



LEGAL PROTECTION AND LAW ENFORCEMENT AGAINST VICTIMS OF SEXUAL HARASSMENT

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Abstract

For some time, sexual violence has been a subject of discussion in Indonesian society. Because cases of sexual harassment occur almost every year in Indonesia, the term sexual harassment is no longer foreign. Sexual violence has become a problem that is often discussed by Indonesian society.

However, Indonesian law does not fully provide strict legal consequences for perpetrators and protection for victims. Consequently, the aim of this research is to find out how legal protection for victims can be provided. In this research, normative legal research methods are used, which are part of the doctrinal research typology. This research was conducted using a statutory and conceptual approach. This research shows that, considering the large number of cases of sexual violence in Indonesia, the design of criminal law for cases of sexual violence is very important. Developing laws that protect victims of sexual violence, resolving cases of sexual violence, and protecting victims of sexual violence can be implemented effectively.

This research aims to create media that helps children and women reduce violence against children and women. Child protection requires attention from all parties and guidance tools that can be used by parents and educators. Acts of intimate violence felt by women who are victims of close atrocities that are not accountable to the authorities or government groups such as the National Commission on Violence Against Women. This research uses exploratory methods, and the techniques used are abstract. The results show that a male culture centered on male superiority and mercy is a key component in managing individual crimes against women. This powerless view of sex offenders is the main reason why female victims of sexual crimes do not report. Women and victims of sexual violence can benefit from a welcoming environment.

Due to the large number of acts of sexual harassment committed by men against women, women do not have the opportunity to take responsibility as victims in criminal law. As a result, women who are victims of sexual harassment feel humiliated, lack self-confidence, trauma and fear. As a result, women who are victims of sexual harassment may have difficulty carrying out their work, experience mental illness, or experience mental disorders. This service aims to increase knowledge about legal regulations that provide protection to women as a result of sexual harassment perpetrated by men today, as well as legal remedies taken by victims of sexual harassment against women.

Keywords :*Sexual Violence, Law on Perpetrators, Victims, Women, Legal Protection.*

INTRODUCTION

For some time, sexual violence has been a subject of discussion in Indonesian society. Because cases of sexual harassment occur almost every year in Indonesia, the term sexual harassment is no longer foreign. According to Mannika (2018), the term "sexual violence" comes from English, where the word "sexual violence" itself means violent and unpleasant. clarifies that sexual violence is an act of violence committed by someone by forcing someone to have unwanted sexual contact.

Violence is behavior that violates the law, whether only in the form of threatening actions or actions that lead to actions that result in physical damage, objects or death. Sexual violence affects victims in addition to physical violence. The psychological effects of sexual violence experienced by victims are not easily eliminated compared to the physical violence they also experience. It takes a long time for the victim to recover from the incident (Suryandi Hutabarat & Pamungkas, 2020).

Unwanted sexual advances by someone towards another person is known as sexual violence itself. Additionally, sexual acts are not always physical; verbal can also be used. Therefore, sexual harassment can come in various forms, such as rape, touching another person's body on purpose, teasing or joking about things of a sexual nature, personal questions about sexual life, making sexual gestures with hands or facial expressions, inappropriate sounds sexual leads, and so on.

According to Suryaningsi (2020), children and women must be treated equally with men in all matters because they are God's creatures. According to Article 28 D paragraph 1 of the 1945 Constitution, every person has the right to recognition, protection and fair legal certainty as well as equal legal treatment before the law.

In a legal state like Indonesia, according to AV Decey, three basic principles always apply, namely supremacy of law, equality before the law, and law enforcement in a way that does not conflict with the law (due process of law) (Suryaningsi, 2016). The same thing, according to Friedrich Julius Stahl's concept of the rule of law, is characterized by four main elements, namely: (1) recognition and protection of basic human rights; (2) the state is based on the theory of trias politica (separation of powers); (3) the government is organized based on legal rules or statutes (wetmatig bestuur); (4) the existence of a state administrative court tasked with handling cases of unlawful acts by the government.

