



## Legal Protection Efforts for Women Victims of Dating Violence by Gorontalo City Police Resort

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**Abstract:** The purpose of this research is to find out how legal protection efforts against women victims of dating violence by the Gorontalo City Resort Police. The research method used in this research is empirical research method with qualitative approach. Result of this research is that people think that men have a higher position than women so that men feel more powerful over women. Women according to men are usually considered weak, submissive and passive beings, which is the main reason for mistreatment of women. Dating violence comes in many forms. The most common forms of violence are categorized into three types: physical, psychological, and sexual violence. These violent behaviors have both physical and psychological effects. Unlike the clearly identifiable physical effects, the psychological effects are very difficult to identify. From a physical perspective, violence is carried out such as hitting, slapping, kicking, grabbing, pinching, pushing and so on. From a psychological/mental perspective, it usually includes threatening, coercion, cursing in public and so on.

**Keywords :** Legal Protection; Women; Victims of Violence.

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## 1. Introduction

Violence is a serious social problem and this type of crime often occurs in the community and can happen to anyone, but it receives very little attention from both the community and law enforcement. The number of cases of violence that occur in dating relationships committed by both adults and children. The various events that occur, actually the process of implementing law enforcement is the main study that must be studied in this research, in relation to our criminal justice system.<sup>1</sup>

Violence in dating relationships is very often encountered among students. In everyday life we often hear about domestic violence which is clearly against the law, but this time the author will examine an act that may be rarely heard of but very often occurs among students, namely violence in dating relationships. This crime of violence has received very little attention from both the community and law enforcement. According to Sudarto, a criminal offense is a suffering that is deliberately imposed on a person who commits an act that meets certain conditions.<sup>2</sup>

This violence is very unfavorable for women in particular, namely the loss of self-confidence and disturbing physical and psychological health. There are several forms of violence against women, including physical violence in the form of murder, abuse that causes physical suffering. Psychological violence is threatening, ostracizing, insulting, and so on which results in pressure and fear. Sexual violence is in the form of sexual harassment against women, forcing women to have sexual intercourse against their will. Economic violence is an act that forces women to work and their income is controlled by men. Another form of violence is the destruction of the partner's belongings. Dating violence is very inappropriate. Violence is a form of attack on a person's physical as well as psychological mental character.

Law No. 39/1999 on Human Rights regulates human rights and women's rights, but victims of dating violence do not get these rights, which every human being actually has the same rights as other humans. Victims of dating violence are denied the right to personal freedom, the right to security and other rights. The Criminal Code (KUHP) has also regulated acts of violence, so that victims of these acts of violence receive legal protection. The Criminal Code emphasizes that all citizens have equal status in the eyes of the law, including women.

Previously, Law No. 23/2002 on Child Protection was born, which basically also protects women who are still children. Then together with various other networks of human rights defenders, National Commission on Violence against Women actively

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<sup>1</sup> Komnas Perempuan dan Catatan Tahunan, "Komnas Perempuan," Retrieved from *komnasperempuan.go.id*: <https://www.komnasperempuan.go.id/read-news-menemukenalikekerasan-dalam-rumah-tanggadrt>, 2020.

<sup>2</sup> Anik Nur Khaninah dan Mochamad Widjanarko, "Perilaku agresif yang dialami korban kekerasan dalam pacaran," *Jurnal Psikologi Undip* 15, no. 2 (2016): 151-60.

encouraged the birth of Law Number 13 of 2006 concerning Witness and Victim Protection, which in its development was enhanced by Law Number 31 of 2014 so that the scope of advocacy for women victims was broader. Similarly, in every opportunity to create or revise legislation, together with women's rights defenders and activists, National Commission on Violence Against Women plays an active role in criticizing so that women's rights are accommodated in the draft legislation being discussed, including when National Commission on Violence Against Women advocates for the Draft Law on the Elimination of Sexual Violence because women are the most common victims of this violence.

Violent crimes can occur anywhere, anytime and can be committed by anyone without gender distinction. This means that the perpetrators can be both men and women. It is true that many gender-based crime studies often discuss the position of women as victims of violence. This discussion cannot be separated from the idea of the inferior position of women when compared to a man. This mindset is often imprinted in the minds of everyone so that women are never considered to be in a position as people who can commit violent crimes, where women are seen as people who have a loving nature, but this assumption cannot be justified. The reality that occurs shows that women are also often the perpetrators of violent crimes.<sup>3</sup>

This violence is very unfavorable for women in particular, namely the loss of self-confidence and disturbing physical and psychological health. There are several forms of violence against women, including physical violence in the form of murder, abuse that causes physical suffering. Psychological violence is threatening, ostracizing, insulting, and so on which results in pressure and fear. Sexual violence is in the form of sexual harassment against women, forcing women to have sexual intercourse against their will. Economic violence is an act that forces women to work and their income is controlled by men. Another form of violence is the destruction of the partner's belongings. Dating violence is very inappropriate.

