

# Women protection against sexual violence Based on human security in the era of 5.0 society

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# Women protection against sexual violence Based on human security in the era of 5.0 society

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## Abstract

*Disruption of digital technology is currently quite massive in its development, as a result, the legal events that occur are increasingly complex because the use and development of information technology do not pay attention to and consider aspects of human security. These technological developments ultimately become facilities for irresponsible persons to commit crimes. An important issue of internet use is the occurrence of sexual violence against women. Cases of sexual violence that occur in cyberspace are like an iceberg, will not be completed if the victim does not report what happened to him, because this is a complaint offense. This means that if the victim does not report then no case will be resolved and will not be recorded. This paper uses a qualitative descriptive method and a literature study approach through collecting actual and detailed information, identifying problems, and evaluating through a qualitative approach a phenomenological literature study related to crimes that occur in women based on the use of technology in the era of society 5.0. This study was analyzed using in-depth studies obtained from various literary sources through online media and other library materials. Women who fall into the vulnerable category in the end often become victims of sexual violence in cyberspace. Another problem found in the crime of sexual violence is that the rules of evidence that refer to the Criminal Procedure Code are still difficult because it determines that the testimony of 1 (one) witness cannot be evidence to prove the defendant is guilty if it is not accompanied by 1 (one) other evidence.*

Keyword: cybercrime, human security, sexual harrasment,

## Introduction

Indonesia is currently in the concept of society 4.0 with fairly massive disruption of digital technology. The development of information technology requires the Indonesian people to get used to being integrated with the use of the internet. The development of information technology has become an inseparable part of people who want the convenience of various services digitally. Legal events that occur in society 4.0 are also the use and development of information technology that often does not pay attention to and consider aspects of human security. The use of technology today is not protected from cybercrimes which ultimately harms many parties.

Technology-facilitated sexual violence (TFSV) is an umbrella term that describes a range of sexually aggressive behaviors using digital technologies. (Powell, A., Henry, N., & Flynn, 2018). Technology that continues to develop eventually gave birth to the concept of society 5.0. If the idea of a 5.0 society initiated by Japan is present in Indonesia, then the important principles that must be considered are ensuring physical security and information security which is the right of the community as citizens. People who are dealing with technology must make technology a tool of life. However, the development of this technology is also not free from crime so that one must be careful in its use.

The presence of the concept of society 5.0 that utilizes technology must considering human security aspects. Society 5.0 must have 6 basic literacy skills in utilizing technology, such as data literacy, namely the ability to read, analyze, and use

information (big data) in the digital world. Technological literacy, namely understanding how machines work, technology applications (coding, artificial intelligence, machine learning, engineering principles, biotech). The humanities aspect becomes important when the development of information technology is carried out because often these technological developments do not pay attention to the side effects that arise. Unprepared regulations are the main obstacle in the development of information technology. Legal protection for the public when interacting with the use of information technology must be a top priority because the legal problems that occur in it are very complex.

An important issue of internet use is the occurrence of violence against women. Cases of sexual violence that occur in cyberspace are like an iceberg, will not be completed if the victim does not report what happened to him, because this is a complaint offense. Meanwhile, the current sexual regulations applied in cases of violence cannot protect women victims of sexual violence. Until now the bill on the elimination of sexual violence has not yet been passed by the government. The effort to issue the PKS Bill is because the existing rules are not specific. this results in weak protection of personal data which ultimately results in unresolved cases of sexual violence.

One of the legal problems that occur in the use of information technology, among others, is a sibling crime that occurs in women. Komnas Perempuan in its final note in 2021 reported that complaints of violence against women based on crimes reached 940 cases. (Komnas, 2021). Cyber-based violence was carried out by the closest people such as boyfriends, ex-girlfriends, ex-husbands, or husbands of the victims. Another widespread impact of the reach of cyberspace is that the perpetrators of violence come from unknown persons. Another crime that is often experienced by women is the occurrence of bold acts such as cyberstalking, impersonation, and the leakage of private content. This condition will certainly damage the reputation, physically and psychologically of women.

## Methodology

This paper uses a qualitative descriptive method and a literature study approach through collecting actual and detailed information, identifying problems, and evaluating through a qualitative approach a phenomenological literature study related to crimes that occur in women based on the use of technology in the era of society 5.0. This study was analyzed using in-depth studies obtained from various literary sources through online media and other library materials.

## Findings and Discussion

### a. Human Security in the Development of Society 5.0

UNDP in its report on human rights states that the most important thing from the aspect of human security is that a person must be able to live in his community and be respected for his human rights. (Howard-Hassmann, 2012) The main key from the aspect of human security is to be free from fear and lack.

Moreover, if the "four essential characteristics" of human security are that "It is universal, its components are interdependent, it is best ensured through prevention, and it is people-centered. (UNDP, 1994) The human security approach is people-centered, this is due to the wide reach that threatens the survival and dignity of humans in their communities. The concept of security with an emphasis on human security must ultimately be applied to the concept of society 5.0. Advocates of human security are divided between those who are content with a narrow definition, focusing exclusively on factors that perpetuate violence and those for whom a broad definition

which encompasses issues of human rights and underdevelopment is to be preferred. (Tadjbakhsh & Chenoy, 2006) If the concept of society 5.0 provides comfort and convenience to humans in the use of information technology, then the state must think about and prepare legal instruments that can protect the community.

The need to protect the community can be seen in the preparation and development of the Indonesian Human Security Index in the human security approach. The Indonesian context in human security can be seen in 4 dimensions, namely security from disaster, fulfillment of social welfare, protection and utilization of diversity, and security from violence. (BAPPENAS, 2015). Humans must avoid violence when using the internet. Cyber security is a top priority when people use the internet. Cyber-security is both about the insecurity created by and through this new place/space and about the practices or processes to make it (more) secure. (Dunn Caverty, 2015) This is in line with the concept of society 5.0 where the use of the Internet of Things must be able to provide a sense of security for its users. Therefore, to avoid violence when using the internet, strict legal rules are needed.