The number of Indonesian women who experience sexual violence is still high, and this is only a small portion of the many cases of sexual violence. On the other hand, there is still the problem of women victims of sexual violence, such as the National Commission on Violence Against Women, who do not dare to report their sexual violence to the authorities or other public institutions. With the launch of the Annual Notes (CATAHU), the Women's Committee, the National Commission on Violence Against Women, reported an increase in violence against women by 792%, or almost 800%, in a period of twelve years. In other words, violence against women in Indonesia increased almost eightfold during that period.

This data is still an iceberg phenomenon, which can show that Indonesian women are far from living unsafe lives in two real situations. First, the number of cases of Violence against Girls (KTAP) increased from the previous year by 1,417 to 2,341 cases. The cases that increased the most were cases of incest and sexual violence (571 cases), with an increase of 65% from the previous year. The number of cybercrime cases reported directly to the National Commission on Violence Against Women increased by 300%, with threats and intimidation to distribute pornographic photos and videos the most. Second, victims of sexual violence against women with disabilities increased by 47% compared to the previous year. Most victims are women with disabilities.

These events serve as important guidance for women and victims of sexual violence. Women and children are often targets of violence, weak, obedient, and unable to lead individuals. This leads to the idea that, as the largest of the two complete, women are more likely to be targets of violence, including physical and psychological abuse. Sexual harassment is the most common form of physical and psychological violence experienced by women. Rape victims may take a long time to recover from the traumatic experiences they have experienced, and some will never be able to return to normal life (Riyawati, 2008; Wadu, 2021).

Sexual violence can also occur in various places, such as at home, in family settings, in children's educational settings, such as schools, and in health settings, such as patient examination rooms (Handayani, 2018). Even today, many children experience sexual violence at school (Sitompul, 2015). Sexual violence has become a problem that is often discussed by Indonesian society. However, Indonesian law does not yet fully provide clear legal consequences for perpetrators and protection for victims. Very few cases of sexual violence are brought to court. This is caused by the reluctance of victims to report sexual violence because of the negative societal stigma towards them. It is not uncommon for the media to broadcast information about victims who contribute to sexual violence, such as victims who wear revealing clothes, victims who go out at night, or victims who go out alone, which can trigger the perpetrator's lust (Indainanto, 2020).

Society often states that victims of sexual violence can also "enjoy" the violence. When the victim dares to complain about sexual violence that happened to him, it is not uncommon for the authorities or authorities not to respond to the complaint or even consider it trivial and not serious. Criminal law policies and social policies are very important to protect and pay attention to the interests of victims of sexual violence both through the judicial process and through certain social care facilities (Surayda, 2017). Based on these things, several problems will arise, such as how the law can deal with perpetrators sexual violence and how can legal protection be provided to victims of sexual violence?

In accordance with Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, several previous studies concentrated on law enforcement efforts by providing criminal sanctions in the form of imprisonment or heavier fines to perpetrators (Yuliarti, Mangku, & Putri, 2021). Furthermore, other research emphasizes legal protection for victims of sexual crimes from a progressive legal perspective (Harahap, 2016).

Research on how to prevent sexual violence against children is studied based on Indonesian criminal law (Rizqian, 2021). Furthermore, research on legal enforcement and protection in cases of sexual violence has concentrated on protecting victims of second-degree sexual harassment, which includes physical or psychological violence, retaliation, insults, and abuse of individuals who support victims of violence against women (Flecha, 2021).

Further research concentrates on the strengths and limitations of law in dealing with violence against women in semi-liberal governments (Brysk, 2016). Lastly, research has concentrated on protecting children from sexual assault, sexual harassment, and pornography as well as safeguarding the interests of children in every phase of their lives in accordance with the Child Protection Act (Mohanty & Devpriya, 2021).