Research suggests that the impact of being a victim of dating violence can be severe. The consequences of interpersonal violence include physical and psychological problems, as well as social and academic difficulties. The various impacts of dating violence include the health and psychological disorders of women who are victims. Women victims of physical or sexual violence in dating are at risk of experiencing health complaints 1.5 times more. The physical impact can be in the form of bruises, broken bones, and the most dangerous can cause permanent disability, while the psychological impact is in the form of heartache, loss of self-esteem, shame and humiliation, self-blame, fear of the shadow of violence, confusion, anxiety, distrust of self and others, feeling guilty, having a higher level of depression to the emergence of suicidal thoughts.

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<sup>3</sup> Suci Musvita Ayu, Mohammad Hakimi, dan Elli Nur Hayati, "Kekerasan dalam pacaran dan kecemasan remaja putri di kabupaten purworejo," *Kes Mas: Jurnal Fakultas Kesehatan Masyarakat Universitas Ahmad Daulan* 6, no. 1 (2012): 24999.

The high rate of violence made the Government, namely the Ministry of Women's Empowerment and Child Protection (KemenPPPA) in collaboration with the Central Statistics Agency (BPS) conduct the National Women's Life Experience Survey (SPHPN) in 2016 to find out information about the life experiences of women who experienced violence aged 15 years and over. It was found that 33.4% of women aged 15-64 years had experienced physical violence and/or sexual violence during their lifetime, with 18.1% of physical violence and 24.2% of sexual violence.

Among the many cases of violence against women, the level of physical and sexual violence experienced by unmarried women was 42.7%. Sexual violence was experienced by unmarried women the most at 34.4%, greater than physical violence which was only 19.6%. These figures prove that there are still many unmarried women who are victims of violence, where the perpetrators can come from the closest people such as boyfriends, friends, coworkers, neighbors, etc. However, this type of violence can be perpetrated by the perpetrator. However, this type of violence can be committed by strangers who are not even known to the victim.

The high rate of violence is a concern for the wider community, especially since the rate of violence in dating relationships for unmarried women is quite alarming lately. The 2016 PPA Symphony states that out of 10,847 perpetrators of violence, 2,090 perpetrators were boyfriends/friends.<sup>4</sup>

Dating violence is an act of violence against a partner who is not yet married, including physical, emotional, economic violence and activity restrictions. This violence is a case that often occurs after domestic violence, but still does not get the spotlight compared to domestic violence so it is sometimes still overlooked by victims and perpetrators.

The following forms of violence against women in dating include:

1. Physical violence such as hitting, slapping, kicking, pushing, and strangling the partner's body and a range of other physical actions.
2. Emotional or psychological abuse such as threatening, calling your partner humiliating names, and so on.
3. Economic violence such as asking your partner to provide for all their needs such as utilizing or draining your partner's assets.
4. Sexual violence such as hugging, kissing, groping and forcing sexual intercourse under threat.

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<sup>4</sup> Penny Naluria Utami, "Optimalisasi pemenuhan hak korban kekerasan terhadap perempuan melalui pusat pelayanan terpadu," *Jurnal HAM* 7, no. 1 (2016): 55-67.

5. Violent activity restrictions by partners haunt many women in dating, such as partners who are too possessive, too restrictive, and often suspicious, always regulate everything that is done, to irritability and threatening.

"Data from service agencies shows the highest rate of dating violence with 3,528 cases, followed by violence against wives (3,205 cases), and violence against girls (725 cases)."

While violence committed by ex-boyfriends amounted to 713 cases, violence against wives amounted to 622 cases, and violence in dating reached 422 cases dominating complaints that entered National Commission on Violence Against Women during 2022.

