



## **SEXUAL VIOLENCE ON WOMEN IN INTERNATIONAL AND HUMANITARIAN LAW PERSPECTIVE**

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<b>Received:</b> March 10 <sup>th</sup> 2022 <b>Accepted:</b> April 10 <sup>th</sup> 2022 <b>Published:</b> May 22 <sup>th</sup> 2022	Violence against women is a problem of violations of humanitarian law and also an international law that often occurs, one of which is in armed conflict. The purpose of this research is that these problems can be solved in it. Victims of violence against women reached 80% including adults and children, which exceeded the number of victims in the military. The consequences created by sexual violence in armed conflict are very serious, one of which is mental disturbance. To analyze the impact of violence on women with the traditional view that considers women as property. The method used in this study is a type of normative legal approach by examining the applicable laws and regulations. In general, this research is expected to be able to describe and explain to readers regarding sexual violence that often occurs in armed conflicts and outside the region based on a juridical study of international law and court practices.

**Keywords:** Sexual violence, women, armed conflict, international humanitarian law

### **INTRODUCTION**

The world is often shocked with rampant case violence experienced by women. Often times violence is received Woman is in form violence sexual orientation towards certain groups, ethnicities, nationalities and religious adherents . Where is the violence sexual form rape made as form terror to resident or group certain precedence murder. Which is as much as 80% of the victims that is children as well as women , total that is far more big when compared with the number of victims who are from circles the military .

Women are the biggest targets of violence from dispute armed incident. One form violence sex that happened at the time State conflict was also felt by the State of Indonesia, precisely during the colonial era . In those days Lots clan woman Indonesia which is not denied become slave sex fulfillment need colonial biology from japan , even No also a few Indonesian women were made as one business sent prostitution go out country For become satisfaction lust . Consequences created from there is violence sexually in various kinds of conflicts very heavily armed to the victims. Victims can suffer directly continuously throughout his life as a result of trauma experienced , incl problem chronic medical , damage psychologically, suffering diseases Serious such as infertility, pregnancy forced, HIV/AIDS, stigmatization or ostracism by members family as well as residents/ community .

As in provision The related Rome Statutes Supreme Court Criminal International arranged in 3

contexts crime humanity , rape is one of them . In article 7 of the Rome Statute explains that rape , slavery sexual intercourse , sterilization force , trade man or prostitution and forms violence sexual other categorized as as *extraordinary crimes* or crime outside normal . So that be included that violence sexual enter to in jurisdiction Court Criminal International (ICC) and its considered as a refinement which is lacking from law humanitarian international which they usually do n't in a manner implicit about including it where his actions are crime violence . Violence what happens to women on the situation conflict armed in general it is based on view traditional that sanya the girls is property And often looked at as object sex . It listed in study juridical about violence on the girls inside law international . Inside there is action violence with a gender basis that makes something that makes a hazard happen related to mental and physical sex , as well as suffering experienced by women like coercion , threats , or deprivation arbitrarily well what happened up front \_ general or happening inside his life by personal . So thus rape at the time conflict armed lively happens and is things that might be considered normal in the culture .

As you know , violence sexual This has a much more meaning wide than rape. This term is used ter for represents all type crime sexual . According to the ICTR, in Akayesu , violence sexual including every rape someone 's sexual act with forced way . Violence sexual nope limited in penetration of organs in the body human , but also including him into things that are n't involve



penetration nor juha even contact physically (eg force someone Woman naked in front general). Violence sexual including organ violence and mental targeting character sexual someone.

Based on the description that has been submitted in parts the previous one , then than it is necessary done a research or research and discussion more carry on in handle violence committed to Woman in conflict dispute armed, through study juridical normative and approach supported qualitatively its validity from a number of source like books references , print media , electronic media , journals , opinions of experts and experts as well as sources information others who have correlation hook discussion article this .

## RESEARCH METHODS

Of method used on this research is kind approach law normative , research by using the law normative is a research that he did with method conduct a study of various kinds of existing laws as well as carry out their application to a legal issue . Study this can be called right research designation doctrinal , namely an object research the study it is a document laws and regulations as well References as well as various materials another law .

## RESULTS AND DISCUSSION ARMED DISPUTES

In Convention Geneva 1949 and the Protocols Supplement 1977, law humanitarian **divided into two types conflict armed , as following namely** conflict armed international as well as conflict armed non-international :

### a. Dispute international armed

According to article 2 of the Convention Geneva 1949, strife who are in a war means war between countries. And confirmed in article 1 (3) of the protocol addition in 1977. Where can the conclusion be drawn, that is what is meant ? with conflict international armed can distinguished so there are two kinds of things , namely : Conflict armed between peoples matter of fight alien occupation , colonial domination, and also racist regimes (CAR conflicts) which are commonly referred to as the war of national liberation. Conflict armed between countries.

### b. Dispute armed Non-International

Convention Geneva nope define what does it mean with conflict armed non- international , but using the term that's inside Article 3 which is not characteristic international , interpretation very broad origin . Article 3 of the Convention Geneva 1949 set defense in conflict

armed non- international . Article 3 states that sanya various parties in the region a Country must provide protection to various people who do not participate participate actively in war or conflict , including it too member force armed as well as the combatants who have put it down the weapon he has nor is it Again participate because right injury , illness , arrest as well as reasons ter for No present . because \_ that , they treated in a humane way nor is it permitted to perform its acts violence on body and soul or whatever punished in the absence of due process . Different in Convention Geneva **And** Article 1 Protocol Supplementary 1977 which **used** term conflict armed non international ter for all type conflict which is not as a conflict armed international . However , Protocol Supplement II is not load meaning about what do you mean ? with force non-international armed forces .

