitution for Restitution and/or Compensation for Victims of Online Gender-based Violence in Indonesia's Existing Regulation41
Aloysia Vira Herawati - Dian Noeswantari
- Khía cạnh về đền bù và/hoặc bồi thường cho nạn nhân của bạo lực giới trên không gian mạng trong quy định pháp luật hiện hành của Indonesia66
Aloysia Vira Herawati - Dian Noeswantari
- A Comparative Study on The Right to Compensation of Victims of Gender-Based Violence Crimes in Vietnamese and Chinese Law85
Dr. Nguyen Thi Lan - Prof. Dr. Ngu Quang Hong - LL.M. Bui Thu Dung
- Nghiên cứu so sánh về quyền được bồi thường của nạn nhân tội phạm có tính chất bạo lực trên cơ sở giới trong pháp luật Việt Nam và Trung Quốc 101
TS. Nguyễn Thị Lan - GS.TS. Ngủ Quang Hồng - ThS. NCS. Bùi Thu Dung

- Compensation Mechanism for Victims of Gender-Based Violence -
A Comparison between some Countries and Vietnam 116
Dr. Nguyen Bich Thao
- Cơ chế bồi thường cho nạn nhân tội phạm bạo lực trên cơ sở giới -
so sánh giữa một số quốc gia và Việt Nam 132
TS. Nguyễn Bích Thảo
- Protecting Victims of Gender-Based Violence - International
Experiences and Suggestions for Vietnam 148
Dr. Ha Le Thuy
- Bảo vệ nạn nhân của bạo lực trên cơ sở giới - Kinh nghiệm quốc tế và
gợi mở cho Việt Nam trong phòng, chống bạo lực trên cơ sở giới..... 165
TS. Hà Lệ Thủy
- Unraveling the Right to Impunity in Indonesia: Problematic Legal
Protection and Criminalization of Sexual Violence Victim..... 184
LL.M. Orin Gusta Andini - Nur Aripkah
Dr. Haris Retno Susmiyati - Nada Nabila Jatmiko
- Làm sáng tỏ quyền miễn trừ ở Indonesia: Vấn đề trong sự bảo vệ
pháp lý và hình sự hóa nạn nhân bạo lực tình dục 199
ThS. Orin Gusta Andini - Nur Aripkah
TS. Haris Retno Susmiyati - Nada Nabila Jatmiko
- Legal Aid and Support Activities for Victims of Human Trafficking
Crimes in Vietnam: Legal Issues and Practical Challenges 213
LL.M. Nguyen Van Ha
- Hoạt động hỗ trợ và trợ giúp pháp lý cho nạn nhân của tội phạm
mua bán người tại Việt Nam: Những vấn đề pháp luật và thực tiễn
đặt ra 229
ThS. Nguyễn Văn Hà
- Gender-Based Violence and the Necessity to Perfect Vietnamese
Criminal Law from the Perspective of Human Trafficking 245
LL.M. Tran Le Loan - Assoc.Prof.Dr. Doan The Hung
- Bạo lực giới và sự cần thiết hoàn thiện pháp luật hình sự Việt Nam
- nhìn từ phương diện bảo vệ nạn nhân của mua bán người 266
ThS. Trần Lệ Loan - PGS.TS. Đoàn Thế Hùng

- Regulations on the Execution of Prison Sentences for Female Inmates and Protecting against Risks of Violence in Russian Federation Law and Recommendations for Vietnam285
LL.M. Huynh Nguyen Bao Duy - Assoc.Prof.Dr. Nguyen Ngoc Kien
- Quy định về chấp hành án phạt tù của phạm nhân nữ và bảo vệ phạm nhân nữ trước các nguy cơ bạo lực trong pháp luật Liên bang Nga và một số khuyến nghị cho Việt Nam.....303
ThS. Huỳnh Nguyễn Bảo Duy - PGS.TS. Nguyễn Ngọc Kiện
- The Rhade Customary Law on Marriage, Family, and the Handling Gender-Based Violence in Family Relationships322
LL.M. Ta Quang Tong - Dr. Le Anh Van
- Luật tục Ê Đê về hôn nhân gia đình và xử lý bạo lực giới trong quan hệ gia đình336
ThS. Tạ Quang Tòng - TS. Lê Anh Vân
- Legal Protection and Support for Victims of Domestic Violence Crimes in Vietnam - Theory and Practice349
LL.M. Luu Thi Ngoc Lan
- Bảo vệ và hỗ trợ pháp lý cho nạn nhân của tội phạm bạo lực gia đình tại Việt Nam - những vấn đề pháp luật và thực tiễn371
ThS. Lưu Thị Ngọc Lan
- The Empirical Practice in Adjudication of Criminal Cases related to Gender-Based Violence at the People's Court of Dak Lak Province and some Issues..392
Dr. Nguyen Duy Huu - Nguyen Duy Tung
- Thực tiễn xét xử các vụ án liên quan đến hành vi bạo lực trên cơ sở giới tại Tòa án nhân dân tỉnh Đắk Lắk và một số vấn đề đặt ra...415
TS. Nguyễn Duy Hữu - Nguyễn Duy Tùng
- Cyber-Violence in the Specific Context of Domestic Violence against Women: An Analysis based on the Case-Law of the European Court of Human Rights.....435
Ulrike Koch
- Bạo lực trên không gian mạng trong bối cảnh bạo lực gia đình đối với phụ nữ: Phân tích dựa trên án lệ của Tòa án Nhân quyền châu Âu452
Ulrike Koch

- Improving Vietnamese Laws on Sexual Violence against Girls in Cyberspace: Lessons from International Legal Experience.....470
Assoc.Prof.Dr. Do Thi Phuong
- Hoàn thiện pháp luật Việt Nam về bạo lực tình dục đối với trẻ em gái trên không gian mạng từ kinh nghiệm pháp luật quốc tế486
PGS.TS. Đỗ Thị Phụng
- Online Gender-Based Violence - Legal Regulations in Some Countries around the World and Suggestions for Vietnam.....502
LL.M. Nguyen Hai Yen
- Bạo lực giới trực tuyến - quy định của pháp luật một số quốc gia trên thế giới và gợi mở cho Việt Nam.....519
ThS.NCS. Nguyễn Hải Yến

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