## **2. Method**

This type of research is empirical research, namely research with field data as the main data source, such as the results of interviews and observations. Empirical research is used to analyze laws that are seen as patterned community behavior in the lives of people who always interact and relate in social aspects.<sup>5</sup>

## **3. Legal Protection of Women Victims of Dating Violence by Gorontalo City Police Resort.**

Dating is often considered a form of love towards someone. The form of love that should exist is like a feeling of understanding each other, encouraging each other, taking care and doing positive things together. The beauty of courtship makes teenagers mesmerized to forget that behind the beauty of dating if not careful later will fall into an unpleasant situation, it can even be an unforgettable story for life. A teenage dating relationship will be more motivated to do something, for example, diligently coming to school, diligently making assignments, and other positive activities because the person wants to be seen as a good person in the eyes of his partner, but besides that there are also negative impacts that can occur, namely the occurrence of acts of aggression or violence by a person against his partner.<sup>6</sup>

This behavior or action can be referred to as dating violence if one party feels forced, offended and hurt by what their partner has done in the dating relationship. Dating violence is a social phenomenon that occurs a lot, but there are still few who realize that relationships before marriage are very prone to violence. Some even consider that it is a consequence of dating and is a natural thing to happen, so that even though dating violence occurs some people still maintain their relationship.

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<sup>5</sup> S. H. I. Jonaedi Efendi, S. H. Johnny Ibrahim, dan M. M. Se, *Metode Penelitian Hukum: Normatif dan Empiris* (Prenada Media, 2018).

<sup>6</sup> Zulkifli I. dan Melanie L. Dan Ahmad, *Demi Cinta Relakah Menderita* (Malang: Mazda Media, 2022).

Generally, adolescent victims of violence do not tell the authorities about this problem, even to their parents and closest people. This is because the victim feels afraid due to threats by the boyfriend, or feels pity because the perpetrator apologizes in such a way after committing violence that the victim believes that the perpetrator really regrets his actions and will not repeat them again. In fact, someone who basically likes to be abusive to their partner, will tend to repeat the same thing because it is a character and attitude in dealing with conflicts and problems. Victims and abusers usually always try to cover up the facts that exist in various ways or pretexts, although sometimes it is accidentally revealed. If the situation and circumstances are very severe (for example, physical injuries cannot be covered up), usually the victim is forced to seek medical assistance and or report to the authorities.

Dating violence cannot be judged by the size or strength of the body, so we cannot judge that men alone are the perpetrators of violence but women can be the perpetrators. However, it is undeniable that most victims of dating violence are women. This is because there is still a patriarchal culture adopted by society in general.

Society assumes that men have a higher position than women, so men feel more powerful over women. Women are usually perceived by men as weak, submissive and passive, which is the main reason for mistreatment of women. Dating violence comes in many forms. The most common forms of violence are categorized into three types: physical, psychological, and sexual violence. These violent behaviors have both physical and psychological effects. Unlike the clearly identifiable physical effects, the psychological effects are very difficult to identify. From a physical perspective, violence is carried out such as hitting, slapping, kicking, grabbing, pinching, pushing and so on. From a psychological/mental perspective, it usually includes threatening, coercion, cursing in public and so on.

In terms of sexual violence, usually the partner has started groping the body, kissing or forcing sexual intercourse. There is also violence in the form of economic violence and activity restriction violence. If a partner often borrows money or goods without being returned, asks the partner to fulfill all their daily needs, draining their assets, it means that they are experiencing economic violence. If your partner is controlling, controlling, and overly possessive, then you are experiencing violence in the form of activity restriction.<sup>7</sup>

The emergence of dating violence in adolescents is basically a form of adolescents' inability to exercise self-control. The unstable mental and emotional state will encourage teenagers to commit acts of violence without thinking. This vulnerable situation in adolescents then makes every problem in dating difficult to deal with and seems complicated. The immature mindset of adolescents encourages every action

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<sup>7</sup> Rahman Amin, "Hukum Perlindungan Anak Dan Perempuan Di Indonesia, Budi Utama," *Hlm* 23 (2021).

taken to potentially lead to violence. This situation then makes dating activities in adolescents very vulnerable to violence.

Other factors include a history of domestic violence, low self-esteem, an understanding that violence will solve problems, and a personality that tends to exploit partners. According to data from National Commission on Violence Against Women Annual Note 2022 (CATAHU 2022), in 2020 the number of cases of violence against women (VAW) was 226,062 cases while in 2021 the number of VAW cases increased by almost 50% to 338,496 cases. The service organization noted that out of a total of 7,029 cases handled, 5,243 of them were violence that occurred in the personal sphere, further based on reports received by the National Commission on Violence against Women with a total of 3,838 cases, 2,527 of which were violence in the personal sphere. The number of cases of dating violence (KDP) and ex-boyfriend violence (KMP) based on data obtained from service agencies was 1,334 cases and direct reports to the National Commission on Violence against Women recorded 1,276 cases. According to complaints to the National Commission on Violence against Women, violence experienced by women in the age range of 13-24 years is mostly KMP with 638 cases, followed by KDP with 308 cases.