## EFFORTS TO SETTLE THE PROBLEMATICS OF SEXUAL VIOLENCE BASED ON INTERNATIONAL AND HUMANITARIAN LAW GUIDELINES

Like what have exposed previously that violence sexual is a common phenomenon that is not can denied happens often in dispute armed. Where is the violence sex that happened at the time dispute armed is is one form intentional and not is nature of crime incidental but blind part from plan dispute aggression the. Indeed law stay mandatory law enforced without looked whoever the victim and perpetrator, including problematic violence sexual Where according to Law humanitarian international, in conflict armed means that every person entitled **free** from violence, incl girl . Women **are entitled** For free from violence , especially violence to himself , whatever the circumstances , even No in situation war **at once** . because it protects right Woman without **do** violence important No only in peacetime, but also for ensure protection and education Woman during conflict armed.

Implementation and the efforts of the Indonesian state to solve problem This based on promulgation Law No. 26 Years 2000, which clarifies mandate Human Rights Court for investigate various cases genocide and crimes right basic man as listed and directed . with ICC Statute . rape and violence sexual No in a manner direct called as genocide . however , Study from cases in practice law , when action the fulfil characteristics genocide , rape and violence other must classified as action genocide . In context crime in case of rape humanity and acts of violence sexual slowly in a firm way classified as some way as well as deeds in doing crime on humanity If various elements the crime is over quite fulfilled . Its elements it is attack widespread and systematically addressed to public civil.



In Law no. 26 described about the rightful agency ter for determine it gross human rights violations agency specifically called with KOMNAS HAM, which is the task is do investigation and examination on guess gross human rights violations , KOMNAS HAM also has the right form a special body To use assist the investigative process characteristic matter *ad hoc* . Besides that government is also obligated give security against the victim because often the victims of rape or follow violence sexual other own more sensitivity tall plus Again there is no community stigma yet open view that rape victim is disgrace that should be covered so factor that 's often make the victims not want to For give testimony in court . So from That government emit Regulation Government (PP) No. 2 of 2002 concerning Protection of Victims and Witnesses. Besides that Practice court International also shows its existence in give protection to witnesses nor the victims so that they can give testimony in a free way as well as in the absence of pressure. With formed a special unit called *the Victim and Witness Unit (VWU)*, an institution or those units own function For give assistance and care psychological for victims who have experienced trauma violence experienced sex. Besides guarantees on victims and witnesses , as for rights of victims of gross human rights violations filled as set in Law No. 26 of 2000 and PP No. 3 of 2002 which is explained there are 3 forms rights of victims of violence sexual must fulfilled among them are :

**a) compensation**

Caused compensation damage because A human rights violations Man can seen with many mental and physical damage , loss reputation as well as dignity, cost medical, up to loss eye livelihood.

**b) Restitution**

Restitution is action Where action recovery so you can return to circumstances like beginning or like again , for example return to right For work and rights on ownership .

**c) Rehabilitation**

Rehabilitation is A purposeful action For restore reputation , dignity, service law , as well service medical .

In reports secretary United Nations generals presented that children Woman tend own more suffering heavy compared to man man in conflict armed incident. Where a lot child women who are volunteer nor forced to For become slaves by soldiers . Although must face various type violence at the time happening conflict armed , they should too experience various form violence sexual other .

This Of course raises attention and care special from public international. So the UN security council made A statement or decision important To use urge so that all parties participate as well as nor involved inside conflict armed take an action specifically ter for protect him the children from there is action rape as well as various forms of action violence sexual others and on violence on the basis of Gender in situation conflict armed and also pay attention to it the special needs of the children Woman while it is still happening conflict as well as after including also with help gift as well as help regarding humanity. And on 25 may 2000 mejelis the UN general issued convention about impose restrictions on recruitment in a manner forced as well as must military to the people who are still at the bottom age or are still under 18 years of age , or request that each country increase its minimum age limit against recruitment volunteer ie with a minimum age of 16 years as well as give birth to law more geneva attach importance protection and treatment human to personnel military which is not follow as well as in a battle , as well as to the civilian population or public civil which is not in a manner active follow battle . Which convention the get Lots support from whole around the world so convention the agreed universally and signed by 70 countries and 3 countries have ratify it.

**CONCLUSION**

As has been described about problematic dispute trigger gun happening follow violence to Woman is phenomenon already Lots talked about or not foreign. With This as for roles and functions from emergence of humanitarian law International ie To use give a protection against actual victims in form of the *Victim and Witness Unit* Institution (VWU), Other than warranty on victims and witnesses , as for rights of victims of gross human rights violations filled as set \_ in Law No. 26 of 2000 and PP No. 3 of 2002 which is explained there are 3 forms rights of victims of violence sexual must fulfilled among them are : Compensation, Restitution , Rehabilitation .

Inside law international humanitarian regarding protection to Woman in dispute armed arranged more continued on the 1949 Geneva Convention IV and the convention issued on May 25 , 2000 by the Assembly general UN where both of them including into human rights legal instruments human . Where is the most concentrated provision contained in the ICTR and ICTY statutes regulate as well as loading that sanya acts of violence sexual about he did at the moment dispute armed are categorized **in** action crime war as well as **breaking** law as well as habits war and as form of action crime **to** humanity .



## **SUGGESTION**

Then it is necessary done research and discussion more carry on in handle violence committed to Woman in conflict dispute armed. Besides that Practice court International also shows its existence in give a protection to witnesses nor the victims so that they can give testimony in a free way as well as in the absence of pressure.

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