METHOD

This research uses normative legal research methods which are part of the doctrinal research typology. Conceptual and statutory approaches are used as research methodology. Secondary data or data obtained indirectly through literature study is the data source used. Secondary data is further divided into several parts: primary legal materials, secondary legal materials, and tertiary legal materials. Legislative regulations are examples of primary legal materials, and secondary and tertiary legal materials are information that supports primary legal materials, such as previous research and related literature. Descriptive-qualitative analysis is then used to analyze the legal materials that have been obtained. The result is a conclusion that can be scientifically justified (Tampubolon, 2016). Apart from that, it also uses scientific methods to collect information, with its aims and benefits; gathering information from sources, indicating position and progress in research. This study uses qualitative research methods, which means the results are in the form of qualitative information because they come from news, events and happenings, as well as looking for data and attitudes of individuals encountered. Therefore, it is not fabrication or lies that are intended. Instead, this research focuses more on narrative research, namely how the government handles violence against children and women.

RESULTS AND DISCUSSION

According to Satijipto Raharjo, legal protection is intended to protect human rights (HAM) which are harmed by other people, so that people can enjoy all the rights granted by law. To provide a sense of mental and physical security from harassment and various threats from any party, law enforcement officers must take various legal measures, according to the CST Legal Protection Kansil. However, Philip M. Hadjon said that legal protection consists of a set of rules that can protect one thing from another. With regard to consumers, the law protects the rights of customers against failure to fulfill those rights.

Preventive legal protection protects people before a criminal act occurs and repressive protects people after a criminal act occurs. Sexual harassment can be defined as unwanted behavior related to sex, such as asking for sex and other behavior that is verbally or physically related to sex. Sexual

harassment behavior can occur anywhere and in any way. Three important components of the definition of sexual harassment, according to Meyer et al. (1987): behavior (whether it is a sexual proposition or not), situation (whether it occurs where or when the behavior occurs) and legality (how the behavior is considered unlawful).

The best terminology to understand sexual violence is sexual harassment. Types of sexual harassment include many things, such as dirty or indecent verbal expressions (comments, dance jokes, etc.), indecent behavior (e.g., poking, groping, fondling, hugging, etc.), showing pornographic images or videos, assault and indecent coercion such as forcing a kiss or hug, or threatening to cause trouble to the woman if she refuses. Because of its wide range, sexual harassment can occur anywhere there are opportunities for men and women, or in homogeneous communities. Sexual harassment also often occurs in the workplace. Perpetrators of sexual harassment are usually men who have higher jobs or lower colleagues. This is caused by strong relationships between men and women in the workplace, as well as an environment that allows sexual harassment practices to proliferate. However, sexual harassment also often occurs outside the workplace or in public places, and usually the perpetrator is someone the victim does not know. For example, sexual harassment occurs on buses, on the streets, at dance markets, and so on.

According to Sellin and Wolfgang, victims can be:

- a) Primary Victimization, is an individual victim. So the victims are individuals, not groups;
- b) Secondary Victimization where the victims are groups such as legal entities;
- c) Tertiary Victimization, the victims are the wider community; (d) Mutual Victimization, the victim is the perpetrator himself, for example prostitution, adultery, narcotics; And
- d) No Victimization does not mean there are no victims, but rather that the victims cannot be immediately identified, for example consumers who are deceived into using a product.

Types of Sexual Harassment against Women

Unchanging behavior, discussions about sexuality, touching a woman's body, trying to force a woman to perform unwanted sexual acts, and repeated dates are all examples of sexual harassment (Matlin, 1987). Apart from that, more clearly, the types that are considered sexual harassment are as follows (Collier, 1992):

1. Teasing or attracting the attention of the opposite sex by whistling.
2. Telling dirty or dirty jokes to someone who finds them degrading.
3. Showing pornographic pictures in the form of calendars, magazines or pornographic picture books to people who don't like them
4. Making inappropriate comments about someone's appearance, clothing or style.

5. Unwanted touching, pinching, patting, kissing and hugging someone who doesn't like the hug
6. The act of exposing one's body or genitals to someone who is insulted by it.