The increasing cases of dating violence are exacerbated by laws in Indonesia that do not touch the aspect of relationships between teenagers. Married women are legally safer because they are protected by the PKDRT Law, but couples who are still dating or unmarried do not have an adequate legal basis. Although the term dating is not found in the Indonesian legal system, it does not mean that this issue is not regulated by law. For example, a case of dating violence against a teenager can be seen in Decision No. 241/PID.Sus/2021/PN Mnd, where the defendant was the boyfriend of the victim witness. In this case the defendant was 20 years old and the victim witness was 17 years old. One day due to jealousy, the defendant stabbed the victim witness with a 23 cm long dagger once on the right thigh of the victim witness. As a result of the stabbing, the victim witness suffered an open wound to her right thigh. For these acts, the defendant was legally and convincingly proven guilty of committing the crime of "Maltreatment of a Child" and was charged with Article 80 Paragraph (1) of Law Number 35 of 2014 on the amendment of Law Number 23 of 2002 on Child Protection. The Panel of Judges decided to sentence the defendant to imprisonment for 1 (one) year and 2 (two) months, and a fine of Rp20,000,000.00 (twenty million rupiah). Based on this decision, dating violence against adolescents is considered the same as other types of crimes against children in general.<sup>8</sup>

Dating violence today occurs after sexual encounters with promises or inducements, after which the average victim is abandoned. In cases that lead to pregnancy, many women are abandoned by their partners or forced to have an abortion. During the courtship period, it is not uncommon for sexual relations to be coerced with the threat

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<sup>8</sup> Shinta Rukmi Budiastuti, "Peran Serta Masyarakat Dalam Penanggulangan Kekerasan Dalam Berpacaran," *Senadimas*, Hlm 44 (2018).

of physical violence. The consequences suffered by victims of dating violence (KDP) are very diverse and multilevel. Such as (1) for women, there is trauma towards men, (2) fear of making new relationships with men and (3) women feel worthless because they lose their virginity, and vice versa.

KDP also often results in unwanted pregnancies, which not only negatively affect the woman, but also the baby that will be born. Furthermore, in the rule of law in Indonesia, there are no rules that specifically regulate violence in the dating period, so often the victims, who are usually women, are not protected. Another thing that causes this violence not to be covered is the lack of courage for victims to make complaints. Lack of formal evidence required by law and the view of law enforcement officials who only prioritize narrow legal formal matters. Violence in law is understood more physically with a very limited definition. Therefore, for the protection of victims, the general provisions of the Criminal Code and Civil Code can be used.<sup>9</sup>

As the researchers interviewed one of the victims of dating violence who dated from the 3rd grade of junior high school to the 2nd grade of high school which ended in a beating by her lover because Indah found her lover cheating on her with someone else, here are the results of the interview;

"So I have been dating since the 3rd grade of junior high school and for quite a long time in the relationship it has even been known by my parents several times there were arguments but only normal arguments for me, but it was only the incident in the 2nd grade of high school that made me decide on him because he had committed physical violence by beating my face until my nose bled, it started when I found him cheating on me with someone else, unable to stand my accusations he was angry and beat me. This incident was known by my parents but was only resolved in a family manner because my parents did not want to deal with the police, but my parents have forbidden me to have any further contact with him."

The following are forms of violence against women in dating:

1. Physical violence such as hitting, slapping, kicking, pushing, strangling the partner's body and a range of other physical actions;
2. Emotional or psychological abuse such as threatening, calling your partner humiliating names, and so on;
3. Economic violence such as asking your partner to provide for all their needs such as utilizing or draining your partner's assets;

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<sup>9</sup> Zico MAbdi David Julius dan Ria Anggreani, "Perlindungan Anak Terhadap Kekerasan Dalam Berpacaran," *University Of Bengkulu Law Journal* 6 Number 1 (2021).



4. Sexual violence such as hugging, kissing, groping and forcing sexual intercourse under threat;
5. Violent activity restrictions by partners haunt many women in dating, such as partners who are too possessive, too restrictive, and often suspicious, always regulate everything that is done, to irritability and threatening.

Sometimes this is based on excessive jealousy by cursing, yelling, hitting, and slapping. But because most of the time when they are in love, teenagers in this case fall into the category of children often assume that their boyfriends are everything and make these teenagers willing to be treated or do anything for the figure of their boyfriends, even though they have been hurt in such a way. Teenagers should know that excessive jealousy, yelling, cursing, hitting, slapping, are all not a form of love, but a form of violence.