Law is a means to regulate people's behavior. In the legal theory, it is stated that the law has an important role in society. Law has a purpose to provide well for the community in obtaining justice, legal certainty, maintaining order, and providing benefits. Roscoe Pound states that the law is the most important institution for exercising social control. Law is an important instrument to achieve social order. The main function of social control is to control "internal aspects of human nature." The relationship between individuals, society, and the state has changed from time to time, among these changes the law plays a very important role in one's life.

The law not only provides basic rights but also allows protection and maintains equality among every citizen. Every country has its laws and must be obeyed by everyone, if not followed then the punishment will be under the law. If the Indonesian legal ecosystem is not ready for the presence of the industrial 4.0 community, then it takes a hard work effort from law enforcers to overcome legal gaps when entering the era of society 5.0.

In the development of information technology, eventually, women and other vulnerable groups become more vulnerable to sexual violence, including those facilitated by information and communication technology. Women often receive bad motives when interacting on the internet. Women have also been the predominant target of image-based sexual abuse (IBSA) (colloquially referred to as 'revenge porn'), a form of cyber harassment which involves the "non-consensual creation, distribution and threat to distribute nude or sexual images. (Henry, N., Powell, A., & Flynn, 2017) The bad motives that are received when interacting in cyberspace ultimately result in women experiencing sexual violence. The main difficulty of interacting on the internet is that there is anonymity and cross-country shows cybercrime is not an ordinary form of violence against women but is part of a transnational crime.

Law enforcement must be based on human security. Law enforcement is oriented towards justice, especially in terms of reforming law enforcement in handling cases by prioritizing the principle of justice, promoting the promotion of human rights, increasing public participation, and better monitoring mechanisms. In addition, the regulations made must be friendly to innovations that are already present in the community.

#### b. Legal Framework for Resolving Cyber-Based Sexual Violence

Sexual violence is an act that demeans a person's dignity. So that the elimination of all forms of sexual violence is a necessity in the protection of the right to be free from treatment that degrades the dignity of a human being.

Indonesian law continues to strive to overcome problems regarding cyber-based violence by issuing legal regulations that continue to be refined. Positive Law <sup>16</sup> applies in Indonesia refers to laws relating to immoral <sup>16</sup> offenses such as the Criminal Code and Law No. 4 of 2008 concerning Pornography, Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electron<sup>13</sup> Transactions (UU ITE). Meanwhile, to provide legal protection for victims, refer to Law no. 13 of 2006 concerning Legal Protection for Witnesses and Victims, which then includes two forms of protection rights models, namely procedural rights (the procedural rights model) covering legal processes and services (the service model) covering mental recovery

However, the problem of sexual violence is often not resolved even though it has been explicitly stated in the regulation. Many things have resulted in unresolved cases of sexual violence, including the victim's reluctance to report due to embarrassment or depression. Second, the understanding of law enforcement towards the articles in the law is still lacking and is a complaint offense. Reports of victims are an essential element. This condition certainly does not benefit the victim because many victims consider sexual violence to be a disgrace, so they choose to remain silent. Third, the mechanism of Indonesian society is still less concerned about the problem of sexual violence. Indonesian people are used to giving bad stigma to victims of sexual violence without listening to the victim's side.

In Indonesia's positive <sup>11</sup> law, cyber-based sexual violence is a complaint offense. Article 1 number (25) of Law Number 8 of 1981 concerning the Criminal Code (KUHP) states that a complaint is a notification accompanied by a request by an interested party to an authorized official to take legal action against a person who has committed a criminal offense. which harms him. Meanwhile, Article 1 of the Criminal Procedure Code, it is explained the complaint offense which can only be prosecuted because of a complaint from the aggrieved party.

The complaint offense <sup>14</sup> the phenomenon of cyber-based sexual harassment is currently subject to sanctions in Article 27 paragraph (1) of the ITE Law because the activity is carried out through electronic system media or cyberspace. Although virtual, these activities fall into the category of rea<sup>2</sup> legal actions. Perpetrators of cyber-based sexual harassment can also be subject to Article 281 of the Criminal Code. Article 281 of the Criminal Code states: "Threatened with a maximum imprisonment of two years and eight months or a maximum fine of five hundred rupiahs: number 1. Whoever intentionally and openly violates decency; 2nd. Whoever intentionally and in front of other people who are there against his will, violates decency.

Juridically, criminal acts in cyberspace cannot be approached with the size and qualifications of conventional law, because it will cause difficulties in proving it and many perpetrators will escape from legal bondage. The legal rules used have no juridical confirmation regarding legal sanctions that can be accepted by the perpetrators.

## Conclusion

1. Cases of sexual violence often cannot be resolved because victims are reluctant to report because of shame and depression. Law enforcement's understanding of the articles in the law that are used as the legal basis is currently still lacking, and cases of sexual violence are complaints offenses.

2. For cases of sexual violence, both directly and in cyberspace, it is very dependent on victim reporting. Laws related to sexual violence currently depend on provisions in the Criminal Code, the ITE Law, the Pornoaction Law, and Pornography. Meanwhile, regulations that specifically deal with cases of sexual violence have not yet been passed.
3. Juridically criminal acts in cyberspace cannot be approached with the size and qualifications of conventional law, because it will cause difficulties in proving it and many perpetrators will escape from legal bondage. The legal rules used have no juridical confirmation regarding legal sanctions that can be accepted by the perpetrators. Therefore, the government should immediately ratify the Bill on the Elimination of Sexual Violence.

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