Meanwhile, Guntoro Utamadi & Paramitha Utamadi (2001) divided the categories of sexual harassment used as a basis for measurement in the Sexual Experience Questionnaire (SEQ), namely in a more systematic form:

1. Gender harassment is a statement or behavior that is degrading based on gender.
2. Seductive Behavior is sexual requests without threats, advances that are indecent or degrading
3. Sexual Bribery is bribery to do things of a sexual nature by giving a promise of a reward.
4. Sexual Coercion is pressure accompanied by threats to do things of a sexual nature.
5. Sexual Assault is an attack or coercion of a sexual nature, overt or violent sexual harassment.

According to APINDO there are 5 (five) forms of sexual harassment, namely:

1. Physical harassment is unwanted touching that leads to sexual acts such as kissing, patting, hugging, pinching, caressing, massaging the nape of the neck, touching the body or other physical touch.
2. Verbal harassment is unwanted verbal remarks/comments about a person's private life or body parts or appearance, including sexually charged jokes and comments.
3. Non-verbal harassment/gestures include sexual body language and/or body movements, repeated glances, lustful staring at the body, gesturing with the fingers, licking the lips, or other things.
4. Visual harassment is showing pornographic material in the form of photos, posters, cartoon images, screensavers or other things, or harassment via email, SMS and other electronic modes of communication.
5. Psychological or emotional abuse, including persistent and unwanted requests and advances, unsolicited dates, insults, or sexual insults.

Regulation of Sexual Harassment

In the Criminal Code, sexual harassment is equated with crimes in the field of morality, namely crimes related to sexual matters. Chapter

Reflecting on the article above, the researcher sees that it cannot cover the various forms of sexual harassment stated above, so there are limitations for victims of sexual harassment to report other acts of sexual harassment in non-verbal form. Regulations in the Domestic Violence Law. The Domestic Violence Law does not directly discuss language. the language of sexual harassment is violence. Regarding the forms of violence that can be carried out in the household, the main regulations are

contained in Article 5 of Law no. 23 of 2004 which stipulates that 'every person is prohibited from committing domestic violence against people within their household, by:

- a) physical abuse
- b) psychological violence
- c) sexual violence
- d) household neglect

Legal Protection for Victims of Sexual Harassment

Victims of crime or victims of sexual abuse may be protected in various ways, depending on the suffering or harm suffered by the victim. For example, material or monetary compensation will not be adequate for mental or psychological losses if it is not accompanied by psychotherapy efforts for the victim's mental recovery. On the other hand, if the victim only suffers material losses, psychological services may seem too excessive. So, based on the description above, the things that can be given to victims of sexual harassment are as follows:

1. .Legal Aid
2. Victims of sexual harassment who feel they need legal assistance can provide consultations and even free legal assistance for people who cannot afford it based on Law No. 16 of 2011 concerning legal assistance.
3. Counseling guidance.
4. Medical Treatment.
5. Strict law enforcement against perpetrators of sexual harassment
6. Provide legal protection as stipulated in Law No. 13 of 2006 concerning Witness and Victim Protection Institutions
7. .Compensation and damages.
8. Article 35 Law no. 26 of 2000 concerning Human Rights Courts provides the definition of compensation, namely losses given by the state because the perpetrator is unable to provide full compensation for the losses for which he is responsible.

Law Enforcement of Criminal Acts of Sexual Violence

Sexual harassment can be defined as harmful behavior that is based on violations of socio-cultural norms, which consist of rules of behavior and religious, moral and legal norms. Ratna Batara Munti said in her article entitled "Sexual Violence: Myths and Reality" that the Criminal Code does not have clear regulations regarding sexual harassment and criminal acts; Articles 289 to 296 only mention the term "obscene acts". However, obscene acts themselves can be defined as behavior that

is inconsistent with a sense of decency or vile behavior that is carried out solely to fulfill uncontrollable desires.