The rule of law basically aims to provide legal protection for the people against government actions. The legal protection quoted by Harahap Zahirin, consists of:<sup>10</sup>

1. Preventive legal protection, namely Legal Protection to the people is given the opportunity to submit objections (*inspraak*) or opinions before a government decision becomes a definitive form.
2. Repressive legal protection, namely repressive legal protection aims to resolve disputes. Both forms of legal protection above are based and sourced on the recognition and protection of human rights and are based on the principle of the rule of law. Where a crime occurs, a victim appears. Victims in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection are regulated in Article 1 number 3, namely Victims are people who experience physical, mental, and / or economic losses caused by a criminal offense.

There are several types of victims, each of which is highly dependent on how it is categorized:

1. Based on the type of victimization, we can distinguish between :
  - a. Victims of natural disasters or other causes: Those who experience suffering, loss, or damage due to natural disasters or other events not caused by human actions. For example: victims of landslides or victims of wild animal bites.
  - b. Victims of criminal acts are those who are victims of a criminal act. Because the definition and scope of a criminal offense depends on the formulation

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<sup>10</sup> Anissa Martha Kesaulia, "Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Dalam Masa Pacaran, Fakultas Hukum, Universitas Atma Jaya," *Hlm* 73 (t.t.).

of the law regarding it, the definition and scope of the victim also depends on the formulation of the law.

- c. Structural victims or victims of abuse of power. Those who become victims due to the abuse of power or due to the obligations of the authorities in favor of the strong. For example: slum residents who are evicted because a shopping center will be built where they live.
2. Based on the amount.
    - a. Individual victims are those who are individually victimized by an event or action.
    - b. Group victims are those who are jointly victimized by an event or action. Individually, group victims can still be referred to as individual victims.
    - c. Community/State victims. The scope of this type of victim is wider than that of group victims. For example: several cases of forest fires in Kalimantan that caused many community members to suffer from shortness of breath or the State that had to experience an economic crisis and endure bankruptcy due to the actions of speculators with large capital.
  3. Based on the relationship with the target of the perpetrator's actions.
    - a. Direct victims are those who are directly the target or object of the perpetrator's actions.
    - b. Indirect victims are those who, although not directly subjected to the perpetrator's actions, also experience suffering or distress. In the case of the murder of a man who has the responsibility of supporting his wife and children, the death of the man is a direct victim. Meanwhile, his wife and children are indirect victims.<sup>11</sup>

### **3.1 Legal Rules as a Basis for Legal Protection of Women Victims of Dating Violence**

The increasing prevalence of violence against women cannot be separated from the weak law enforcement and lenient punishment. The process of handling cases from the first to the imposition of punitive sanctions tends not to be commensurate when compared to the consequences experienced by victims of violence. In Indonesian legal norms, there is no single regulation that uses the term violence against women. However, the actual process of implementing law enforcement is the main study that must be examined in this research, in our criminal justice system the form of settlement of cases of criminal violence in dating, In handling cases that occur the legal rules that can be used to provide legal protection to women victims of violence in dating must be seen based on the

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<sup>11</sup> Gebi Pradipta dan Khinanty, *Skripsi, Tinjauan Sosiologi Hukum Terhadap Kekerasan Dalam Rumah Tangga yang Dilakukan oleh Istri* (Makasar: FH-Universitas Hasanudin, 2013).

age of the victim, if the victim is under 18 years of age then the legal rules used will be processed based on.<sup>12</sup>

a. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection:

- 1) Article 76D which reads: Every person is prohibited from committing violence or threatening violence to force a child to have sexual intercourse with him/her or with another person.
- 2) Article 76E which reads: Every person is prohibited from committing Violence or threat of Violence, forcing, deceiving, committing a series of lies, or inducing a Child to commit or allow obscene acts to be committed.

b. Criminal Code

1. Ordinary maltreatment is regulated under Article 351 of the Penal Code:

- a) Maltreatment shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred rupiahs.
- b) If the act results in serious injury, the offender shall be sentenced to a maximum imprisonment of five years.
- c) If it results in death, a maximum imprisonment of seven years is imposed.
- d) With maltreatment is equated deliberate damage to health.
- e) Attempts to commit this crime are not punishable.

2. Ordinary maltreatment is regulated under Article 352 of the Penal Code.

- a) Except for those referred to in Articles 353 and 356, maltreatment which does not result in illness or an obstacle to the performance of official or professional activities shall, as light maltreatment, be punished by a maximum imprisonment of three months or a maximum fine of three hundred rupiahs. The punishment may be enhanced by one

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<sup>12</sup> Donny Aditya Putra, *Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Dalam Masa Pacaran (Studi Kasus Di Spek-Ham)* (Naskah Publikasi, Fakultas Hukum Universitas Muhammadiyah Surakarta, 2016).

third in the case of the offender against a person in his service or subordinate.

b) Attempts to commit this crime are not punishable.

3. Serious maltreatment is regulated under Article 354 of the Penal Code
  - a) Any person who with deliberate intent seriously injures another person shall, being guilty of serious maltreatment, be punished by a maximum imprisonment of eight years.
  - b) If the act results in death, the offender is subject to a maximum imprisonment of ten years. Physical violence can be prosecuted under the persecution articles 351-358 of the Criminal Code.<sup>13</sup>

The legal basis for violence and maltreatment against children can be seen in Article 351 of the Criminal Code and Article 352 of the Criminal Code. Meanwhile, if the victim is over 18 years old or can be said to be a legally capable adult, he/she will be processed in accordance with the criminal offense, if he/she experiences violence and maltreatment, he/she will be subject to the Second Book of the Criminal Code. If the victim experiences verbal violence then the perpetrator will be subject to Chapter XVI on Insults, Criminal Code:

1. Article 310 of the Criminal Code:

- a) Any person who with deliberate intent attacks the honor or good name of another by alleging something, with the obvious intent to give publicity thereto, shall, being guilty of slander, be punished by a maximum imprisonment of nine months or a maximum fine of three hundred rupiahs.
- b) If this is done by means of a writing or portrait broadcast, exhibited or affixed in public, the offender shall, being guilty of libel, be punished by a maximum imprisonment of one year and four months or a maximum fine of three hundred Rupiahs.
- c) It does not constitute libel or defamation if the overt act is done in the public interest or in self-defense.

2. Mild Insult.

Article 315 of the Penal Code: Any intentional insult which does not amount to libel or defamation in writing, committed against a person either in public by word or writing, or in his presence by word or deed, or by a letter sent or delivered to him, shall, being guilty of simple insult, be punished by a maximum imprisonment of four months and two weeks or a maximum fine of three hundred rupiahs. If the victim is sexually

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<sup>13</sup> Reza Riana Putri, "Kekerasan Dalam Berpacaran" (Diss., Universitas Muhammadiyah Surakarta, 2012).

assaulted then the perpetrator is subject to Chapter XIV on Crimes Against Decency of the Indonesian Penal Code:

- a) Article 285 of the Penal Code: Any person who by force or threat of force forces a woman to have carnal knowledge of him out of marriage, shall, being guilty of rape, be punished by a maximum imprisonment of twelve years.
- b) Article 289 of the Penal Code: Any person who by force or threat of force forces someone to commit or tolerate obscene acts, shall, being guilty of an act offensive to the honor of decency, be punished by a maximum imprisonment of nine years.<sup>14</sup>

As can be seen in full in the Criminal Code (KUHP) regarding sexual harassment can be prosecuted under the article of sexual abuse (Article 289-296 of the Criminal Code), the article of sexual intercourse (Article 295- 298, 506 of the Criminal Code), crimes against decency (Article 281-283, 532-533 of the Criminal Code), sexual intercourse with underage women can be prosecuted under Article 286-288 of the Criminal Code and rape can be prosecuted under Article 285 of the Criminal Code, each of these articles is applied according to the crime committed by the perpetrator against the victim.

Ordinary maltreatment is categorized as light maltreatment if the maltreatment does not cause pain or hindrance to the performance of work and is punishable with a maximum imprisonment of 3 (three) months under Article 352 of the Penal Code. Ordinary maltreatment, if there is a deliberate act that causes pain or injury, carries a maximum penalty of 2 years and eight months imprisonment under Article 351 of the Criminal Code. Serious maltreatment, if the act is intended to seriously injure another person, carries a maximum penalty of eight years imprisonment (Article 354 of the Criminal Code). Verbal abuse is also included, which is most easily recognized as defamation, yelling, rebuking or shouting at someone who can mentally traumatize the victim, including threatening the victim, belittling and demeaning, cursing and insulting, and accusing based on Article 310 of the Criminal Code and Article 315 of the Criminal Code. One of the efforts made is to mediate the perpetrator and the victim to find a bright spot before the case reaches the green table.