The formulation contained in the Criminal Code, in general, the classification of sexual violence is divided into, adultery, sexual intercourse, sexual immorality, pornography. Regarding sexual violence or sexual harassment, it is not clearly regulated in the Criminal Code, the Criminal Code only regulates crimes against morality. Crimes Against Morality are regulated in CHAPTER XVI Book II of the Criminal Code, namely as follows:

- a) crimes resulting from open violations of public morality (Article 281)
- b) pornography crime (Article 282)
- c) crime of child pornography (Article 283)
- d) pornography crime while carrying out his livelihood (Article 283b)
- e) crime of adultery (Article 284)
- f) crime of committing rape for sexual intercourse (Article 285)
- g) crime of having sexual intercourse while unconscious and helpless without marriage (Article 286)
- h) crime of having sexual intercourse with a female child (Article 287)
- i) the crime of having sexual intercourse with a woman who is not old enough to marry, causing minor or even serious injuries (Article 288);
- j) the crime of rape is committing fornication or behavior that attacks the honor of morality (Article 289)
- k) crime of committing lewd acts against a person who is unconscious and not old enough to marry (Article 290)
- l) If the crimes in articles 286,287, 289 and 290 result in serious injury (Article 291)
- m) crime of committing sexual immorality against a child of the same sex (Article 292)
- n) crime of encouraging people to commit lewd acts with people who are not old enough (Article 293)
- o) crime of committing lewdness with a child (Article 294);
- p) crime of making obscenity easier for children (Article 295)
- q) crime makes it easier to commit obscenity as a livelihood or habit (Article 296)
- r) crime of buying and selling either women or men who are not old enough (Article 297)
- s) crime makes it a source of employment for obscene activities carried out by other people (Article 298)

Sexual violence not only violates criminal law, but also violates the victim's human rights. Human rights are protected in the Indonesian legal system for all people. In the 1945 Constitution of

the Unitary State of the Republic of Indonesia, Articles 28A–28J state that every person has the right to live and the right to defend his life. In Article 28 Paragraph (2), it is explained that every child has the right to survival, growth and protection from discrimination and violence. To enable a child's physical and mental growth and development, his environment must provide strong and strong protection. Even Frans Magnis Susenober believes that protecting children's rights is a component of defending human rights (Antari, 2021).

In Article 28G it is explained that every human being has the right to personal protection, honor, family, honor and dignity, as well as protection from the threat of fear of exercising or not exercising human rights. Furthermore, Article 28I paragraph (1) confirms that human rights are not can be reduced to include the right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as an individual before the law, and the right not to be prosecuted on the basis of retroactive laws. The various articles above show that the Indonesian legal system is against violence, including sexual violence.

CONCLUSION

The research results show that research begins with background, objectives, and consequences. Then, empirical data is collected using methods that have been influenced, and then analyzed theoretically to gain a comprehensive understanding. The research conclusion is that the government's role is very important in protecting human rights as well as in handling community cases and the recovery period for victims of violence. Human rights include the rights to be protected, safeguarded, and realized by parents, family, society, state, and government. Since the legal protection of children and women is a global issue, standards must be considered when creating laws to protect both. Persuasive, preventive and instructive measures are used to protect women and children from regulations. Providing safe locations and assistance for conflict victims in refugee camps are two of the actions taken. Women who are victims of violence or rape can obtain legal protection.

Cases of sexual violence in Indonesia have become a serious social problem. Unfortunately, criminal laws created to protect victims of sexual violence still seem unfair and do not pay attention to victims. This makes many victims of sexual violence afraid to fight for the justice they are entitled to. Victims of sexual violence are afraid to file reports because there is no adequate legal protection for them. The criminal regulations that have been established do not favor victims of sexual violence. Due to some unclear phrases, implementing laws relating to sexual violence cases in Indonesia is difficult. In addition, laws relating to cases of sexual violence are often not used properly. As a result, the implementation of this law still faces several challenges in practice. As a result, appropriate legal

regulations are needed to protect victims of sexual violence from the criminal acts they experience. For cases of sexual violence itself, this is very important considering the large number of cases of sexual violence in Indonesia. By enacting laws that protect victims of sexual violence, resolution of sexual violence cases and protection of victims of sexual violence can be carried out properly. This allows the law in Indonesia to be implemented according to its purpose, namely to prevent all Indonesian society from crime.

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