The mediation aims to be resolved in a family manner to both parties so that this problem does not need to be protracted and if the perpetrator admits his mistake and will be responsible, and or because pregnancy in the victim, it is advisable to marry him. If physical harm or damage to health then the perpetrator must be responsible for the cost of treatment to the victim. If there is no agreement to reconcile, the victim can report the crime to the police. The rule of law used is

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<sup>14</sup> Binahayati Rusyidi dan Eva Nuriyah Hidayat, "Kekerasan Dalam Pacaran: Faktor Risiko Dan Pelindung Serta Implikasinya Terhadap Upaya Pencegahan," *Sosio Informa: Kajian Permasalahan Sosial Dan Usaha Kesejahteraan Sosial* 6, no. 2 (2020): 152-69.

based on Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Article 81 and Article 82 for victims under 18 years of age and the Criminal Code Article 287 paragraph (1) and Article 292 of the Criminal Code, while for victims who are adults over 18 years of age, the Criminal Code (KUHP) Articles 351, 352 and 354 of the Criminal Code for violence and maltreatment, Articles 285, 289 of the Criminal Code concerning crimes against decency where the victim experiences sexual violence or sexual abuse and threatens the victim.

This mediation is also in accordance with research conducted by researchers in the city of Gorontalo where the head of the village has resolved several problems of dating violence and almost all complaints are resolved in a family manner.

"I have been visited several times by parents who have problems related to dating violence, most recently there was a man who was dating a high school student while studying, then the girl became pregnant and the boy did not want to take responsibility, but we, the kelurahan, have tried to bring the two parties together and finally the boy and his family are willing to take responsibility and marry the girl so that the problem has been resolved at the neighborhood level."<sup>15</sup>

There are also other cases where a child who is the perpetrator of a criminal offense is not yet of age, so the legal rules used according to the Juvenile Criminal Justice System Law (UU SPPA) can be subject to two types of sanctions, namely: Action sanctions are subject to Article 82 of the SPPA Law, and criminal sanctions are subject to Article 71 of the SPPA Law.

1. Action sanctions, for juvenile offenders who are not yet 14 (fourteen) years old can only be subject to action (Article 69 paragraph (2) of the Juvenile Criminal Justice System Law). Article 82 of the SPPA Law:
  - (1) Measures that may be imposed on children include:
    - a) Return to parents/guardians;
    - b) Submission to someone;
    - c) Treatment in a mental hospital;
    - d) Treatment at LPKS;
    - e) Obligation to attend formal education and/or training organized by the government or private entities;
    - f) Revocation of driving license; and/or
    - g) Correction of criminal offenses.

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<sup>15</sup> Sony Set, "Teen dating violence," (*No Title*), 2009.

- (2) The actions as referred to in paragraph (1) letter d, letter e, and letter f shall be imposed for a maximum of 1 (one) year.
  - (3) The measures referred to in paragraph (1) may be submitted by the Public Prosecutor in his/her indictment, unless the criminal offense is punishable with imprisonment of at least 7 (seven) years.
  - (4) Further provisions regarding the measures as referred to in paragraph (1) shall be regulated by Government Regulation.<sup>16</sup>
2. Criminal sanctions, for offenders aged 15 years and above. Criminal sanctions that can be imposed on juvenile offenders are divided into main and additional crimes: Article 71 of the SPPA Law:
- (1) Basic punishment for children consists of:
    - a. Criminal warning;
    - b. Punishment with conditions:
      - 1) Out-of-institution coaching;
      - 2) Community service; or
      - 3) Surveillance.
    - c. Job training;
    - d. Intra-institutional coaching; and
    - e. Prison.
  - (2) Additional punishment consists of:
    - a. Forfeiture of profits obtained from criminal offenses; or
    - b. Fulfillment of customary obligations.
  - (3) If the material law imposes cumulative punishment in the form of imprisonment and fine, the fine shall be replaced by vocational training.
  - (4) Criminal punishment imposed to Children is prohibited to violate the dignity of the Child.
  - (5) Further provisions regarding the form and procedure for the implementation of the punishment as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be regulated by Government Regulation.

If the perpetrator is a child over 18 years of age, criminal sanctions are applied in accordance with the criminal acts committed. The rules of law that can be used to provide legal protection to women victims of dating violence are seen based on the age of the victim, if the child is under the age of 18 years is a victim then it is subject to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection in Articles 76D and 76E, and or if the victim is over 18 years old then use the Criminal Code and will be subject to Articles 351 of the Criminal Code, 352 of the Criminal Code and 354 of the Criminal Code for crimes of persecution, Articles 310 of the Criminal Code and 315 of the Criminal Code on verbal violence, Articles 285 of the Criminal Code, 289 of the Criminal

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<sup>16</sup> Raista Nur Tazkiya, "Perlindungan Hukum yang Diberikan oleh Lembaga Bantuan Hukum terhadap Perempuan Korban Kekerasan dalam Hubungan Berpacaran (Studi di LBH Apik Jakarta)" (Brawijaya University, 2015).

Code on sexual violence, and in Article 47 paragraph (1) of the Criminal Code. If the perpetrator is a minor, the punishment can be reduced by one third.

Based on this law, basically, violence in the dating period can be subject to criminal sanctions as long as the victim files the case, especially if the victim is a minor or less than 18 years old, but the fact is that this is rarely done.

### **3.2 Constraints for Legal Aid Institutions in providing legal protection to women victims of violence in dating relationships.**

1. Law enforcement officials do not detain perpetrators of crimes of violence against women, even though the articles imposed fulfill the requirements for detention of perpetrators. Perpetrators who are not detained may lose evidence, influence the victim/victim's family and even escape. Such conditions further worsen the psychological condition of victims, victims become frustrated and no longer believe in the existing legal process.<sup>17</sup>
2. Law enforcement officials blame the victim. The victim is considered to be the party who caused the criminal offense. The negative stigma against women, the violence experienced seems to have become a risk or consequence of their delinquency.
3. Sexual violence that occurs repeatedly, Law Enforcement Officials have a priori that sexual violence that occurs is not a criminal offense, because it is carried out on the basis of consensual feelings. Law enforcement officials seem to deny the fact that sexual violence can occur in dating relationships.
4. The process of proof, law enforcement officials emphasize more on witness testimony evidence. There are four other pieces of evidence, in disclosing cases of sexual violence/rape, if you only rely on witness testimony evidence, it is very difficult to reveal cases of sexual violence. A special condition in cases of sexual violence is the lack of witness testimony.
5. In the process of handling cases of violence against women, law enforcement officials offer an out-of-court settlement process. Cases of violence against women are not eligible for mediation, especially considering the history of violence experienced by the victim. There is a strong community belief that the best solution to sexual violence (whether it results in pregnancy or not) is to marry the perpetrator to the victim. The large number of cases of marriage between the victim and the perpetrator is a gateway to further violence.
6. The legal process is very long. This condition exhausts the victim who ultimately chooses to revoke or let the case that the victim has reported.

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<sup>17</sup> Tazkiya.



7. Women who are victims of violence in dating relationships still hope that the perpetrator can change for the better and even victims still believe that by marrying the perpetrator, it can make the perpetrator better.
8. Background factors and relationships of the perpetrators influence law enforcement officials in enforcing the law.
9. Economic Barriers, where this is due to the economic condition of the victim who experienced dating violence, is unable to continue the case to the realm of law due to limited funds and costs to hire an Advocate / Attorney in solving the problem of dating violence cases;
10. The feelings of children who are not yet mature so that they cannot determine the act of violence in dating (dating violence) is an act that violates the law and can be subject to criminal sanctions;
11. People who are aware of a case of dating violence, but do not care, do not dare and are afraid to make a report or complaint about it to the authorities, either to the police, legal institutions, or local non-governmental organizations;
12. Lack of public legal knowledge about what should be done by the victim who is the object of dating violence;
13. There is still a strong sense of brotherhood and tolerance given by the victim to the perpetrator on the basis of still affection, still love so that often cases of dating violence are resolved in a family manner by both parties. Obstacles due to lack of available supporting facilities;
14. In cases of sexual violence in dating or violence that occurs due to dating relationships, there are often obstacles in the legal handling process. This occurs because law enforcement officials still view or assume that the incident occurred because of a good relationship or relationship between the victim and the perpetrator. The authorities should view that precisely because of this relationship, the chances of women becoming victims of sexual violence are higher, because of the power relations used by the perpetrator. The existence of this power relationship makes the perpetrator consider that women are his property who can be treated according to his wishes. This includes deceit, trickery, promises, lure, and various actions of the perpetrator's control over the victim. This ultimately makes the victim forced to submit and obey the perpetrator;

#### **4. Conclusion**

The legal protection of women victims of dating violence by the Gorontalo City Police Resort is still weak because there is no specific article governing dating violence in contrast to domestic violence which already has a special law, as for dating violence

can be seen from two categories, namely against children under 18 years and over 18 years, if the age of the teenager as a victim has not reached 18 years (not yet an adult) then the perpetrator of the persecution can be charged with Article 76 C jo, Article 80 paragraph (1) of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection. However, if you are 18 years old or older, then you can file charges on the basis of maltreatment regulated in Chapter XX of the Criminal Code (KUHP) such as Ordinary Maltreatment (Article 351 of the KUHP), Light Maltreatment (Article 352 of the KUHP), and Serious Maltreatment (Article 354 of the Criminal Code) and other forms of violence can also be charged such as Sexual Abuse (Articles 289-296 of the Criminal Code), Sexual Harassment (Articles 281-283) and for Crimes Against Decency (Articles 532-533), can also be charged with Law Number 44 of 2008 concerning Pornography.

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